



Osborne & Osborne Ltd

### **Data Protection Policy & Procedure document**

Osborne & Osborne Ltd is a limited company with one full time employee, Sarah Osborne Director. This document lays out Osborne & Osborne Ltd policies in accordance with the provisions of the Data Protection Act 2018 and covers both Sales and Lettings processes although we currently only deal with Sales transactions. The updated Act sets new standards for protecting general data in accordance with the General Data Protection Regulations (GDPR)

The aim of the legislation is to:

Provide individuals with more control over the use of their data giving new rights on moving and deleting personal data and it also provides new obligations for Data Controllers and Data Processors

#### **Data Controller**

This is a person who determines the purposes for which and the manner in which any personal data are, or are to be processed

#### **Data Processor**

This is any person (other than an employee of the data controller) who processes the data on behalf of the data controller.

In the majority of situations, Osborne & Osborne Ltd will be the Data Controller ie the main decision makers who exercise control over the purposes and means of processing of personal data

We are registered with the Information Commissioners Office (ICO), registration number ZA785402

### **What standards the Act requires**

When dealing with any Client data, we will make sure we do the following as standard:

**Lawfulness, fairness and transparency** – You must identify valid grounds for collecting and using personal data. You must ensure that you do not do anything with the data in breach of any other laws. You must use personal data in a way that is fair. This means you must not process the data in a way that is unduly detrimental, unexpected or misleading to the individuals concerned. You must be clear, open and honest with people from the start about how you will use their personal data.

**Purpose limitation** - You must be clear about what your purposes for processing are from the start. You need to record your purposes as part of your documentation obligations and specify them in your privacy information for individuals.

**Data minimisation** - You need to ensure that you only hold data that you need for your purpose. You must not acquire additional data that is not relevant

**Accuracy** - You should take all reasonable steps to ensure the personal data you hold is not incorrect or misleading. You may need to keep the personal data updated, although this will depend on what you are using it for. If you discover that personal data is incorrect or misleading, you must take reasonable steps to correct or erase it as soon as possible.

**Storage limitation** - You must not keep personal data for longer than you need it. You need a policy setting standard retention periods wherever possible, to comply with documentation requirements.

**Integrity and confidentiality (security)** - You must ensure that you have appropriate security measures in place to protect the personal data you hold.

**Accountability** - The accountability principle requires you to take responsibility for what you do with personal data and how you comply with the other principles. You must have appropriate measures and records in place to be able to demonstrate your compliance.

### **What is personal data**

Personal data is any information we collect from a client which will identify them personally. We may have collected this directly, for example, by the client providing us with their name or indirectly, for example, from information about a client using our services.

We may collect, use, store and transfer different types of personal data:

**Identity & Contact Data:** includes full name, correspondence address, email address, telephone number, marital status, username, title, date of birth and gender

**Financial Data:** includes bank account, payment card details and salary details

**Transaction Data:** includes details relating to transactions paid for by the client for other products or services purchased from us

**Technical Data:** includes internet protocol (IP) address, login data, browser type and version, time zone setting and location, browser plug-in types and versions, operating system and platform and other technology on the devices used to access our website

**Usage Data:** includes details of visits to our site and how our website is used

**Marketing & Communications Data:** includes preferences in receiving marketing from us and our third party providers and all communication preferences

### **How do we collect personal data**

Directly : Clients may provide us with Identity, Contact and Financial Data by corresponding with us in person, by post, telephone or email. This will include personal data provided during communication:

By requesting marketing to be sent

By applying to use our services for sales and lettings

By contacting us through social media

By providing us feedback  
By visiting us in the office  
By contacting us by post, telephone or email

Indirectly : We may receive personal data about clients from various third parties and public sources:

From payment card service providers  
From reference providers including credit referencing agencies  
From Electoral Register data and Companies House data  
From property portals such as but not limited to Rightmove and Zoopla  
From various third parties, including but not limited to: Mortgage lenders, previous Landlords, Employers, Local Authorities and Utility Suppliers

### **Legal grounds for processing personal data**

To comply with the Data Protection Act 2018 we must process all personal data using one of the following lawful basis:

#### **Consent**

Where a client provides us with consent to process their personal data for a specific reason, which would be, to send marketing communications about our products and services and/or share their personal data with agreed third party providers or conducting market research. To comply - has the individual given clear consent for you to process their personal data for a specific reason and are they able to withdraw consent easily?

#### **Performance of our contract**

Where the processing is necessary in order for us to comply with our contractual obligations agreed with the client under our terms & conditions, so for example, if the client is a Seller or Landlord and instructs us to sell or let your property. To comply - is the processing necessary for you to fulfil a contract you have with the individual?

#### **Legitimate interest**

Where the processing is necessary for our legitimate interests or the legitimate interests of a third party in order to assist the client with a service we provide, unless there is a good reason to protect the personal data which overrides those legitimate interests, so for example, if the client is an Applicant, Buyer or Tenant. To comply - is the processing absolutely necessary for the individual and can this be evidenced?

#### **Legal obligation**

Where the processing of the personal data is necessary in order for us to comply with the law, so for example Money Laundering or Right to Rent legislation. To comply - is there a legal requirement for you to retain personal data for the individual?

#### **Vital interests**

Where the processing is necessary to protect someone's life

#### **Public task**

Where the processing is necessary for us to perform a task in the public interest

Examples:

If marketing to a prospective Seller/Landlord or an Applicant, the legal basis will be consent.

Once an individual becomes a Client, the legal basis will be one of the 3 remaining:

If acting for a Seller/Landlord, the legal basis will be contract

If you are liaising for a Buyer purchasing a property, the legal basis will be legitimate interest

If you take copy documentation for Money Laundering, the legal basis will be legal obligation

### **Individual's rights**

Within this Act, individuals have more control over their data and these are:

#### **Right to be Informed**

Individuals have the right to be informed about the collection and use of their personal data. This is a key transparency requirement under the GDPR.

#### **Right of Access**

Individuals have the right to access their personal data and this is commonly made by a Subject Access Request.

#### **Right to Rectification**

The GDPR includes a right for individuals to have inaccurate personal data rectified, or completed if it is incomplete.

#### **Right to Erasure**

Individuals have the right to request to have personal data erased. The right to erasure is also known as 'the right to be forgotten'. This does not apply if there is a legal basis for retaining the data.

#### **Right to Restrict Processing**

Individuals have the right to request the restriction or suppression of their personal data. This is not an absolute right and only applies in certain circumstances. When processing is restricted, you are permitted to store the personal data, but not use it.

#### **Right to Data Portability**

This allows individuals to obtain and reuse their personal data for their own purposes across different services. It allows them to move, copy or transfer personal data easily from one IT environment to another in a safe and secure way, without affecting its usability.

#### **Right to Object**

Individuals have an absolute right to stop their data being used for direct marketing. In other cases where the right to object applies you may be able to continue processing if you can show that you have a compelling reason for doing so.

#### **Right to withdraw consent for processing**

Individuals have the right to withdraw any consent previously granted at any time.

### **How will personal data be used**

Personal data will only be used for the purpose for which it was collected and should we need to process the data for a different purpose, then we will inform the client. We may process the data for a different purpose without consent where it is necessary for us to comply with our legal obligations

#### Purpose/Activity

- To communicate with the client
- To carry out our contract with the client
- To verify identity
- To issue service communications
- To issue direct marketing
- To permit third parties to contact the client
- To facilitate viewings
- To progress a sale
- To coordinate a let
- To notify changes in our services
- To ensure our website works effectively
- To ensure our website is safe and secure
- To provide customer support
- To comply with the law and/or a court order

#### **Sharing information**

We may share personal data with our third party suppliers who will provide certain business services. These third party suppliers will act as “processors” of the clients personal data on our behalf and we have agreements in place with our suppliers that restrict their use of the personal data. We only allow third parties to use personal data for specified purposes and in accordance with our instructions. In addition, we may disclose a clients personal data if we are under a duty to disclose or share the personal data in order to comply with any legal obligation, or in order to protect the rights, property or safety of our business, our customers or others. This includes, in specific cases, exchanging information with other organisations for the purposes of fraud protection.

#### **How long do we keep personal data**

We keep clients personal data for no longer than is necessary for the purposes for which it was provided. This will vary depending on the legal basis for which it was taken.

If Consent is the legal basis for the processing of personal data, we will keep the personal data for as long as the client’s consent is still valid. We will review the status of the consent every 12 months and if we fail to receive a response to a request for the renewal of consent, we will consider this to be the client’s withdrawal of consent. Should we identify a legitimate interest in retaining some of the personal data that was previously provided by consent, we will inform the client that we intend to keep it under this new basis.

If Legitimate interest is the basis for the processing of personal data, we will keep the personal data for as long as the purpose for the processing remains active. We will review the status of our legitimate interest every 12 months and will update this notice should this basis no longer exist or that a new one has been found.

If Performance of our contract is the basis for the processing of personal data, we will keep the personal data for a period of 6 years as determined by reference to the Limitations Act 1980, for the purposes of exercising or defending legal claims.

If Legal obligation is the basis of the processing of personal data, we will keep the personal data as specified by the legislation for which it was required to obtain the clients personal data.

This Process & Procedure document confirms we take our obligations very seriously.

September 2020