

# **DATA PROTECTION INFORMATION LEAFLET – DEBT MANAGEMENT**

## **Introduction**

In May 2018 major changes took place in regards to Data Protection Law. The Data Protection Act 1998 has now been replaced by the General Data Protection Regulation.

As part of delivering our service to you we will collect and process confidential information about you and your circumstances. We will comply with data protection law and keep all confidential information we receive from you or about you secure.

In order that we can properly assess your financial position and provide appropriate advice to you it is important that you provide us with full details of your circumstances and information as to the events leading up to your present financial situation. We will need you to keep us updated throughout the life of your Debt Management Programme of any changes in your situation. We will as part of delivering our service to you record and share the data we hold about your financial situation with your creditors. We will provide information to your creditors and their agents in order for us to negotiate and maintain on an ongoing basis your repayment programme. All the information we provide to your creditors will be objective, complete and accurate. Your fullest co-operation will be necessary for us to fully achieve this. For example we will regularly ask you for up to date information and documents such as payslips or other proof of income and bank statements in order that we can assess any changes to your circumstances and the affordability, suitability and sustainability of your programme. By providing these documents to us you help us to better understand your financial position and verify the information you have provided to us. This enables us to ensure that we are at all times acting in your best interests. We will not mislead your creditors whether intentionally or by omission.

## **1. Your creditors and keeping the information we hold about you up to date**

As a minimum at the outset of your programme and every twelve months thereafter we will ask you for updated personal and financial information. Every twelve months thereafter we will seek updated information from you. This is so that we can provide your creditors with updated information including your personal details, a list of all your creditors, a financial statement setting out your current Income and Expenditure which has been verified by reference to your bank statements and payslips or if you are self employed then your tax returns or accounts, a list of all your creditors, your proposed monthly payment into the programme and the date on which your creditors can expect to receive the next payment. We will also provide your creditors with a note of our charges to you and the fact that we are of the opinion that a Debt Management Programme is an appropriate solution to your financial difficulties.

During the course of your programme we are required to provide up to date information to your creditors. Your co-operation will be required in order that we can provide meaningful updates in relation to your circumstances to your creditors, details of any missed payments into your programme and the reasons for these. If you do not provide us with the information that we need to facilitate this we will have to inform your creditors that you have failed to fully co-operate with us and adverse consequences could follow including increased and direct creditor contact and enforcement/legal action.

We will ensure transparency, consistency and efficiency in the review of your programme. If creditors require clarification on any matters concerning your programme we will notify you and we will seek further information from you where relevant. Upon receipt of your response we will correspond with your creditors accordingly. If you do not respond to our letters or telephone calls we will again notify your creditors of this and you could expect direct and increased creditor contact in spite of the programme and your payments thereto.

The client authority form that we will ask you to sign so that we can process your personal data will set out the creditors from whom we will seek and share your personal information with. If necessary we will update this from time to time for example in circumstances where you wish to add additional creditors to or remove creditors from your programme.

## **2. Collection and processing of your personal data.**

We will verify your identity before seeking or providing any information to you about your programme. We will collect personal information about you both directly from you and from your creditors as authorised by your signed Client Authority Form. We will also collect further information as a result of managing your repayment programme, all in a compliant manner.

We will collect and process your personal data in order for us to provide our services to you, and in particular to:

- Prepare and issue to you your repayment programme.
- Keep you informed about your repayment programme and any alternative solutions that may become available to you both at the outset of your instructions and periodically as the programme progresses.
- We will record all telephone calls you make and/or receive from us (or any third party authorised by you) concerning your Debt Management Programme.
- We will record all telephone calls we make to your creditors and your creditors make to us
- Updating/providing information to creditors and their appointed representatives be they collection agencies or Solicitors.
- Updating/providing information to the Court should that be necessary if any legal proceedings are commenced against you.
- Providing information to enquiry agents if we lose touch with you
- Outsourcing, typing and certain accounting functions
- Updating and enhancing the client records we hold
- External Procedures - your creditors may ask to visit our office in order to inspect and monitor the information, payment, processing and account status relating to your file given that they have a financial interest.
- Analysis to help us manage our Company.
- Legal and regulatory compliance - Our practice may be audited or checked by our accountants or our regulatory body, or by other organisations.
- The Financial Conduct Authority – who may visit our office in order to assess our compliance with the Rules and Regulations that are applicable for the services that we provide. We are under a duty to co-operate with our Regulator to the fullest extent. As part of these visits the Regulatory body may require access to your files and all the records we hold about you.

- Accounting Procedures - We are obliged to provide our regulatory body with confirmation from an independent accountant that our accounting practices accord with regulatory requirements. This involves our external accountants visiting our office to review our accounts files and procedures.
- Any such third parties accessing your files for these purposes themselves are under a duty to keep all information about you confidential. Please do not hesitate to contact us should you have any questions or objections to this.
- We do not copy such information to anyone outside the European Economic Area. All such third parties are required to maintain confidentiality in relation to your files.
- Training. We sometimes draw on client data to give compliance, best practice and regulatory guidance to our staff.

Quite apart from managing your present Debt Management Programme we like to send present and past clients information that may be of interest to them. This includes information about legal developments changes in creditor policies or details about us and our services. If you consent to receiving such information please tick the box at the bottom of the acknowledgement form. Should you subsequently change your mind you can go to our website at [www.moneysolve.co.uk/opt-out](http://www.moneysolve.co.uk/opt-out) where you will be able to withdraw your previous consent to receive such communications or alternatively you could telephone us to let us know.

### **3. Data Protection in respect of Money Laundering checks**

We will ask you for personal data for the purposes of our money laundering checks, including a copy of your current passport or photographic driving licence. Such documentation will be processed only for the purposes of preventing money laundering and terrorist financing, or as otherwise permitted by law or with your express consent.

You consent to us retaining all such data we hold for you for six years. This is 12 months longer than the five year statutory period that we are duty bound to retain this information for,.

If you do not agree to us doing so please contact us immediately.

Other than as set out above we will only disclose your personal information to the extent required by law, Court Order or as requested by other Government or law enforcement authority or our Regulatory body.

### **4. Our Obligations**

As we hold/will hold information about you this gives rise to obligations under the General Data Protection Regulation (GDPR).

You have rights in relation to the information we hold about you. That includes the right to be informed what we hold, the right to have errors corrected and the right to have data deleted if we have no justification for holding it.

If we become aware of breaches of security with confidential information we have a duty to report breaches of security to you, our Regulator the Financial Conduct Authority and to the Information Commissioner's Office.

We may be legally liable in various ways if we fail to hold your data appropriately in accordance with the regulatory rules by which we are bound. The following is a summary of our obligations under data protection law, which we would be grateful if you could read carefully.

**The Data Protection Principles:** In processing your personal data we must be able to demonstrate that we comply with the "data protection principles". In brief these require us to ensure that your personal data is:

- processed lawfully, fairly and in a transparent manner
- collected for specified, explicit and legitimate purposes and not further processed in a manner incompatible with those purposes
- adequate, relevant and limited to what is necessary
- accurate and kept up to date
- kept for no longer than is necessary
- kept with appropriate security.

## **5. Grounds for Processing Personal Data:**

We will only process your personal data if we have a legitimate justification for doing so.

We will usually process your personal data on the basis of your consent.

There are also circumstances where we may be entitled to process your data without consent. For example

- a. It is necessary for the performance of the contract for our services to which you have subscribed.
- b. It is necessary for compliance with any legal obligations we have.
- c. Or if it is necessary to protect your vital interests.

If you provide us with information about third parties, who may be unaware and they have not consented to us holding information about them. We will:

- Not record information about people unless we need to do so.
- Keep it secure.
- Delete it promptly when it is no longer needed by us.

## 6. Sensitive Personal Data

Sensitive personal data (referred to in the GDPR as “special categories of personal data”) can only be processed under strict conditions. Sensitive personal data includes information about your racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, health or sex life and sexual orientation and physical or mental disability.

The usual grounds which entitle us to process such sensitive data are the following.

- a) Your explicit consent to us doing so. This includes your consent to us recording such information on our systems and disclosure to your creditors.
- b) It is necessary to protect your interests if you are physically or legally incapable of giving consent
- c) Data manifestly made public by you.
- d) It is necessary for the establishment, exercise or defence of legal claims or where courts are acting in their judicial capacity.

Any sensitive data you supply to us will only be entered on our computer systems if you expressly agree to us doing so and if it’s necessary for the management of your programme. We will only disclose such data to your creditors with your express approval also. Any information which you agree to us entering on our systems is password protected and will be reviewed regularly to ensure that it is up to date. If you give us permission to disclose such information to your creditors please be assured that we will request that the information disclosed is to be treated by them as sensitive personal data and that it is on the understanding that your creditors will only use the information for the purposes of resolving your debt problems and that it is not to be used for other purposes for example processing future credit requests.

In relation to mental health conditions which may impact on your ability to manage your financial affairs it is possible for consumers to voluntarily add information about any mental health condition on their credit file held by credit reference agencies. These are known as “notice of corrections”. This gives creditors prior notice of any mental health condition but can only be accessed by creditors once a credit search is made when a consumer is seeking access to credit. If you were to take such a step and make an entry on your credit file it would be your responsibility to update such a notice. The credit reference agencies have agreed a standard form of wording for the purposes of such notices. If and when such a notice is removed from your record it will not leave a trail/footprint on your credit file. Additionally it is possible to register vulnerabilities with the Vulnerable Registration Service (VRS). The VRS has been developed to assist vulnerable people protect themselves against the financial, social and personal hardship suffered as a result of debt and financial problems. It works so as to prevent inappropriate marketing and/or financial offers. It enables organisations with access to the register to identify potentially vulnerable

circumstances and assist them in deciding on any customer engagement strategies from marketing, account management and arrears and collections. If we believe this to be of benefit to you we will let you know.

If you give us information about yourself we will record that information and use it for the purposes of delivering our services to you.

## **7. Sending personal data to others:**

We will often need to share your personal data and confidential information with others such as creditors, Collection agencies or Solicitors that have been appointed by them and the Courts if legal action has been commenced. Before doing so we will consider these issues.

- Whether the organisation that we are proposing to send the information to really needs it?
- We will redact documents so that they do not include irrelevant and unnecessary confidential information where it is appropriate for us to do so
- We will also consider if we can rely on the recipient to keep the information secure. Most if not all of your creditors will be banking institutions that are bound by the same Data Protection rules and regulatory principles.?

## **8. Keeping your Data secure**

- Keep confidential papers in locked and alarmed offices when they are not in use.
- We have stringent procedures in place if it is necessary to take your information out of this office. All our laptops are encrypted for added security.
- We ensure that any confidential papers are shredded on disposal.

## **9. Keeping our IT systems secure**

- At the outset of your instructions we will ask you for an email address should it be necessary to contact you urgently or is this your preferred method of communication. Should you change your email address it is important that you contact us to let us know. This is important as if we receive an email from an unknown source we may not be able to open any attachments or links which may risk viruses being downloaded on our systems.
- We will ensure that the security and anti-virus software on our computers is updated frequently and any security weaknesses will be addressed immediately.
- Our computer hard drives, data sticks, floppy disks, CD-ROMs etc are physically destroyed when no longer required in accordance with our legal obligations.

- Electronic Equipment is destroyed using kill disc and individual folders will be permanently deleted from the system. Once deleted from the system electronic records are not recoverable even using forensic data recovery techniques.

## **10. Accounting Facility**

The Company has policies in place to protect itself from the risk of funds being diverted.

The policies and procedures we have in place serve to protect against criminals seeking to divert funds.

We will ensure before dealing with any enquiry to:

- Check your identity. We will ask you to go through various security questions before sharing any information with you.
- We may ask you to put any request for information in writing if we are not sure about your identity and such cannot be immediately checked.

## **11. The storage of letters and statements that we receive from you and your creditors.**

The responsibility for storage of files falls to the Data Protection Officer who must ensure that adequate and appropriate safeguards are in place for the rights and freedoms of our customers and clients. The Data Protection Officer has responsibility to ensure that data is destroyed securely. Confidential information is cross cut shredded.

The salient information contained in any correspondence we receive about your accounts from you and your creditors is entered onto our computer systems. Thereafter the correspondence will be retained securely at our premises in a designated file we hold for you until such a time as your Debt Management Programme completes or terminates. When this happens we will ask you whether you would like us to return all your original paperwork to you.

If you do not want this paperwork to be returned to you we will place your file in secure storage for a period of 6 years following the termination of your programme. We are duty bound not to hold information any longer than is necessary. We will retain records for 6 years following the termination or conclusion of your programme as this is when the statutory limitation period for any civil claims that may arise from our delivering our service to you expires. After this period we will destroy the paperwork securely in line with statutory guidelines. In addition we may periodically return to you any correspondence that we do not need for the ongoing management of your programme.

You consent to us retaining such data for longer than the five year statutory period, unless you tell us otherwise. Data is retained for six years as data may be needed for the company to provide compliance with any legal requirements or records may be needed in the event of litigation.

## 12. Joint Debt Management Programme

At the outset of your Debt Management Programme if you are in a relationship and living with your partner and both have outstanding debts, we will advise you as to whether it would be appropriate for you to enter into a joint debt management programme or whether you will each be better off under two separate programmes. This would depend on whether you are operating separate finances or not. Sometimes it might not be appropriate for you to have a joint debt management programme but in circumstances where we advise that a joint debt management programme is the most appropriate debt solution, we will assume that we have your permission to act on the instructions of your partner. We will of course endeavour to discuss important issues with both of you. However in circumstances where we are having some difficulty in so doing that advice and information will be provided in writing to both of you initially, inviting you both to contact us in order that we can discuss matters further. If, however, we are unable to discuss the matter with both of you as stated above, we will assume we can act on the instructions of one of you. If you are not happy about this it is important that you contact us urgently.

## 13. Your Rights

- You have the following rights:
- A right to be informed as to what information we hold and the basis of our processing of the same.
- The categories of personal data we hold
- The recipients to whom the personal data has been or will be disclosed to.
- The source of the data if it is not collected directly from the data subject.
- A right to access a copy of the information we hold
- A right to object or restrict our processing of your data if it is causing distress
- A right to prevent processing for direct marketing
- A right to have inaccurate personal data rectified, blocked, erased or destroyed
- A claim to compensation for damage caused by a breach of the Act
- You can request that all your personal data is removed from our Data base or you can request that personal data can be transferred to another system at no cost to you.
- To have data deleted if we have no justification for holding it.
- The right to lodge a complaint with the Information Commissioners Office.

Any request for information as detailed above will be treated as a Subject Access Request and must be made in writing. We will do our utmost to respond to any such request within 30 days. In complex cases we may extend this period of compliance by up to a further 2 months. If this proves necessary we will let you know within the initial 30 day period and explain why an extension is necessary. We reserve the right to charge you for any unreasonable requests which we deem in our absolute discretion to be disproportionate, excessive or unfounded. Such fees will be proportionate to the administrative cost of providing the information. We will engage with you to come to a mutually beneficial outcome. Information will be provided in a secure format. If your personal data has been deleted we will inform you that this is the case.



## **14. Nuisance/Unwanted Telephone Calls**

If you believe that you have been directly affected by our processing of your personal data you may contact the Information Commissioners Office.

Following the General Data Protection Regulation 2018 coming into force, companies are now required to have your specific consent for making marketing calls. Consequently if you receive unsolicited telephone calls and you are unhappy about doing so this is something that you can report to the Information Commissioners Office on telephone number 0303 1231113.

We have all been bothered from time to time with telephone calls and text messages from marketing and claims management companies that we do not want. Many of us however don't know what we can do to make them stop.

Essentially if you do not wish to receive nuisance or unsolicited telephone calls you can register your telephone number (both mobile and landline) with the Telephone Preference Service. (TPS) for short. To do this all that you have to do is telephone 0845 0700707. Alternatively you can register on line by visiting their website at **[www.tpsonline.org.uk](http://www.tpsonline.org.uk)**. Once you have registered your telephone numbers with the TPS you should not receive any unsolicited marketing calls. If you do you should ask for the name of the company calling you and their address. Keep a record of this. You should tell them not to call you again and ask for your telephone number to be placed on an "Exception Report" so that that Company does not call you again. If you are called when your number has been registered with TPS you can make a complaint by visiting the TPS website as detailed above and logging your complaint there.

You can also stop unwanted text messages. All that you need to do is to text 7726.

These steps should adequately protect you from nuisance/unsolicited calls. However in the unlikely event that you still continue to receive unsolicited calls and messages you can make a complaint by telephoning the Information Commissioners Office on 01303 123111. If you would like some help and advice on this please do not hesitate to contact us.

## **15. Data Protection Officer**

The Company's Data Protection Officer Mike Davies has overall responsibility for data protection and this policy. If you have concerns about any of the matters referred to in this booklet please speak to Mr Davies.

Should you have any queries in relation to this booklet and how we process your data please don't hesitate to ask us.

