

**Approved by Trust Executive Board on:**

**Date for review: October 2019**

## **1.0 Introduction**

Exeter Learning Academy Trust collects and uses personal information about staff, pupils, parents and other individuals who come into contact with the Trust and its schools. This information is gathered in order to enable it to provide education and other associated functions. In addition, there may be a legal requirement to collect and use information to ensure that the Trust and schools comply with their statutory obligations.

Schools have a duty to be registered, as Data Controllers, with the Information Commissioner's Office (ICO) detailing the information held and its use. These details are then available on the ICO's website. Schools also have a duty to issue a Privacy Notice to all pupils/parents, summarising the information held on pupils, why it is held and the other parties to whom it may be passed on. Details of the Privacy notice and model template for Exeter Learning Academy Trust schools are shown at Appendix 1 on page 8.

The General Data Protection Regulation (GDPR) was agreed by the European Parliament and Council in December 2015. It will become law in the UK from 25 May 2018. The main focus is ensuring an overall compliance culture, requiring a more comprehensive framework of policies and procedures. The Information Commissioner's Office (ICO) will have greater enforcement powers, including the ability to issue fines for a much wider range of breaches of the Regulation. The maximum available fine will be increasing significantly from the current level of £500,000 to €20 million or 4% of annual global turnover, whichever is higher.

Some key points from the GDPR are:

- There is a wider definition of personal data, including technical data such as location data and online identifiers (e.g. IP addresses). New categories of sensitive personal data are added: genetic data and biometric data,
- There is a strong emphasis on accountability and transparency.
- There will be increased rights for data subjects.
- It specifies more detailed security requirements.
- There are increased controls on the use of third parties for processing of personal data.
- A Data Protection Officer must be appointed.

## **1.1 Purpose**

This policy is intended to ensure that personal information is dealt with correctly and securely and in accordance with the Data Protection Act 1998, General Data protection Regulations, and other related legislation. It will apply to information regardless of the way it is collected, used, recorded, stored and destroyed, and irrespective of whether it is held in paper files or electronically. All staff involved with the collection, processing and disclosure of personal data will be aware of their duties and responsibilities by adhering to these guidelines.

## **2.0 What is Personal Information?**

Personal information or data is defined as data which relates to a living individual who can be identified from that data, or other information held.

- 2.1** A sub-set of personal data is known as 'sensitive personal data'. Sensitive personal data is information relating to race or ethnic origin, political opinions, religious beliefs or other beliefs of a similar nature, trade union membership, physical or mental health, sexual life or the commission of any offence. Sensitive personal data is given special protection.
- 2.2** The Trust does not intend to seek or hold sensitive personal data about staff or students except where the Trust has been notified of the information, or it comes to the Trust's attention via legitimate means (e.g. a grievance) or needs to be sought and held in compliance with a legal obligation or as a matter of good practice. Staff or students are under no obligation to disclose to the Trust their race or ethnic origin, political or religious beliefs, whether or not they are a trade union member or details of their sexual life (save to the extent that details of marital status and/or parenthood are needed for other purposes, e.g. pension entitlements).

## **3.0 Data Protection Principles**

The Data Protection Act 1998 establishes eight enforceable principles that must be adhered to at all times:

1. Personal data shall be processed fairly and lawfully;
2. Personal data shall be obtained only for one or more specified and lawful purposes;
3. Personal data shall be adequate, relevant and not excessive;
4. Personal data shall be accurate and where necessary, kept up to date;
5. Personal data processed for any purpose shall not be kept for longer than is necessary for that purpose or those purposes;
6. Personal data shall be processed in accordance with the rights of data subjects under the Data Protection Act 1998;
7. Personal data shall be kept secure i.e. protected by an appropriate degree of security;
8. Personal data shall not be transferred to a country or territory outside the European Economic Area, unless that country or territory ensures an adequate level of data protection.

## **3.1 General Statement**

The Trust is committed to maintaining the above principles at all times. The Trust will:

- Inform individuals why the information is being collected when it is collected
- Inform individuals when their information is shared, why and with whom
- Audit information held to check quality and accuracy, to record where it came from and who it has been shared with, to ensure the organisation can be contacted in future if there are any inaccuracies.
- Ensure systems enable consent to be a 'positive opt-in' for all data held
- Ensure that information is not retained for longer than is necessary
- Ensure when obsolete information is destroyed it is appropriate and secure

- Ensure clear and robust safeguards are in place to protect personal information from loss, theft and unauthorised disclosure, irrespective of its recorded format
- Share information with others only when it is legally appropriate to do so
- Set out procedures to ensure compliance with the duty to respond to requests for access to personal information, known as Subject Access Requests
- Ensure all breaches of the DPA are reported to the relevant Headteacher or Chief Executive Officer, for the Trust. They will decide whether notification to the Information Commissioner's Office (ICO) and/or the Charity Commission is necessary. They will investigate, decide whether it could have been prevented and make recommendations for change to Governors/ Trustees
- Ensure staff are aware of and understand policies and procedures

#### **4.0 Data Protection Impact Assessments**

**4.1** Data Protection Impact Assessments (DPIA) are required where data processing is likely to result in a high risk to individuals, eg:

- Where a new technology is deployed;
- Where a profiling operation is likely to significantly affect individuals; or
- Where there is processing on a large scale of the special categories of data.

**4.2** If a DPIA indicates data processing is high risk the Trust Data Protections Officers will consider contacting the ICO to seek assurance that processing is compliant with GDPR.

#### **5.0 Pupil Data**

**5.1** The personal data held about pupils includes contact details, assessment/examination results, attendance information, characteristics such as ethnic group, special educational needs, any relevant medical information, and photographs. This is used to support pupils' education, to monitor and report on progress, to provide appropriate pastoral care, and to assess how well the Trust as a whole is doing, together with any other uses normally associated with this provision in an independent school environment.

**5.2** The Trust may make use of limited personal data (such as contact details) relating to pupils, and their parents or guardians for fundraising, marketing or promotional purposes and to maintain relationships with pupils of the Trust, but only where consent has been provided to this.

In particular, the Trust may:

- Transfer information to a society/club set up for the purpose of maintaining contact with pupils or for fundraising, marketing or promotional purposes to the academy;
- Make use of photographs of pupils in Trust publications and on the Trust websites;
- Disclose photographs and names of pupils to the media (or allow the media to take photographs of pupils) for promotional and congratulatory purposes where a pupil may be identified by name when the photograph is published e.g. if they have won an award or otherwise have excelled (only published with express permission);
- Make personal data, including sensitive personal data, available to staff for planning curricular or extra-curricular activities;

**5.3** Any wish to limit use of personal data should be notified to the Headteacher in writing. If, in the view of Headteacher, the objection cannot be maintained, the individual will be given written reasons why the school cannot comply with their request. Parents who do not want

their child's photograph or image to appear in any of the Trust's promotional material, or be otherwise published, must also make sure their child knows this. Pupils, parents and guardians should be aware that where photographs or other image recordings are taken by family members or friends for personal use the DPA will not apply e.g. where a parent takes a photograph of their child and some friends taking part in the School sports day.

## **6.0 Staff Data**

**6.1** The personal data held about staff includes contact details, employment history, information relating to career progression, information for DBS checks and photographs. The data is used to comply with legal obligations in relation to employment, and the education of children. The Trust may pass information to other regulatory authorities where appropriate, and may use names and photographs of staff in publicity and promotional material. Personal data will also be used when giving references.

**6.2** Staff should note that information about disciplinary action may be kept for longer than the duration of the sanction. Although treated as "spent" once the period of the sanction has expired, the details of the incident may need to be kept for a longer period. Any wish to limit or object to the uses to which personal data is to be put should be notified to the Headteacher, for schools, and Chief Executive Officer for the trust. He/she will ensure that this is recorded, and adhered to if appropriate. If they believe it is not appropriate to limit the use of personal data in the way specified, the individual will be given written reasons why the Trust cannot comply with their request.

## **7.0 Disclosure of personal data to third parties:**

**7.1** The following list shows the common reasons the Trust will authorise disclosure of personal data to a third party:

- To give a confidential reference relating to a current or former employee, volunteer or pupil;
- for the prevention or detection of crime;
- for the assessment of any tax or duty;
- where it is necessary to exercise a right or obligation conferred or imposed by law upon the Trust (other than an obligation imposed by contract);
- for legal proceedings (including prospective legal proceedings);
- for the purpose of obtaining legal advice;
- for research, historical and statistical purposes (as long as this neither supports decisions in relation to individuals, nor causes substantial damage or distress);
- to publish the results of public examinations or other achievements of pupils;
- to disclose details of a medical condition where it is in the pupil's interests to do so, for example for medical advice, insurance purposes or for school trips;
- to provide information to an educational establishment if a pupil is transferring;
- to provide information to the Examination Authority in the examination process;
- to provide information to a Government Department concerned with education.

The Trust may receive requests from third parties (i.e. other than data subject, the Trust, and its employees) to disclose personal data it holds about pupils, their parents or guardians, staff or others. This information will not generally be disclosed unless one of the specific exemptions under the DPA which allow disclosure applies; or where necessary for the legitimate interests of the individual concerned or the Trust. All requests for the disclosure of personal data must be sent to the Headteacher for schools or Chief Executive Officer for the trust. They will review and decide whether to make the

disclosure, ensuring that reasonable steps are taken to verify the identity of that third party before making any disclosure.

## **8.0 Confidentiality of Pupil Concerns**

**8.1** Where a pupil raises concerns confidentially with a member of staff and expressly withholds their agreement to their personal data being disclosed to their parents or guardian, the Trust will maintain confidentiality unless it has reasonable grounds to believe the pupil does not fully understand the consequences of withholding their consent, or where the Trust believes disclosure will be in the best interests of the pupil or other pupils.

## **8.2 Data Accuracy**

If a person discovers data held about them is inaccurate or out of date, they should write to the Headteacher or Chief Executive Officer for the Trust, providing details of the error and correction to be made.

If the Headteacher/Trust disagrees with the changes it will discuss the matter with the person, but Trust has the right to maintain the original information. If the individual is unhappy with this [they have the right to instigate the complaints procedure/request a review of the decision, in line with the terms of the complaints policy.

## **9.0 Staff Procedures and Training**

**9.1** ELAT will ensure that all staff are aware of their responsibilities under the Data Protection Act and Data Retention Regulations. Staff will be trained and supported to deal effectively with the requirements of the Act, including the need to deal with subject access requests, in whole or in part, in accordance with the Act.

**9.2** Training will be deployed as follows (as appropriate to each establishment):

- **Headteachers and senior leaders:** Dealing with subject access requests. Use of surveillance eg CCTV Storing and disposal of hard and soft personal data. Use of biometrics. Taking and using photographs. Annually, overview of key elements of DPA and ELAT procedures
- **Audit & Finance Committee members:** Annually, overview of key elements of DPA and ELAT procedures
- **Reception and admin staff:** Dealing with subject access requests. Storing and releasing references. Use of biometrics. Annually, overview of procedures including data disposal and other department specific procedures
- **Premises team:** Use of surveillance eg CCTV Annually, overview of ELAT procedures including data disposal and other department specific procedures.
- **IT Staff:** Disposal of soft student and staff data. Security of IT systems. Use of biometrics. Acceptable use of IT. Use of cloud based software. Annually, overview of procedures including data disposal and other department specific procedures.
- **Business / marketing staff:** Use of direct marketing. Use of photographs of children. Annually, overview of procedures including data disposal and other department specific procedures.
- **Other staff:** Not required, access to policy by all staff
- Training guidelines for schools can be found at: <https://ico.org.uk/for-organisations/education/> .

## **10.0 Subject Access Requests**

### **10.1 Rights of access to information**

There are two distinct rights of access to information held by schools about pupils.

1. Under the Data Protection Act 1998 any individual has the right to make a request to access the personal information held about them.
2. The right of those entitled to have access to curricular and educational records as defined within the Education Pupil Information (Wales) Regulations 2004.

These procedures relate to subject access requests under the Data Protection Act 1998.

## 9.2 Actioning a subject access request

1. Requests for information must be made in writing; which includes email, and be addressed to the Headteacher of the relevant school, or Chief Executive Officer of the Trust, if the information is held centrally by the Trust. If the initial request does not clearly identify the information required, then further enquiries will be made.
2. The identity of the requestor must be established before the disclosure of any information, and checks should also be carried out regarding proof of relationship to the child. Evidence of identity can be established by requesting production of:
  - passport
  - driving licence
  - utility bills with the current address
  - Birth / Marriage certificate
  - P45/P60
  - Credit Card or Mortgage statement*This list is not exhaustive.*
3. Any individual has the right of access to information held about them. However with children, this is dependent upon their capacity to understand (normally age 12 or above) and the nature of the request. The Headteacher should discuss the request with the child and take their views into account when making a decision. A child with competency to understand can refuse to consent to the request for their records. Where the child is not deemed to be competent an individual with parental responsibility or guardian shall make the decision on behalf of the child.
4. The school may make a charge for the provision of information, dependent upon the following:
  - Should the information requested contain the educational record then the amount charged will be dependent upon the number of pages provided.
  - Should the information requested be personal information that does not include any information contained within educational records schools can charge up to £10 to provide it.
  - If the information requested is only the educational record, viewing will be free, but a charge not exceeding the cost of copying can be made.
5. The response time for subject access requests, once officially received, is 40 days **(not working or school days but calendar days, irrespective of school holiday periods)**. However the 40 days will not commence until after receipt of fees or clarification of information sought.
6. The Data Protection Act 1998 allows exemptions as to the provision of some information; **therefore all information will be reviewed prior to disclosure.**

7. Third party information is that which has been provided by another, such as the Police, Local Authority, Health Care professional or another school. Before disclosing third party information consent should normally be obtained. There is still a need to adhere to the 40 day statutory timescale.
8. Any information which may cause serious harm to the physical or mental health or emotional condition of the pupil or another should not be disclosed, nor should information that would reveal that the child is at risk of abuse, or information relating to court proceedings.
9. If there are concerns over the disclosure of information then additional advice should be sought. Exemptions to subject access include confidential references (except where it will not identify the source of reference or the referee has given their consent, or where disclosure is considered reasonable), Examination scripts (not the comments recorded by the examiner), where a claim to legal professional privilege could be maintained in legal proceedings, the information is exempt from disclosure unless the privilege is waived.
10. Repeated Requests for Access to Records: Unless a reasonable period of time has lapsed between the compliance with one request and receipt of the next, the DPA allows for access to be refused when the applicant has made repeated requests for information already provided.
11. Any request to stop dealing with personal data by the Trust because of damage or distress caused should be treated as a request under section 10 DPA.
12. Where redaction (information blacked out/removed) has taken place then a full copy of the information provided should be retained in order to establish, if a complaint is made, what was redacted and why.
13. Information disclosed should be clear, thus any codes or technical terms will need to be clarified and explained. If information contained within the disclosure is difficult to read or illegible, then it should be retyped.
14. Information can be provided at the school with a member of staff on hand to help and explain matters if requested, or provided at a face to face handover. The views of the applicant should be taken into account when considering the method of delivery. If postal systems have to be used then registered/recorded mail must be used.

## **10. Complaints**

Complaints will be dealt with in accordance with the Trust's complaints policy. Complaints relating to information handling may be referred to the Information Commissioner (the statutory regulator).

## **11. Review**

This policy will be reviewed as it is deemed appropriate, but no less frequently than every 2 years. The policy review will be undertaken by the Trust Board, or nominated representative.

## **12. Contacts**

If you have any enquires in relation to this policy, please contact the Data Protection Officers named below:

| <b>Establishment</b>   | <b>Data Protection Officer</b> | <b>Job Title</b> |
|------------------------|--------------------------------|------------------|
| Bowhill Primary School | Jo Dentith                     | Headteacher      |

Further advice and information is available from the Information Commissioner's Office, [www.ico.gov.uk](http://www.ico.gov.uk) or telephone 01625 545745.

## Appendix 1:

### Privacy Notices and the Data Protection Act 1998: How we use pupil information

We collect and hold personal information relating to our pupils and may also receive information about them from their previous school, local authority and/or the Department for Education (DfE). We use this personal data to:

- support our pupils' learning
- monitor and report on their progress
- provide appropriate pastoral care; and
- assess the quality of our services

This information will include their contact details, national curriculum assessment results, attendance information, any exclusion information, where they go after they leave us and personal characteristics such as their ethnic group, any special educational needs they may have as well as relevant medical information. *For pupils enrolling for post 14 qualifications, the Learning Records Service will give us the unique learner number (ULN) and may also give us details about your learning or qualifications.*

We will not give information about our pupils to anyone without your consent unless the law and our policies allow us to do so. If you want to receive a copy of the information about your son/daughter that we hold, please contact the school administrator.

*We are required, by law, to pass some information about our pupils to the Department for Education (DfE). This information will, in turn, then be made available for use by the LA.*

DfE may also share pupil level personal data that we supply to them, with third parties. This will only take place where legislation allows it to do so and it is in compliance with the Data Protection Act 1998.

Decisions on whether DfE releases this personal data to third parties are subject to a robust approval process and are based on a detailed assessment of who is requesting the data, the purpose for which it is required, the level and sensitivity of data requested and the arrangements in place to store and handle the data. To be granted access to pupil level data, requestors must comply with strict terms and conditions covering the confidentiality and handling of data, security arrangements and retention and use of the data.

For more information on how this sharing process works, please visit:

<https://www.gov.uk/guidance/national-pupil-database-apply-for-a-data-extract>

For information on which third party organisations (and for which project) pupil level data has been provided to, please visit: <https://www.gov.uk/government/publications/national-pupil-database-requests-received>

If you need more information about how our local authority and/or DfE collect and use your information, please visit:

- our local authority at [\[www.devon.gov.uk\]](http://www.devon.gov.uk); or
- DfE website at <https://www.gov.uk/data-protection-how-we-collect-and-share-research-data>

## PRIVACY NOTICE - **EXAMPLE**

*School Workforce: those employed or otherwise engaged to work at a school*

### Privacy Notice - Data Protection Act 1998

We [**name of School**] are the Data Controller for the purposes of the Data Protection Act.

Personal data is held by the school about those employed or otherwise engaged to work at the school or Local Authority. This is to assist in the smooth running of the school and/or enable individuals to be paid. The collection of this information will benefit both national and local users by:

- Improving the management of school workforce data across the sector;
- Enabling a comprehensive picture of the workforce and how it is deployed to be built up;
- Informing the development of recruitment and retention policies;
- Allowing better financial modeling and planning;
- Enabling ethnicity and disability monitoring; and
- Supporting the work of the School Teachers' Review Body.

This personal data includes some or all of the following - identifiers such as name and National Insurance Number and characteristics such as ethnic group; employment contract and remuneration details, qualifications and absence information.

***We will not give information about you to anyone outside the school or Local Authority (LA) without your consent unless the law and our rules allow us to.***

We are required by law to pass on some of this data to:

- the LA
- the Department for Education (DfE)

If you require more information about how the LA and/or DfE store and use this data please go to the following websites:

- <https://new.devon.gov.uk/> and
- <https://www.gov.uk/data-protection-how-we-collect-and-share-research-data>

If you are unable to access these websites, please contact the LA or DfE as follows:

- Public Communications Unit  
Department for Education  
Sanctuary Buildings  
Great Smith Street  
London  
SW1P 3BT

Website: <https://www.gov.uk/government/organisations/department-for-education>

Email: [info@education.gsi.gov.uk](mailto:info@education.gsi.gov.uk)

Telephone: 0370 000 2288.