ClarkeEnergy®
A KOHLER COMPANY
Engineer - Install - Maintain

GDPR HR Privacy Notice

For Current, Former and Future Employees

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1. Introduction

Clarke Energy ("we", "our", "us") collects and processes personal data, relating to its former, current, and future employees ("you", "your") to effectively manage the working relationship. We also collect relevant information from job applicants to allow future working relationships to be created.

Your personal data will be processed in accordance with our Data Protection Policy and this privacy notice. We retain personal data in paper and/or electronic format.

As an employer, we are committed to being transparent about how we handle your personal data , protecting the privacy and security of your personal data and meeting our data protection obligations under the General Data Protection Regulation ("GDPR") and the Data Protection Act 2018 ("DPA"). The purpose of this privacy notice is to make you aware of how and why we collect and use your personal data within HR both during and after your working relationship with us. We are required under the GDPR to notify you of the information contained in this privacy notice.

This privacy notice applies to all job applicants, current and former employees. It is non-contractual and does not form part of any employment contract or any other contract for services.

2. Data Protection Principles

Under the GDPR, there are seven data protection principles that we must comply with:

- Lawfulness, fairness and transparency
- Purpose limitation
- Data minimisation
- Accuracy
- Storage limitation
- Integrity and confidentiality (security)
- Accountability

3. What types of personal data do we collect about you?

Personal data is any information about an individual from which that person can be directly or indirectly identified. It does not include anonymised data, i.e. where all identifying particulars have been removed. There are also "special categories" of personal data, and personal data on criminal convictions and offences, which require a higher level of protection because it is of a more sensitive nature. The special categories of personal data comprise information about an individual's race, ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, health, sex life or sexual orientation and genetic and biometric data.

We collect and process a range of personal data about you, including:

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- Data items about you as a person, e.g. name, contact details, date of birth and national insurance number
- Data about your skills, qualifications, education, and employment history, e.g. dates of employment, terms and conditions of employment, professional memberships, appraisal details, training records, any disciplinary or grievance records and any termination of employment records.

- Data requested for legal or regulatory purposes, e.g. proof of eligibility to work in the UK, criminal record checks, credit reference checks, biometric records and driving licence checks.
- Data relating to financial information, e.g. salary information, bank account details, entitlement to financial benefits and pension information.
- Data relating to Health and Wellbeing, e.g. annual leave and other leave records, occupational health records and health surveillance records.
- Data relating to security information e.g. access information to Clarke Energy buildings.

We may also collect, store, and process the following special categories of your personal data:

- information about your health, including any medical condition, whether you have a disability which we need to make reasonable adjustments to accommodate, sickness absence records, (including details of the reasons for sickness absence being taken), medical reports and related correspondence
- information about your racial or ethnic origin, religious or philosophical beliefs and sexual orientation
- trade union membership
- information about criminal convictions and offences

4. How do we collect your personal data?

We may collect personal data about employees in a variety of ways. It is collected during the recruitment process, either directly from the applicant or sometimes from a third party such as an employment agency. We may also collect personal data from other external third parties such as references from former employers, information from background check providers, information from credit reference agencies and criminal record checks from the Disclosure and Barring Service (DBS) or Disclosure Scotland.

We will also collect additional personal data throughout the period of your working relationship with us. This may be collected during your work-related activities. Whilst some of the personal data you provide to us is mandatory and/or is a statutory or contractual requirement, some of it you may be asked to provide to us on a voluntary basis.

Your personal data may be stored in different places, including in your personnel file, the HR Database, and in other IT systems such as the email system. These systems are secure and only those who require access to carry out their job role within Clarke Energy are allowed access to this information.

5. Why do we collect your personal data?

We will only process your personal data in ways that the law permits. These are known as the legal bases for processing. We will process your personal data in one or more of the following circumstances:

- to allow us to operate the employment contract or contract for services we have entered into with you.
- where we need to comply with a legal obligation.
- where it is necessary for our legitimate interests (or those of a third party), and your interests or your fundamental rights and freedoms do not override our interests.

We may also occasionally use your personal data where required to protect your vital interests (or someone else's vital interests).

We need all the types of personal data listed under Section 3 primarily to enable us to perform our contract with you and to enable us to comply with our legal obligations. In some cases, we may also use your personal data where it is necessary to pursue our legitimate interests (or those of a third party). Our legitimate interests may include: performing or exercising our obligations or rights under the direct relationships that exists between Clarke Energy and you as our employee; pursuing our business by employing (and rewarding) employees; performing effective administration and ensuring the smooth running of the business; ensuring the security and effective operation of our systems and network; protecting our confidential information; and conducting due diligence on employees. We believe that you have a reasonable expectation, as our employee, that we will process your personal data in order to fulfil our obligations to you under your contract of employment and to create or maintain a working relationship with you. The purposes for which we are processing, or will process your personal data is to:

- Enable recruitment processes, e.g. processing of your data is required to assess your suitability for a role or to maintain contact throughout a recruitment process.
- Comply with statutory or legislative requirements, e.g. processing documentation provided by you such as proof of right to work in the UK or assessing details of a disability to ensure our duty of care as an employer is applied.
- Enable effective workforce management, e.g. processing appraisals, or performance management actions to ensure appropriate training and support is in place or to process leave records to allow staffing ratio management.
- Administer the contract and associated benefits, e.g. processing bank details to ensure payment of salary or processing contact information to a third-party supplier to allow a company car to be arranged.
- Maintain accurate employee records, e.g. processing emergency contact information if required or to maintain up-to-date contact details for correspondence.

Please note that we may process your personal data without your consent, in compliance with these rules, where this is required or permitted by law.

6. What if you fail to provide personal data?

If you fail to provide certain personal data when requested or required, we may not be able to perform the contract we have entered into with you, or we may be prevented from complying with our legal obligations (such as to ensure the health and safety of our workers).

7. Why and how do we use sensitive personal data?

We will only collect and use your sensitive personal data, which includes special categories of personal data and information about criminal convictions and offences, when the law allows us to do so.

Some special categories of personal data , i.e. information about your health or medical conditions and trade union membership, and information about criminal convictions and offences, is processed so that we can perform or exercise our obligations or rights under employment law or social security law and in line with our data protection policy. Information about health or medical conditions may also be processed for the purposes of assessing the working capacity of an employee or medical diagnosis, provided this is done under the responsibility of a medical professional subject to the obligation of professional secrecy, e.g. a doctor, and again in line with our data protection policy.

Due to the nature of the services we provide, we sometimes have a requirement to carry out relevant criminal record checks. We only process these where explicit consent is given. In this case, we will provide you with details of the personal data we require and the reason we need it, so that you can properly consider whether you wish to consent or not. It is entirely your choice whether to consent and your consent can be withdrawn at any time.

The purposes for which we are processing, or will process these special categories of your personal data, are to:

- assess your suitability/eligibility for employment, engagement, or promotion
- comply with statutory and/or regulatory requirements and obligations
- comply with our duty of care requirements as an Employer
- administer the contract we have entered with you
- ensure compliance with your statutory and contractual rights
- maintain a record of sickness absence and/or your fitness for work
- enable effective workforce management through Human Resource and business administration

Where we process other special categories of personal data , i.e. information about your racial or ethnic origin, religious or philosophical beliefs and sexual orientation, this is done for the purposes of equal opportunities monitoring and in line with our data protection policy. Personal data that we use for these purposes is either anonymised or is collected with your explicit written consent, which can be withdrawn at any time. It is entirely your choice whether to provide such personal data.

We may also occasionally use your special categories of personal data, and information about any criminal convictions and offences, where it is needed for the establishment, exercise, or defence of legal claims.

8. Change of purpose

We will only use your personal data for the purposes for which we collected it unless this information is anonymised for statistical purposes. If we need to use your personal data for a purpose other than that for which it was collected, we will provide you, prior to that further processing with information about the new purpose, we will explain the legal basis which allows us to process your personal data for the new purpose and we will provide you with any relevant further information. We may also issue a new privacy notice to you.

9. Who has access to your personal data?

Your personal data may be shared internally within Clarke Energy and its group companies, including with members of the HR department, the Payroll department, your line manager, other managers in the department in which you work, Company Directors/ Business Leaders, Health & Safety and other employees if access to your personal data is necessary for the performance of their roles.
We may also share your personal data with third-party service providers (and their designated agents), including:

- external organisations for the purposes of conducting pre-employment reference and background checks
- benefit providers and benefits administration, including insurers
- pension scheme provider and pension administration
- occupational health providers
- external training providers
- external IT services
- external fleet services
- external auditors
- external payroll provider
- potential clients as part of bid submissions
- professional advisers, such as lawyers and accountants

We may also share your personal data with other third parties in the context of a potential sale or restructuring of some or all of its business. In those circumstances, your personal data will be subject to confidentiality undertakings.

We may share your personal data with third parties where it is necessary to administer the contract we have entered into with you, where we need to comply with a legal obligation, or where it is necessary for our legitimate interest (or those of a third party).

We may also need to share your personal data with a regulator or to otherwise comply with the law.

10. How does Clarke Energy protect your personal data?

We have put in place measures to protect the security of your personal data. We have internal policies, procedures and controls in place to try and prevent your personal data from being accidentally lost or destroyed, altered, disclosed or used or accessed in an unauthorised way. In addition, we limit access to your personal data to those employees, agents, contractors and other third parties who have a business requirement in order to perform their job duties and responsibilities.

Where your personal data is shared with third-party service providers, we require all third parties to take appropriate technical and organisational security measures to protect your personal data and to treat it subject to a duty of confidentiality and in accordance with data protection law.

11. For how long does Clarke Energy keep your personal data?

We will only retain your personal data for as long as it is necessary to fulfil the purposes for which it was collected and processed, including for the purposes of satisfying any legal, tax, health and safety, reporting or accounting requirements.

We will generally hold your personal data for the duration of your employment or engagement. The exceptions to retaining such personal data for this entire period are:

- any personal data supplied as part of the recruitment process will not be retained if it has no bearing on the ongoing working relationship
- if you have provided a speculative CV for consideration for any relevant recruitment exercises, your personal data may be retained and processed as per the above, with your consent and may be shared with various managers across the business
- personal data about criminal convictions and offences collected in the course of the recruitment process will be deleted once it has been verified through a DBS or Disclosure Scotland criminal record check, unless, in exceptional circumstances, the information has been assessed by us as relevant to the ongoing working relationship
- it will only be recorded whether a DBS or Disclosure Scotland criminal record check has yielded a satisfactory or unsatisfactory result, unless, in exceptional circumstances, the information in the criminal record check has been assessed by us as relevant to the ongoing working relationship
- if it has been assessed as relevant to the ongoing working relationship, a DBS or Disclosure Scotland criminal record check will nevertheless be deleted after the specified time frame as required by the relevant legislation but normally no longer than 6 months, or once all management processes in relation to assessment have reached a conclusion, whichever is the earlier

- disciplinary, grievance and performance capability records will only be retained until the expiry of any warning given (but a summary of the disciplinary, grievance or performance management record will still be maintained for the duration of your employment)
- medical records sought throughout your employment

12. Your rights in connection with your personal data?

It is important that the personal data we hold about you is accurate and up to date. Please keep us informed if your personal data changes, e.g. you change your home address, during your working relationship with us so that our records can be updated. We cannot be held responsible for any errors in your personal data in this regard unless you have notified us of the relevant change.

As a data subject, you have several statutory rights. Subject to certain conditions, and in certain circumstances, you have the right to:

- request access to your personal data – this is usually known as making a data subject access request and it enables you to receive a copy of the personal data we hold about you and to check that we are lawfully processing it
- request rectification of your personal data – this enables you to have any inaccurate or incomplete personal data we hold about you to be corrected
- request the erasure of your personal data (known as the right to be forgotten) – this enables you to ask us to delete or remove your personal data where there's no compelling reason for its continued processing, e.g. it's no longer necessary in relation to the purpose for which it was originally collected
- restrict the processing of your personal data – this enables you to ask us to suspend the processing of your personal data, e.g. if you contest its accuracy and so want us to verify its accuracy
- object to the processing of your personal data – this enables you to ask us to stop processing your personal data where we are relying on the legitimate interests of the business as our basis for processing and there is something relating to your particular situation which makes you decide to object to processing on this ground
- data portability – this gives you the right to request the transfer of your personal data to another party so that you can reuse it across different services for your own purposes

If you wish to exercise any of these rights in relation to the data held within your personnel record, please contact either Lynsey Merryweather or Charlotte Kitto
In the limited circumstances where you have provided your consent to the processing of your personal data for a specific purpose, you have the right to withdraw your consent for that specific processing at any time. This will not affect the lawfulness of processing based on your consent before its withdrawal. If you wish to withdraw your consent, please contact Lynsey Merryweather or Charlotte Kitto.

If you believe that we have not complied with your data protection rights, you have the right to make a complaint to the Information Commissioner's Office (ICO) at any time. The ICO is the UK supervisory authority for data protection issues.

13. Automated decision making

Automated decision making occurs when an electronic system uses personal data to decide without human intervention. We do not envisage that any employment decisions will be taken about you based solely on automated decision making, including profiling. However, we will notify you in writing if this position changes.

14. Changes to this privacy notice

We reserve the right to update or amend this privacy notice at any time, including where we intend to further process your personal data for a purpose other than that for which the personal data was collected or where we intend to process new types of personal data . We will issue a new privacy notice when we make significant updates or amendments. We may also notify you about the processing of your personal data in other ways.

15. Contact

If you have any questions about this privacy notice or how we handle your personal data, please contact Lynsey Merryweather, Group HR Director or Charlotte Kitto, HR Manager.