



Oifig an Stiúrthóra um
Fhorfheidhmiú Corparáideach

Office of the Director
of Corporate Enforcement

Data Protection
in the
Office of the Director of Corporate
Enforcement

INTRODUCTION

As a data controller and processor, the Director of Corporate Enforcement is subject to the General Data Protection Regulation (GDPR) and the Data Protection 2018. This means that the Office adheres to the principal rules of data protection, and therefore must:

1. Process it lawfully, fairly, and in a transparent manner;
2. Collect it only for one or more specified, explicit and legitimate purposes, and do not otherwise use it in a way that is incompatible with those purposes;
3. Ensure it is adequate, relevant and limited to what is necessary for the purpose it is processed;
4. Keep it accurate and up-to-date and erase or rectify any inaccurate data without delay;
5. Where it is kept in a way that allows you to identify who the data is about, retain it for no longer than is necessary;
6. Keep it secure by using appropriate technical and/or organisational security measures;
7. Be able to demonstrate our compliance with the above principles; and
8. Respond to requests by individuals seeking to exercise their data protection rights (for example the right of access).

The GDPR gives certain rights to data subjects, including:

- the right to know what data is held about them;
- the right of access to their personal data;
- the right to withdraw consent;
- the right to rectification or erasure of their personal data;
- the right to restrict processing of their personal data;
- the right to object to processing of their personal data;
- the right to data portability; and
- the right not to have their personal data subjected to automated decision making and profiling.

PROCESSING PERSONAL DATA

Officers

The data controller is the Director of Corporate Enforcement (Ian Drennan), and his representative for the purposes of data protection is Phil Flood (phil_flood@odce.ie, 01-8585816). As the Office of the Director of Corporate Enforcement is an office of the Business, Enterprise and Innovation, the Data Protection Officer is Celyna Coughlan in the Department of Business, Enterprise and Innovation (celyna.coughlan@dbei.gov.ie, 01-6312398).

YOUR RIGHTS UNDER GDPR

Article 13 of the GDPR relates to the collection of personal data from the data subject. This applies to information you give us about yourself.

Our website does not collect any information about you unless you choose to provide such information for the purposes of seeking or receiving information from the Office.

No personal details are required to be provided on the Feedback Form to provide feedback about the website. The form for registering to receive newsletters from the Office has, on the same page, the option to unsubscribe.

The Office of the Director of Corporate Enforcement processes personal data for purposes including the following:

1. **Purpose** – providing information in response to a query
If you contact the Office, through the website or directly, seeking information we will need your name and contact details at a minimum to allow us to correspond with you in relation to your request, and to furnish such information to you.

Legal basis

Article 6 (1)(a) of the GDPR (consent).

Category of recipients

Your name and contact details may be forwarded to the relevant officer within the ODCE, so that we can furnish the information sought.

Retention period

Details of such requests will be held for audit purposes for 6 years plus the current year after file closure.

2. **Purpose** - Responding to a request pursuant to the Freedom of Information Act 2014.

The FOI Act applies to ODCE only to its administrative records; case files (any records held or created under the Companies Acts) are not covered by the Act.

Legal basis

Article 6 (1)(a) of the GDPR (consent), Section 38 (1) (a) of the Data Protection Act 2018 and the Freedom of Information Act 2014.

Category of recipients

The details you provide will be forwarded within the Office to the FOI Officer so that your request may be dealt with and the response may be sent to you.

Retention period

Records of requests will be kept for a period of 3 years plus the current year.

3. **Purpose** – Dealing with customer complaints

If you contact the Office for the purposes of making a complaint about Customer Service, you may use the Customer Complaint Form (in relation to mistakes, delays, or poor customer service but NOT in relation to decisions by officers in pursuance of their duties under the Companies Acts, matters of policy or matters that are the subject of litigation). In that case, it would be useful to the Office to provide your details as set out on the Form; name, address, telephone number. This allows us to discuss the matter with you if necessary, and at the least to respond in writing to your complaint.

Legal basis

Article 6 (1)(f) of the GDPR (consent), and the Public Service Management Act 1997.

Category of recipients

The personal details collected in the above circumstances will not be used or processed for any other reason, nor will they be passed to a third party. Only if your complaint reaches an officer other than the customer Complaints Officer will your details be passed to another officer; that officer will be the Customer Complaints Officer.

Retention period

Details of such complaints will be held for audit purposes for 6 years plus the current year after file closure.

4. **Purpose** – Dealing with complaints regarding suspected breaches of Company Law

If you contact the Office for the purposes of making a complaint relating to a breach of Company Law, you may use the Complaint Form. You may make such a complaint anonymously, but this may hamper the Office's ability to progress the complaint. If you choose to, the personal details that may be furnished on the form are your name, address, email, phone numbers(s) and association (if any) with the subject of the complaint.

Legal basis

The Data Protection Act 2018 including Section 38 (1)(a), Section 41(b) and (c) and Section 47, Section 60, Sections 69-104. The Companies Act 2014. The Criminal Procedure Act 1993.

Category of recipients

Recipients or categories of recipients of personal data may include other staff of ODCE, An Garda Síochána, the Courts Service, Legal Representatives.

Retention period

The case file opened on foot of such a complaint will remain open until the case has reached a conclusion (including any appeals to Court). Files relating to civil matters,

cases that proceed to civil enforcement and some criminal enforcement cases will be retained for 7 years after the file is closed. In accordance with the Records Management and Disposal Guidelines of the Office, some cases that proceed to criminal enforcement will be retained indefinitely. This is because evidence may be required in the future in the event of a later court date.

5. **Purpose** – Dealing with statutory reports regarding suspected breaches of Company Law

The Office has forms for statutory reporting, in the case of Liquidators of insolvent companies and Auditors who in the course of their duties form the opinion that a Category 1 or 2 offence may have been committed. The personal details collected from data subjects on these forms will, for the purposes of Article 13, relate to the Liquidator or Auditor only. There are statutory requirements set out in relation to such reports and the Office has a duty of confidentiality under the Companies Act 2014 to maintain that confidentiality unless required to release details under law.

Legal basis

The legal basis for processing this data is Section 38 (1)(a) of the Data Protection Act 2018 and the Companies Act 2014.

Category of recipients

Recipients or categories of recipients of personal data may include other staff of ODCE, An Garda Síochána, the Courts Service, Legal Representatives.

Retention period

Case files where no criminal matter is involved will be retained for 7 years after one of the following:

1. the date of decision by ODCE to grant full relief
2. the date when a restriction comes into effect either by way of voluntary undertaking or Court Order
3. the date when a disqualification comes into effect either by way of voluntary undertaking or Court Order.

Case files where a criminal matter is involved may be held for longer periods.

6. **Purpose** – (a) Record annual leave, (b) dates of employment of staff
Staff records are held in the HR Unit of the Department of Business, Enterprise and Innovation (DBEI) and centrally in PeoplePoint. Records relating to annual leave are held locally by line managers and records of employment dates are used in providing management information on staffing figures.

Legal basis

Article 6(1)(b) of the GDPR, Civil Service Regulation Act 1956 as amended, Organisation of Working Time Act 1997, Public Service Management (Recruitment and Appointment) Act 2004, and contract under Article 6(1)(b) of the GDPR.

Category of recipients

This data is not provided to any recipients other than staff and their managers.

Retention period

Tables of staffing figures are statistical in nature and therefore are anonymised. Dates of starting and ending employment with the Office are retained for 10 years. Annual Leave data is also held three years plus the current year.

7. Purpose – Contract and payment for goods and services

Suppliers' and service providers' data are held to enable the Office to contact them in relation to goods or services provided and also to enable payment of invoices.

Legal basis

Comptroller and Auditor General Act 1993, Public Service Management Act 1997, S.I. 284/2016 EU (Award of Public Authority Contract) Regulations 2014 and contract under Article 6(1)(b) of the GDPR (contract fulfilment and payment).

Category of recipients

Recipients of such details include the DBEI who process payments on behalf of the Office, and occasionally the name of an individual may be reported in response to a Parliamentary Question.

Retention period

For audit purposes, data is retained for 6 years plus the current year.

8. Purpose – Response to Parliamentary Questions

While the Office receives frequent Parliamentary Questions, the circumstances in which personal data would be processed as part of that response is usually limited to suppliers and service providers. In these instances the data furnished may include the name of an individual and the amount paid.

Legal basis

Section 40 of the Data Protection Act 2018 as per Article 5(1)(b) of the GDPR.

Category of recipients

Recipients include staff of DBEI and public representatives; responses may be written into the Dáil Report for publication.

Retention period

The retention period for Parliamentary Question replies is 6 years plus the current year. However, any such response may be published on the Oireachtas website.

Article 14 of the GDPR relates to personal data not supplied to the Office by the data subject themselves. Data subjects have, except in certain cases, the right to be provided with a range of information about the personal data held and processing carried out on that data.

The Office of the Director of Corporate Enforcement processes personal data not supplied by the data subject for purposes including the following:

1. **CCTV**

An important part of the security of the Office is CCTV cameras that are monitored on a 24-hour basis. Cameras are placed on the perimeter of our premises and inside the car park and the floors occupied by ODCE in the building. Signage notifies of the presence of cameras and the relevant contact details.

The legal basis for processing this personal data is Article 6(1)(f) of the GDPR (legitimate interests of the data controller, which processing is not carried out by a public authority in the performance of its tasks.) The legitimate interest in question is the security of the Office.

Footage captured by CCTV may be given to the Gardaí on request, for specific investigations. For more details, the ODCE Policy on CCTV is available on our website.

The footage is overwritten within one month and frequently sooner.

2. **Reports under Company Law**

The reports under Company Law as mentioned at 4 and 5 above (complaints and statutory reports, see pages 4 and 5) may include personal data. Such data is provided to the Office under law and is processed as above.

Any such data is safeguarded by the physical and other security under which it is held¹ and it will not be disclosed to recipients except in accordance with law.

3. **Reports under the Protected Disclosures Act**

Protected disclosures are received from time to time in accordance with the Protected Disclosures Act 2014, under which the Director of Corporate enforcement is a Designated Recipient for disclosures relating to Company Law matters. Any such disclosures are dealt with in accordance with the Protected Disclosures Act, including the categories of recipients and the retention periods.

¹ This includes control of access to the premises and password protection of IT systems. In addition, network security is assured by the Department of Business, Enterprise and Innovation.

4. **Investigations on own volition**

From time to time the Office initiates investigations without having received data from external parties, e.g. resulting from press reportage, or as a result of examination of publicly available records such as the Companies Register.

The purpose of processing such data is the performance of the Director's functions as in Section 4, page 4.

The legal basis for such processing is Section 38(1)(a) of the Data Protection Act 2018 and the Companies Acts 2014, and recipients may include staff of ODCE, An Garda Síochána, the Courts Service, Legal Representatives, as well as statutory recipients.

The retention period for such data is as set out in Section 4, page 5.

ARTICLES 13 AND 14 - OTHER INFORMATION TO ENSURE FAIR AND TRANSPARENT PROCESSING

- Processing of personal data only occurs in a manner that ensures appropriate security of the personal data to ensure integrity and confidentiality (Article 5(1)(f) GDPR).

Records are kept securely to prevent unlawful access, and S. 956 of the Companies Act 2014 stipulates a statutory obligation of confidentiality and also that 'a person who contravenes this section shall be guilty of a category 2 offence'. There is 24-hour security in the building and constant monitoring of CCTV, to ensure the security of records held by the Office, as well as access control. Password protection is also in place for electronic records.

- Where the processing is based on Article 6 (1)(a) of the GDPR (consent), the data subject has the right to withdraw his or her consent, without affecting the lawfulness of the processing based on consent before its withdrawal.
- All natural persons have the right to lodge a complaint with the Office of the Data Protection Commissioner if they are not satisfied with a decision of the Office with regard to a request under the GDPR provisions.
- In rare cases where it is necessary in the performance of the functions of the Director, to transfer data to a 3rd country (i.e. outside the European Economic Area of the EU, Norway, Iceland and Liechtenstein), appropriate safeguards as required under Section 98 of the Data Protection Act will be put in place before the data is transferred.