



SPECIAL CATEGORY DATA POLICY

1. INTRODUCTION

- 1.1 Venta Living Ltd (VLL) (reg no.14886300) is a company owned by Winchester City Council.
- 1.2 The purpose of this policy is to set out what special requirements VLL must meet when relying on certain processing conditions as the legal basis for processing special category personal data, and we comply with those requirements while carrying out our work.
- 1.3 The policy also satisfies the requirement in the Data Protection Act 2018 ('the DPA') for a data controller to have in place an 'appropriate policy document' in these situations.

2. DEFINITIONS

- 2.1 Competent authority – a body specified in schedule 7 of the DPA.
- 2.2 Law enforcement purpose – the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security. This definition includes the alleged commission of criminal offences by the data subject.
- 2.3 Data Protection Legislation – the UK General Data Protection Regulation ('the UK GDPR'), the Law Enforcement Directive ('the LED'), the DPA and other applicable legislation and guidance.
- 2.4 Processing – an operation or set of operations which is performed on personal data, or on sets of personal data, such as:
 - a) Collection, recording, organisation, structuring or storage,
 - b) Adaptation or alteration,
 - c) Retrieval, consultation or use,

- d) Disclosure by transmission, dissemination or otherwise making available,
- e) Alignment or combination, or
- f) Restriction, erasure or destruction.

2.5 Special category personal data - processing of:

- a) Data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs or trade union membership;
- b) Genetic or biometric data, for the purpose of uniquely identifying an individual;
- c) Data concerning health; or,
- d) Data concerning an individual's sex life or sexual orientation.

3. SCOPE

3.1 This policy applies to employees, the board of directors and third-party contractors.

3.2 VLL's Data Protection Policy sets out what directors, business partners, and third parties acting on VLL's behalf must do to ensure the processing of personal data complies with the data protection legislation, and which legal basis might apply to the processing of personal data. This policy applies only to specific circumstances (i.e. processing conditions) where special category personal data is processed, and these are set out in detail herein.

3.3 This policy also applies to criminal offence data.

4. AIMS

4.1 The aims of this policy are:

- a) To ensure that directors, business partners, and third parties acting on VLL's behalf are aware of which data protection legislation applies to the processing they are conducting;
- b) To ensure that directors, business partners, and third parties acting on VLL's behalf are aware of the principles and lawful conditions that apply under each law;
- c) To explain the safeguards VLL operates to protect the rights and freedoms of data subjects when processing special category personal data; and,
- d) To identify the responsibilities of directors, business partners, and third parties acting on VLL's behalf in complying with the law that applies in each instance of processing.

5. PROCESSING CRIMINAL OFFENCE DATA

- 5.1 VLL may need to process criminal offence data as part of the assessment of whether someone is suitable to become a tenant or whether a suitable property is available to accommodate them. Occasionally it may be necessary to process criminal offence data for other reasons.
- 5.2 In order to comply with Article 10 of the UK GDPR: Processed lawfully, fairly and in a transparent manner ('lawfulness, fairness, transparency') VLL must meet one of the lawful bases for processing personal data as set out in Article 6 of the UK GDPR and an appropriate DPA 2018 Schedule 1 condition.
- 5.3 VLL will usually rely on the lawful basis of consent for processing criminal offence data.

6. COMPLIANCE WITH THE DATA PROTECTION PRICIPLES

- 6.1 Processing of special category personal data must comply with the below principles of the UK GDPR:
 - 1. Processing must be lawful and fair, and meet one of the below conditions;
 - 2. Purposes of processing be specified, explicit and legitimate;
 - 3. Personal data be adequate, relevant and not excessive;
 - 4. Personal data be accurate and kept up to date;
 - 5. Personal data be kept for no longer than is necessary; and
 - 6. Personal data be processed in a secure manner.

First principle – fair and lawful processing

- 6.2 Processing must not take place unless the reason for processing is derived from legal powers granted to VLL and it does not infringe the data protection legislation or any other law.
- 6.3 Data subjects must be told that their data is being collected, who is collecting it and what we will do with it. VLL makes this information available through its privacy notice. A privacy notice should be in place and made available to the subject before any information is obtained from them. If personal information is not obtained from the subject directly, a notice must be provided to them at the earliest of the below scenarios:
 - a) At the date of the first communication with them or otherwise;
 - b) If data is to be disclosed to another recipient, before the date of disclosure; or,
 - c) At the latest within one month.
- 6.4 In addition, one of the processing conditions from section 7 (below) must also be satisfied.

Second principle – processing purpose

- 6.5 The purpose of processing special category personal data must be specified prior to collection, made explicit to the subject and legitimate. The data can be processed for a further purpose, but no processing must be carried out on it that is incompatible with the initial processing purpose.
- 6.6 For example, information collected for the purpose of arranging rental payments must not be used for the incompatible purpose of sending marketing materials.

Third principle – relevancy

- 6.7 The personal data collected and processed must be adequate, relevant and not excessive for the purpose it is collected. Only the minimum amount of information necessary for the purpose in question must be processed (e.g. shared, collected or requested).

Fourth principle – accuracy

- 6.8 The personal data must be accurate and, where necessary, kept up to date. Where compatible with the processing purpose, inaccurate data be erased or rectified as soon as it is found to be incorrect.
- 6.9 Where possible, data should be verified with the subject to ensure its accuracy.
- 6.10 Inaccurate, incomplete or out of date information must not be shared. To that end:
- a) Personal data must be verified before being shared;
 - b) Information regarding the accuracy, completeness and reliability of the data must be included when data is shared to enable any recipient to assess the accuracy of the data; and
 - c) If, after sharing, it is discovered that the personal data is inaccurate or the sharing unlawful the recipients must be informed without delay.

Fifth principle – retention

- 6.11 Personal data must be kept for no longer than is necessary for the purpose it was collected. A suitable retention period must, therefore, be established to guide periodic reviews of the personal data held. These retention periods are set out in VLL's Retention Policy.
- 6.12 Once the retention period has been exceeded the information should be deleted unless further retention is justified in accordance with the archiving condition.

- 6.13 Information should not be retained beyond the defined retention period without these reasons being specified and recorded.

Sixth principle – data security

- 6.14 Special category data must be protected against unauthorised or unlawful processing and against accidental loss, destruction or damage. VLL.'s Data Protection Policy sets out how the company complies with this principle.

7. INDIVIDUAL RIGHTS

- 7.1 Data subjects have the following rights:

- a) To be informed of VLL's use of their information;
- b) Of access to their information;
- c) Rectify information about them that is inaccurate;
- d) To have their information erased (the 'right to be forgotten');
- e) To restrict how we use their information;
- f) To move their information to a new data controller;
- g) To object to how we use their information;
- h) Not to have decisions made about them on the basis of automated decision making;
- i) To object to direct marketing; and,
- j) To complain about anything VLL does with their information.

- 7.2 These rights are generally limited in application, and only apply in specific situations. They can be restricted in part or whole; for example, for the prevention and detection of crime.

8. PROCESSING CONDITIONS FOR SPECIAL CATEGORY DATA

- 8.1 In order to lawfully process special category data, both a lawful basis under Article 6 of the UK GDPR and a separate condition for processing under Article 9 must be identified.

9. SAFEGUARDS – PROCESSING SPECIAL CATEGORY DATA

- 9.1 Many of the processing conditions from parts 1, 2 and 3 of Schedule 1 of the DPA 18 require the data controller to have in place an 'appropriate policy document' in order for the condition to be met. This policy constitutes the appropriate policy document for these conditions.

10. FOR FURTHER INFORMATION

UK General Data Protection Regulation
Data Protection Act 2018

Directive (EU) 2016/680 Law Enforcement Directive
Information Commissioner's Office: www.ico.org.uk

11. REVIEW

- 11.1 This policy will be kept up to date to reflect any changes to processing activity or data protection legislation.