

<b>Document Title</b>	<b>MLT Data Protection Policy</b>
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<b>Policy Category</b>  (Please Indicate)	<b>1</b>	<b>Trust/Academies to use without amendment</b>
	<b>2</b>	Academy specific appendices
	<b>3</b>	Academy personalisation required (in highlighted fields)

## Summary of Changes from Previous Version

<b>Version</b>	<b>Date</b>	<b>Author</b>	<b>Note/Summary of Revisions</b>
V2	October 2022	JHE	Formatting changes only.

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## STATEMENT OF INTENT

Maltby Learning Trust is required to keep and process certain information about its staff members, students, their families, volunteers and external contractors in accordance with its legal obligations under data protection legislation.

The Trust may, from time to time, be required to share personal information about its staff or students with other organisations, mainly the LA, DfE, other academies and educational bodies, and potentially children's services.

This policy is in place to ensure all staff and governors are aware of their responsibilities and outlines how the Trust complies with the following core principles of the UK GDPR.

## WHICH DATA IS COLLECTED?

Examples of the categories of student information that the Trust collects, holds and shares include the following:

- Personal information – e.g. names, student numbers and addresses.
- Characteristics – e.g. ethnicity, language, nationality, country of birth and free academy meal eligibility.
- Attendance information – e.g. number of absences and absence reasons.
- Assessment information – e.g. national curriculum assessment results.
- Relevant medical information.
- Information relating to SEND.
- Behavioural information – e.g. number of temporary exclusions.
- Photographs – these will be used to aid our records management and attendance procedures.

This policy is in place to ensure all staff and governors are aware of their responsibilities and outlines how the academy complies with the following core principles of the UK GDPR.

- Lawfulness, fairness and transparency
- Purpose limitations
- Data minimisation
- Accuracy
- Storage limitations
- Integrity and confidentiality

Organisational methods for keeping data secure are imperative, and Maltby Learning Trust believes that it is good practice to keep clear practical policies, backed up by written procedures.

## 1. LEGAL FRAMEWORK

This policy has due regard to all relevant legislation and statutory guidance including, but not limited to, the following:

- The UK General Data Protection Regulation (UK GDPR)
- Freedom of Information Act 2000
- The Education (Pupil Information) (England) Regulations 2005 (as amended in 2018)
- The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004
- Academy Standards and Framework Act 1998
- Data Protection Act 2018
- Protection of Freedoms Act.

This policy also has regard to the following guidance:

- ICO (2021) 'Guide to the UK General Data Protection Regulation (UK GDPR)'
- DfE (2018) 'Data protection: a toolkit for academies'
- ICO (2012) 'IT asset disposal for organisations'.

This policy operates in conjunction with the following academy and Trust policies:

- Communications (Safe use of ICT)
- CCTV Policy.

## 2. APPLICABLE DATA

For the purpose of this policy, 'personal data' refers to information that relates to an identifiable, living individual, including information such as an online identifier, e.g. an IP address. The UK GDPR applies to both automated personal data and to manual filing systems, where personal data is accessible according to specific criteria, as well as to chronologically ordered data and pseudonymised data, e.g., key coded.

'Sensitive personal data' is referred to in the UK GDPR as 'special categories of personal data', and is defined as:

- Genetic data.
- Biometric data.
- Data concerning health.
- Data concerning a person's sex life.
- Data concerning a person's sexual orientation.
- Personal data which reveals:
  - Racial or ethnic origin.
  - Political opinions.
  - Religious or philosophical beliefs.
  - Trade union membership.
  - Principles.

Further details of how we process special category data can be found in appendix A our 'Appropriate Policy Document'.

'Sensitive personal data' does not include data about criminal allegations, proceedings or convictions. In the case of criminal offence data, academies are only able to process this if it is either:

- Under the control of official authority; or
- Authorised by domestic law.

In accordance with the requirements outlined in the UK GDPR, personal data will be:

- Processed lawfully, fairly and in a transparent manner in relation to individuals.
- Collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes.
- Adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed.
- Accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay.
- Kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods, insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes, subject to implementation of the appropriate technical and organisational measures required by the UK GDPR in order to safeguard the rights and freedoms of individuals.
- Processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

The UK GDPR also requires that "the controller shall be responsible for, and able to demonstrate, compliance with" the above principles.

### 3.ACCOUNTABILITY

The Trust will implement appropriate technical and organisational measures to demonstrate that data is processed in line with the principles set out in the UK GDPR, and will provide comprehensive, clear and transparent privacy policies.

The Trust will be able to demonstrate how data is processed as a whole across the MAT and will ensure each individual academy within the Trust is adhering to the same procedure and that this is being implemented and enforced in line with the wider Trust policies.

Additional internal records of each academy's processing activities will be maintained and kept up to date.

Internal records of processing activities will include the following:

- Name and details of the organisation
- Purpose(s) of the processing

- Description of the categories of individuals and personal data
- Retention schedules
- Categories of recipients of personal data
- Description of technical and organisational security measures
- Details of transfers to third countries, including documentation of the transfer mechanism safeguards in place.

The Trust will document other aspects of compliance with the UK GDPR and Data Protection Act where this is deemed appropriate in certain circumstances by the DPO, including the following:

- Information required for privacy notices, e.g. the lawful basis for the processing
- Records of consent
- Controller-processor contracts
- The location of personal data
- Data Protection Impact Assessment (DPIA) reports
- Records of personal data breaches.

The Trust will implement measures that meet the principles of data protection by design and data protection by default, such as:

- Minimising the processing of personal data.
- Pseudonymising personal data as soon as possible.
- Ensuring transparency in respect of the functions and processing of personal data.
- Allowing individuals to monitor processing.
- Continuously creating and improving security features.

DPIAs will be used to identify and reduce data protection risks, where appropriate.

#### 4.DATA PROTECTION OFFICER (DPO) AND LEAD STAFF

Data champions are nominated within each academy, they work with the Trust ICT/Data Protection Manager and work with the external DPO to lead on data protection across the Trust.

An external DPO has been appointed in order to:

- Inform and advise the Trust and its employees about their obligations to comply with the UK GDPR and other data protection laws.
- Monitor the Trust's compliance with the UK GDPR and other laws, including managing internal data protection activities, advising on DPIAs, conducting internal audits, and providing the required training to staff members.
- Cooperate with the ICO and act as the first point of contact for the ICO and for individuals whose data is being processed.

The DPO, along with the Trust ICT/Data Protection Manager and data champions are responsible for:

- Coordinating a proactive and preventative approach to data protection.
- Calculating and evaluating the risks associated with the Trust/Academy's data processing.
- Having regard to the nature, scope, context, and purposes of all data processing.
- Prioritising and focussing on more risky activities, e.g. where special category data is being processed.
- Promoting a culture of privacy awareness throughout the academy community.
- Carrying out ad hoc reviews of data practices to ensure staff understand and are acting in accordance with relevant data protection laws.

The DPO will have professional experience and be highly knowledgeable about data protection law, particularly that in relation to academies.

The DPO will operate independently and will not be dismissed or penalised for performing their duties. Sufficient resources and appropriate access will be provided to the DPO to enable them to meet their UK GDPR obligations.

The DPO will report to the highest level of management at the Trust, which is the CEO. Staff will ensure that they involve the DPO or the Trust ICT/Data Protection Manager in all data protection matters closely and in a timely manner.

## 5.LAWFUL PROCESSING

The legal basis for processing data will be identified and documented prior to data being processed. Under the UK GDPR, data will be lawfully processed under the following conditions:

- The consent of the data subject has been obtained
- Processing is necessary for a contract held with the individual, or because they have asked the academy to take specific steps before entering into a contract
- Processing is necessary for compliance with a legal obligation (not including contractual obligations)
- Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller
- Processing is necessary for protecting vital interests of a data subject or another person, i.e. to protect someone's life
- Processing is necessary for the purposes of legitimate interests pursued by the controller or a third party, except where such interests are overridden by the interests, rights or freedoms of the data subject – this condition is not available to processing undertaken by the academy in the performance of its tasks.

The Trust will only process personal data without consent where any of the above purposes cannot reasonably be achieved by other, less intrusive means or by processing less data.

Sensitive data will only be processed under the following conditions:

- Explicit consent of the data subject
- Processing carried out by a not-for-profit body with a political, philosophical, religious or trade union aim provided the processing relates only to members or former members (or those who have regular contact with it in connection with those purposes) and provided there is no disclosure to a third party without consent
- Processing relates to personal data manifestly made public by the data subject
- Processing is necessary for:
  - Carrying out obligations under employment, social security or social protection law, or a collective agreement
  - Protecting the vital interests of a data subject or another individual where the data subject is physically or legally incapable of giving consent
  - The establishment, exercise or defence of legal claims or where courts are acting in their judicial capacity



- Reasons of substantial public interest with a basis in law which is proportionate to the aim pursued and which contains appropriate safeguards
  - The purposes of preventative or occupational medicine, for assessing the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or management of health or social care systems and services with a basis in law
  - Reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of healthcare and of medicinal products or medical devices
  - Archiving purposes in the public interest, or scientific and historical research purposes or statistical purposes in accordance with a basis in law.
- When none of the above apply, consent will be obtained by the data subject to the processing of their special category personal data.

For personal data to be processed fairly, data subjects must be made aware:

- That the personal data is being processed
- Why the personal data is being processed
- What the lawful basis is for that processing
- Whether the personal data will be shared, and if so, with whom
- The existence of the data subject's rights in relation to the processing of that personal data
- The right of the data subject to raise a complaint with the ICO in relation to any processing.

The Trust/Academy has privacy notices for the following groups, which outline the information above that is specific to them:

- Students
- Parents or carers
- Academy workforce including Trustees and governors and volunteers.

There may be circumstances where it is considered necessary to process personal data or special category personal data in order to protect the vital interests of a data subject. This may include medical emergencies where it is not possible for the data subject to give consent to the processing. In such circumstances, the DPO will be consulted, and a decision made only after seeking further clarification.

Where the academy relies on:

- 'Performance of contract' to process a child's data, the academy considers the child's competence to understand what they are agreeing to, and to enter into a contract.
- 'Legitimate interests' to process a child's data, the academy takes responsibility for identifying the risks and consequences of the processing and puts age-appropriate safeguards in place.
- Consent to process a child's data, the academy ensures that the requirements outlined in [section 6](#) are met, and the academy does not exploit any imbalance of power in the relationship between the academy and the child.

Consent must be a positive indication expressly confirmed in words. It cannot be inferred from silence, inactivity, a positive action without words or pre-ticked boxes. Consent will only be accepted where it is freely given, specific, informed and an unambiguous indication of the individual's wishes. Consent can be withdrawn by the individual at any time.

Where consent is given, a record will be kept documenting how and when consent was given, and what the data subject was told.

The Trust/Academy ensures that consent mechanisms meet the standards of the UK GDPR. Where the standard of consent cannot be met, an alternative legal basis for processing the data must be found, or the processing must cease. Consent accepted under the DPA will be reviewed to ensure it meets the standards of the UK GDPR; however, acceptable consent obtained under the DPA will not be reobtained.

When students and staff join the Trust/Academy, the staff member or student (or, where appropriate, student's parent) will be required to complete a consent form for personal data use. This consent form deals with the taking and use of photographs and videos, amongst other things. Where appropriate, third parties may also be required to complete a consent form.

Where the academy opts to provide an online service directly to a child, the child is aged 13 or over, and the consent meets the requirements outlined above, the academy obtains consent directly from that child; otherwise, consent is obtained from whoever holds parental responsibility for the child, except where the processing is related to preventative or counselling services offered directly to children. In all other instances with regards to obtaining consent, an appropriate age of consent is considered by the academy on a case-by-case basis, taking into account the requirements outlined above.

## 7. THE RIGHT TO BE INFORMED

Adults and children have the same right to be informed about how the Trust/Academy uses their data. The privacy notices supplied to individuals, including children, in regard to the processing of their personal data will be written in clear, plain, age-appropriate language, which is concise, transparent, easily accessible and free of charge.

In relation to data obtained both directly from the data subject and not obtained directly from the data subject, the following information will be supplied within the privacy notice:

- The identity and contact details of the controller, the controller's representative, where applicable, and the DPO
- The purpose of, and the lawful basis for, processing the data
- The legitimate interests of the controller or third party
- Any recipient or categories of recipients of the personal data
- Details of transfers to third countries and the safeguards in place
- The retention period of criteria used to determine the retention period
- The existence of the data subject's rights, including the right to:
  - Withdraw consent at any time
  - Lodge a complaint with a supervisory authority.

- The existence of automated decision making, including profiling, how decisions are made, the significance of the process and the consequences.

Where data is obtained directly from the data subject, information regarding whether the provision of personal data is part of a statutory or contractual requirement, as well as any possible consequences of failing to provide the personal data, will be provided. This information will be supplied at the time the data is obtained.

Where data is not obtained directly from the data subject, information regarding the categories of personal data that the Trust/Academy holds, the source that the personal data originates from and whether it came from publicly accessible sources will be provided.

This information will be supplied:

- Within one month of having obtained the data.
- If disclosure to another recipient is envisaged, at the latest, before the data are disclosed
- If the data are used to communicate with the individual, at the latest, when the first communication takes place.

## 8. THE RIGHT OF ACCESS

Individuals, including children, have the right to obtain a copy of their personal data as well as other supplementary information, including confirmation that their data is being processed, and the right to submit a subject access request (SAR) to gain access to their personal data in order to verify the lawfulness of the processing. The academy will verify the identity of the person making the request before any information is supplied.

A copy of the information will be supplied to the individual free of charge; however, the academy may impose a 'reasonable fee' to cover the administrative costs of complying with requests that are manifestly unfounded or excessive or if an individual requests further copies of the same information. Where a request is manifestly unfounded, excessive or repetitive, a reasonable fee will be charged. All fees will be based on the administrative cost of providing the information.

Where a SAR has been made electronically, the information will be provided in a commonly used electronic format.

Where a SAR has been made for information held about a child, the academy will evaluate whether the child is capable of fully understanding their rights. If the academy determines the child can understand their rights, it will respond directly to the child.

All requests will be responded to without delay and at the latest, within one month of receipt. In the event of numerous or complex requests, the period of compliance will be extended by a further two months. The individual will be informed of this extension and will receive an explanation of why the extension is necessary, within one month of the receipt of the request.

Where a request is manifestly unfounded or excessive, the academy holds the right to refuse to respond to the request. The individual will be informed of this decision and the reasoning behind it, as well as their right to complain to the supervisory authority and to a judicial remedy, within one month of the refusal.

The academy will ensure that information released in response to a SAR does not disclose personal data of another individual. If responding to the SAR in the usual way would disclose such data, the academy will:

- Omit certain elements from the response if another individual's personal data would be disclosed otherwise
- Reject requests that cannot be fulfilled without disclosing another individual's personal data, unless those individual consent or it is reasonable to comply without consent
- 
- Explain to the individual who made the SAR why their request could not be responded to in full.

In the event that a large quantity of information is being processed about an individual, the academy will ask the individual to specify the information the request is in relation to – the time limit for responding to the request will be paused until clarification from the individual is received.

## 9.THE RIGHT TO RECTIFICATION

Individuals, including children, are entitled to have any inaccurate or incomplete personal data rectified.

Requests for rectification will be responded to within one month; this will be extended by two months where the request for rectification is complex.

Requests for rectification will be investigated and resolved, where appropriate, free of charge; however, the academy may impose a 'reasonable fee' to cover the administrative costs of complying with requests that are manifestly unfounded or excessive or if an individual makes multiple requests at once. The academy reserves the right to refuse to process requests for rectification if they are manifestly unfounded or excessive or if exemptions apply.

The academy will take reasonable steps to ensure that data is accurate or is rectified if inaccurate, implementing a proportional response for data that has a significant impact on the individual, e.g. if significant decisions are made using that data. The academy will restrict processing of the data in question whilst its accuracy is being verified, where possible.

Where the personal data in question has been disclosed to third parties, the academy will inform them of the rectification where possible. Where appropriate, the academy will inform the individual about the third parties that the data has been disclosed to.

Where no action is being taken in response to a request for rectification, or where the request has been investigated and the data has been found to be accurate, the academy will explain the reason for this to the individual and will inform them of their right to complain to the supervisory authority and to a judicial remedy.

## 10.THE RIGHT TO ERASURE

Individuals, including children, hold the right to request the deletion or removal of personal data where there is no compelling reason for its continued processing. Individuals, including children, have the right to erasure in the following circumstances:

- Where the personal data is no longer necessary in relation to the purpose for which it was originally collected or processed
- When the individual withdraws their consent where consent was the lawful basis on which the processing of the data relied
- When the individual objects to the processing and there is no overriding legitimate interest for continuing the processing
- The personal data was unlawfully processed
- The personal data is required to be erased in order to comply with a legal obligation
- The personal data is processed in relation to the offer of information society services to a child.

The Trust/Academy will comply with the request for erasure without undue delay and at the latest within one month of receipt of the request.

The Trust/Academy has the right to refuse a request for erasure where the personal data is being processed for the following reasons:

- To exercise the right of freedom of expression and information
- To comply with a legal obligation for the performance of a public interest task or exercise of official authority
- For public health purposes in the public interest
- For archiving purposes in the public interest, scientific research, historical research or statistical purposes
- The establishment, exercise, or defence of legal claims.

The Trust/Academy has the right to refuse a request for erasure for special category data where processing is necessary for:

- Public health purposes in the public interest, e.g. protecting against serious cross-border threats to health
- Purposes of preventative or occupational medicine, the working capacity of an employee, medical diagnosis, the provision of health or social care, or the management of health or social care systems or services.

Requests for erasure will be handled free of charge; however, the Trust/Academy may impose a 'reasonable fee' to cover the administrative costs of complying with requests that are manifestly unfounded or excessive or if an individual makes multiple requests at once.

As a child may not fully understand the risks involved in the processing of data when consent is obtained, special attention will be given to existing situations where a child has given consent to processing and they later request erasure of the data, regardless of age at the time of the request.

Where personal data has been disclosed to third parties, they will be informed about the erasure of the personal data, unless it is impossible or involves disproportionate effort to do so. Where personal data has been made public within an online environment, the Trust/Academy will inform other organisations who process the personal data to erase links to and copies of the personal data in question.

## 11.THE RIGHT TO RESTRICT PROCESSING

Individuals, including children, have the right to block or suppress the Trust/Academy's processing of personal data.

The Trust/Academy will restrict the processing of personal data in the following circumstances:

- Where an individual contests the accuracy of the personal data, processing will be restricted until the Trust/Academy has verified the accuracy of the data
- Where an individual has objected to the processing and the Trust/Academy is considering whether their legitimate grounds override those of the individual
- Where processing is unlawful and the individual opposes erasure and requests restriction instead
- Where the Trust/Academy no longer needs the personal data but the individual requires the data to establish, exercise or defend a legal claim.

In the event that processing is restricted, the Trust/Academy will store the personal data, but not further process it, guaranteeing that just enough information about the individual has been retained to ensure that the restriction is respected in future. The Trust/Academy will inform individuals when a restriction on processing has been lifted.

Where the Trust/Academy is restricting the processing of personal data in response to a request, it will make that data inaccessible to others, where possible, e.g. by temporarily moving the data to another processing system or unpublishing published data from a website.

If the personal data in question has been disclosed to third parties, the Trust/Academy will inform them about the restriction on the processing of the personal data, unless it is impossible or involves disproportionate effort to do so.

The academy reserves the right to refuse requests for restricting processing if they are manifestly unfounded or excessive or if exemptions apply. The individual will be informed of this decision and the reasoning behind it, as well as their right to complain to the supervisory authority and to a judicial remedy, within one month of the refusal.

## 12. THE RIGHT TO DATA PORTABILITY

Individuals, including children, have the right to obtain and re-use their personal data for their own purposes across different services. The right to data portability only applies in the following cases:

- Where personal data has been provided directly by an individual to a controller
- Where the processing is based on the individual's consent or for the performance of a contract
- When processing is carried out by automated means.

Personal data can be easily moved, copied or transferred from one ICT environment to another in a safe and secure manner, without hindrance to usability. Personal data will be provided in a structured, commonly used and machine-readable form. Where feasible, data will be transmitted directly to another organisation at the request of the individual. The Trust/Academy will not be required to adopt or maintain processing systems which are technically compatible with other organisations.

The Trust/Academy will provide the information free of charge.

In the event that the personal data concerns more than one individual, the Trust/Academy will consider whether providing the information would prejudice the rights of any other individual.

The Trust/Academy will respond to any requests for portability within one month. Where the request is complex, or a number of requests have been received, the timeframe can be extended by two months, ensuring that the individual is informed of the extension and the reasoning behind it within one month of the receipt of the request.

Where no action is being taken in response to a request, the Trust/Academy will, without delay and at the latest within one month, explain to the individual the reason for this and will inform them of their right to complain to the supervisory authority and to a judicial remedy.

## 13. THE RIGHT TO OBJECT

The Trust/Academy will inform individuals, including children, of their right to object at the first point of communication, and this information will be outlined in the privacy notice and explicitly brought to the attention of the data subject, ensuring that it is presented clearly and separately from any other information. Individuals, including children, have the right to object to the following:

- Processing based on legitimate interests or the performance of a task in the public interest
- Processing used for direct marketing purposes
- Processing for purposes of scientific or historical research and statistics.

Where personal data is processed for the performance of a legal task or legitimate interests:

- An individual's grounds for objecting must relate to his or her particular situation
- The Trust/Academy will stop processing the individual's personal data unless the processing is for the establishment, exercise or defence of legal claims, or, where the Trust/Academy can demonstrate compelling legitimate grounds for the processing, which override the interests, rights and freedoms of the individual
- The Trust/Academy will respond to objections proportionally, granting more weight to an individual's objection if the processing of their data is causing them substantial damage or distress.

Where personal data is processed for direct marketing purposes:

- The right to object is absolute and the Trust/Academy will stop processing personal data for direct marketing purposes as soon as an objection is received
- The Trust/Academy cannot refuse an individual's objection regarding data that is being processed for direct marketing purposes
- The Trust/Academy will retain only enough information about the individual to ensure that the individual's preference not to receive direct marketing is respected in future.

Where personal data is processed for research purposes:

- The individual must have grounds relating to their particular situation in order to exercise their right to object
- Where the processing of personal data is necessary for the performance of a public interest task, the Trust/Academy is not required to comply with an objection to the processing of the data.

Where the processing activity is outlined above, but is carried out online, the Trust/Academy will offer a method for individuals to object online.

The DPO will ensure that details are recorded for all objections received, including those made by telephone or in person, and will clarify each objection with the individual making the request to avoid later disputes or misunderstandings. The Trust/Academy will respond to all objections without undue delay and within one month of receiving the objection; this may be extended by a further two months if the request is complex or repetitive.

Where no action is being taken in response to an objection, the Trust/Academy will, without delay and at the latest within one month, explain to the individual the reason for this and will inform them of their right to complain to the supervisory authority and to a judicial remedy.

## 14. AUTOMATED DECISION MAKING AND PROFILING

The Trust/Academy will only ever conduct solely automated decision making with legal or similarly significant effects if the decision is:

- Necessary for entering into or performance of a contract
- Authorised by law
- Based on the individual's explicit consent.

Automated decisions will not concern a child nor use special category personal data, unless:

- The Trust/Academy has the explicit consent of the individual
- The processing is necessary for reasons of substantial public interest.

The Trust/Academy will conduct a DPIA for automated decision making to mitigate risk of errors, bias and discrimination.

The Trust/Academy will ensure that individuals concerned are given specific information about the processing and an opportunity to challenge or request a review of the decision.

Individuals have the right not to be subject to a decision when both of the following conditions are met:

- It is based on automated processing, e.g. profiling
- It produces a legal effect or a similarly significant effect on the individual.

The Trust/Academy will take steps to ensure that individuals are able to obtain human intervention, express their point of view, and obtain an explanation of the decision and challenge it.

When automatically processing personal data for profiling purposes, the Trust/Academy will ensure that the appropriate safeguards are in place, including:

- Ensuring processing is fair and transparent by providing meaningful information about the logic involved, as well as the significance and the predicted impact
- Using appropriate mathematical or statistical procedures
- Implementing appropriate technical and organisational measures to enable inaccuracies to be corrected and minimise the risk of errors



- Securing personal data in a way that is proportionate to the risk to the interests and rights of the individual and prevents discriminatory effects.

## 15. DATA PROTECTION BY DESIGN AND DEFAULT

The Trust will act in accordance with the UK GDPR by adopting a data protection by design and default approach and implementing technical and organisational measures which demonstrate how the Trust/Academy has considered and integrated data protection into all aspects of processing activities. In line with the data protection by default approach, the Trust/Academy will ensure that only data that is necessary to achieve its specific purpose will be processed.

The Trust will implement a data protection by design and default approach by using a number of methods, including, but not limited to:

- Considering data protection issues as part of the design and implementation of systems, services and practices
- Making data protection an essential component of the core functionality of processing systems and services
- Automatically protecting personal data in Trust/Academy ICT systems
- Implementing basic technical measures within the Trust/Academy network and ICT systems to ensure data is kept secure
- Promoting the identity of the DPO as a point of contact
- Ensuring that documents are written in plain language so individuals can easily understand what is being done with personal data.

## 16. DATA PROTECTION IMPACT ASSESSMENTS (DPIAS)

DPIAs will be used in certain circumstances to identify the most effective method of complying with the Trust/Academy's data protection obligations and meeting individuals' expectations of privacy. DPIAs will allow the Trust to identify and resolve problems at an early stage, thus reducing associated costs and preventing damage from being caused to the Trust/Academy's reputation which might otherwise occur. A DPIA will be carried out when using new technologies or when the processing is likely to result in a high risk to the rights and freedoms of individuals, and will be used for more than one project, where necessary.

The Trust/Academy will ensure that all DPIAs include the following information:

- A description of the processing operations and the purposes
- An assessment of the necessity and proportionality of the processing in relation to the purpose
- An outline of the risks to individuals
- The measures implemented in order to address risk.

Where a DPIA indicates high risk data processing, the Trust/Academy will consult the ICO to seek its opinion as to whether the processing operation complies with the UK GDPR.

## 17. DATA BREACHES

The term 'personal data breach' refers to a breach of security which has led to the destruction, loss, alteration, unauthorised disclosure of, or access to, personal data. The CEO/Principal will ensure that all staff are made aware of, and understand, what constitutes a data breach as part of their training.

Effective and robust breach detection, investigation and internal reporting procedures are in place at the Trust/Academy, which facilitate decision-making in relation to whether the relevant supervisory authority or the public need to be notified.

Where the Trust/Academy faces a data security incident, the DPO will coordinate an effort to establish whether a personal data breach has occurred, assess the significance of any breach, and take prompt and appropriate steps to address it.

All notifiable breaches will be reported to the relevant supervisory authority within 72 hours of the Trust/Academy becoming aware of it. Where a breach is likely to result in a risk to the rights and freedoms of individuals, the relevant supervisory authority will be informed, and the individuals concerned will be contacted directly. A 'high risk' breach means that the threshold for notifying the individual is higher than that for notifying the relevant supervisory authority. The risk of the breach having a detrimental effect on the individual, and the need to notify the relevant supervisory authority, will be assessed on a case-by-case basis. In the event that a breach is sufficiently serious, the public will be notified without undue delay.

Within a breach notification to the supervisory authority, the following information will be outlined:

- The nature of the personal data breach, including the categories and approximate number of individuals and records concerned
- The name and contact details of the DPO
- An explanation of the likely consequences of the personal data breach
- A description of the proposed measures to be taken to deal with the personal data breach
- Where appropriate, a description of the measures taken to mitigate any possible adverse effects.

Where notifying an individual about a breach to their personal data, the Trust/Academy will provide specific and clear advice to individuals on the steps they can take to protect themselves and their data, where possible and appropriate to do so.

The Trust/Academy will ensure all facts regarding the breach, the effects of the breach and any decision-making processes and actions taken are documented in line with the UK GDPR accountability principle and in accordance with the Records Management Policy.

Failure to report a breach when required to do so may result in a fine, as well as a fine for the breach itself.

The Trust/Academy will work to identify the cause of the breach and assess how a recurrence can be prevented, e.g. by mandating data protection refresher training where the breach was a result of human error.

## 18.DATA SECURITY

Confidential paper records will be kept in a locked filing cabinet, drawer or safe, with restricted access, and will not be left unattended or in clear view anywhere with general access.

Digital data is on a local hard drive and on a network drive is regularly backed up off-site. Where digital data is saved on removable storage or a portable device, the device will be kept in a locked filing cabinet, drawer or safe when not in use. Memory sticks will not be used to hold personal information unless they are password-protected and fully encrypted. All electronic devices are password-protected to protect the information on the device in case of theft. Where possible, the Trust/Academy enables electronic devices to allow the remote blocking or deletion of data in case of theft.

All necessary members of staff are provided with their own secure login and password.

Emails containing sensitive or confidential information are password-protected if there are unsecure servers between the sender and the recipient. Circular emails to parents/carers are sent blind carbon copy (bcc), so email addresses are not disclosed to other recipients. When sending confidential information staff will always check that the recipient is correct before sending.

Before sharing data, all staff will ensure:

- They are allowed to share it
- That adequate security is in place to protect it
- Who will receive the data has been outlined in a privacy notice.

Where personal information that could be considered private or confidential is taken off the premises, either in electronic or paper format, staff will take extra care to follow the same procedures for security, e.g. keeping devices under lock and key. The person taking the information from the academy premises accepts full responsibility for the security of the data.

Under no circumstances are visitors allowed access to confidential or personal information. Visitors to areas of the Trust/Academy containing sensitive information are supervised at all times.

The physical security of the Trust/Academy's buildings and storage systems, and access to them, is reviewed on a regular basis. If an increased risk in vandalism, burglary or theft is identified, extra measures to secure data storage will be put in place.

The Trust/Academy will regularly test, assess and evaluate the effectiveness of any and all measures in place for data security.

The Trust/Academy takes its duties under the UK GDPR seriously and any unauthorised disclosure may result in disciplinary action. The Chief Executive Officer (CEO) is responsible for continuity and recovery measures are in place to ensure the security of protected data.

When disposing of data, paper documents will be shredded and digital storage devices will be physically destroyed when they are no longer required. ICT assets will be disposed of in accordance with the ICO's guidance on the disposal of ICT assets.

The Trust/Academy holds the right to take the necessary disciplinary action against a staff member if they believe them to be in breach of the above security measures.

The Trust understands that the UK GDPR does not prevent or limit the sharing of information for the purposes of keeping children safe.

The Trust will ensure that information pertinent to identify, assess and respond to risks or concerns about the safety of a child is shared with the relevant individuals or agencies proactively and as soon as is reasonably possible. Where there is doubt over whether safeguarding information is to be shared, especially with other agencies, the DSL will ensure that they record the following information:

- Whether data was shared
- What data was shared
- With whom data was shared
- For what reason data was shared
- Where a decision has been made not to seek consent from the data subject or their parent
- The reason that consent has not been sought, where appropriate.

The Trust will aim to gain consent to share information where appropriate; however, will not endeavour to gain consent if to do so would place a child at risk. The Trust will manage all instances of data sharing for the purposes of keeping a child safe in line with the Child Protection and Safeguarding Policy.

## 20. PUBLICATION OF INFORMATION

The Trust/Academy publishes a Freedom of Information Publication Scheme on its website outlining classes of information that will be made routinely available, including:

- Policies and procedures
- Minutes of meetings
- Annual reports
- Financial information.

Classes of information specified in the Freedom of Information Publication Scheme are made available quickly and easily on request.

The Trust will not publish any personal information, including photos, on its websites without the permission of the affected individual. When uploading information to a Trust/Academy website, staff are considerate of any metadata or deletions which could be accessed in documents and images on the site.

## 21. CCTV AND PHOTOGRAPHY

The Trust/Academy understands that recording images of identifiable individuals constitutes as processing personal information, so it is done in line with data protection principles.

The Trust/Academy notifies all students, staff and visitors of the purpose for collecting CCTV images via notice boards, letters and email. Cameras are only placed where they do not intrude on anyone's privacy and are necessary to fulfil their purpose. All CCTV footage will be kept for **21 days** for security purposes; the COO is responsible for keeping the records secure and allowing access.

The Trust/Academy will always indicate its intentions for taking photographs of students and will retrieve permission before publishing them. If the Trust/Academy wishes to use images or video footage of students in a publication, such as the Trust/Academy website, prospectus, or recordings

of academy plays, permission will be sought for the particular usage from the parent/carer of the student. Precautions, as outlined in the Photography Policy, are taken when publishing photographs of students, in print, video or on the website.

Images captured by individuals for recreational or personal purposes, and videos made by parents/carers for family use, are exempt from the UK GDPR.

Parents and others attending Trust/Academy events are able to take photographs and videos of those events as long as they are for domestic purposes only. Photographs or videos being used for any other purpose are prohibited to be taken by parents/carers or visitors to the academy.

The Trust/Academy asks that parents and others do not post any images or videos which include any child other than their own child(ren) on any social media or otherwise publish those images or videos.

## 22.DATA RETENTION

Data will not be kept for longer than is necessary. Unrequired data will be deleted as soon as practicable. Some educational records relating to former students or employees of the Trust may be kept for an extended period for legal reasons, but also to enable the provision of references or academic transcripts. Paper documents will be destroyed securely, and electronic memories scrubbed clean or destroyed, once the data should no longer be retained.

## 23.DBS DATA

All data provided by the DBS will be handled in line with data protection legislation; this includes electronic communication. Data provided by the DBS will never be duplicated. Any third parties who access DBS information will be made aware of the data protection legislation, as well as their responsibilities as a data handler.

## 24.MONITORING AND REVIEW

This policy is reviewed annually by the DPO and the Trust data leads.

## APPENDIX A – APPROPRIATE POLICY DOCUMENT

Our processing of special categories of personal data and criminal offence data.

As part of our Trusts functions, we process special category data and criminal data in accordance with the requirements of Article 9 and 10 of the General Data Protection Regulation ('GDPR') and Schedule 1 of the Data Protection Act 2018 ('DPA 2018').

### SPECIAL CATEGORY DATA

- Special category data is defined at Article 9 UK GDPR as personal data revealing:
- Racial or ethnic origin
- Political opinions
- Religious or philosophical beliefs
- Trade union membership
- Genetic data
- Biometric data for the purpose of uniquely identifying a natural person
- Data concerning health; or
- Data concerning a natural person's sex life or sexual orientation.

It is also important to be aware that some of the nine protected characteristics outlined in the Equality Act 2010 are classified as special category data.

These include **race**, **religion** or **belief**, and **sexual orientation**. They may also include **disability**, **pregnancy**, and **gender reassignment** in so far as they may reveal information about a person's health.

### CRIMINAL CONVICTION DATA

Article 10 UK GDPR covers processing in relation to criminal convictions and offences or related security measures. In addition, section 11(2) of the DPA 2018 specifically confirms that this includes personal data relating to the alleged commission of offences or proceedings for an offence committed or alleged to have been committed, including sentencing. This is collectively referred to as 'criminal offence data'.

### THIS POLICY DOCUMENT

Some of the Schedule 1 conditions for processing special category and criminal offence data require us to have an Appropriate Policy Document ('APD') in place, setting out and explaining our procedures for securing compliance with the principles in Article 5 and policies regarding the retention and erasure of such personal data.

This document explains our processing and satisfies the requirements of Schedule 1, Part 4 of the DPA 2018.

In addition, it provides some further information about our processing of special category and criminal offence data where a policy document isn't a specific requirement. The information supplements our privacy notices which are available on the Trust and academy websites.

## CONDITIONS FOR PROCESSING SPECIAL CATEGORY AND CRIMINAL OFFENCE DATA

We process special categories of personal data under the following UK GDPR Articles:

- Article 9(2)(b) – where processing is necessary for the purposes of performing or exercising obligations or rights which are imposed or conferred by law on the Trust/Academy or the data subject in connection with **employment**, social security or social protection.
- Article 9(2)(g) - reasons of **substantial public interest**.  
The academy/Trust is a public body. Our processing of personal data in this context is for the purposes of substantial public interest and is necessary for the carrying out of our role.
- Article 9(2)(j) – for **research** purposes in the public interest.  
The relevant purpose we rely on is Schedule 1 Part 1 paragraph 4 – research.
- Article 9(2)(h) – the treatment or the **management of health**.
- Article 9(2)(i) – for reasons of public interest in the area of **public health**.
- Article 9(2)(a) – **explicit consent**.  
In circumstances where we seek consent, we make sure that the consent is unambiguous and for one or more specified purposes, is given by an affirmative action and is recorded as the condition for processing.  
Where we use biometric data such as fingerprints for cashless catering, we rely on gaining explicit consent from the data subject or their parent/carer before using this data.  
When we ask for ethnicity (requested by the DfE for academy census returns) we make it clear that providing it is optional and by providing it the data subject (or their parent/carer) is consenting for it to be shared with the DfE.
- Article 9(2)(c) – where processing is necessary to protect the **vital interests** of the data subject or of another natural person.

We process criminal offence data under Article 10 of the UK GDPR

Examples of our processing of criminal offence data include pre-employment checks (DBS, barred list) and declarations by a member of the Trust/academy workforce in line with contractual or safeguarding obligations.

## PROCESSING WHICH REQUIRES AN APPROPRIATE POLICY DOCUMENT

Almost all of the substantial public interest conditions in Schedule 1 Part 2 of the DPA 2018, plus the condition for processing employment, social security and social protection data, require an APD (see Schedule 1 paragraphs 1 and 5).

This section of the policy is the APD for the Trust. It demonstrates that the processing of special category ('SC') and criminal offence ('CO') data based on these specific Schedule 1 conditions is compliant with the requirements of the UK GDPR Article 5 principles. In particular, it outlines our retention policies with respect to this data.

## DESCRIPTION OF DATA PROCESSED

- Health and medical data - workforce and students
- Ethnicity - students and workforce
- Religion - students and workforce
- Biometric (fingerprint) data for cashless catering, access control or library systems

- Criminal records - DBS checks for all members of the academy workforce (paid and unpaid).

Further information about this processing can be found in our privacy notices.

We also maintain a record of our processing activities in accordance with Article 30 of the UK GDPR.

## SCHEDULE 1, CONDITIONS FOR PROCESSING

### Special Category Data

We process Special Category Data for the following purposes in Part 1 of Schedule 1:

- **Paragraph 1(1)** employment, social security and social protection.

We process Special Category Data for the following purposes in Part 2 of Schedule 1. All processing is for the first listed purpose and might also be for others dependent on the context:

- **Paragraph 6(1) and (2)(a)** Statutory etc and government purposes
- **Paragraph 8(1) and (2)** Equality of opportunity or treatment
- **Paragraph 18(1)** Safeguarding of children and of individuals at risk.

### Criminal offence data

We process criminal offence data for the following purposes in parts 1 and 2 of Schedule 1:

- **Paragraph 1** – employment, social security and social protection.

## PROCEDURES FOR ENSURING COMPLIANCE WITH THE PRINCIPLES

### Accountability principle

We have put in place appropriate technical and organisational measures to meet the requirements of accountability. These include:

- The appointment of a Data Protection Officer who reports directly to our highest management level
- Taking a 'data protection by design and default' approach to our activities.
- Maintaining documentation of our processing activities
- Adopting and implementing data protection policies and ensuring we have written contracts in place with our data processors
- Implementing appropriate security measures in relation to the personal data we process
- Carrying out data protection impact assessments for our high-risk processing.

We regularly review our accountability measures and update or amend them when required.

### Principle (a): lawfulness, fairness and transparency

Processing personal data must be lawful, fair and transparent. It is only lawful if and to the extent it is based on law and either the data subject has given their consent for the processing, or the processing meets at least one of the conditions in Schedule 1.



We provide clear and transparent information about why we process personal data including our lawful basis for processing in our privacy notice, staff privacy notice and this policy document.

Our processing for purposes of substantial public interest is necessary to function as a Trust/Academy under the Education Act 2005.

Our processing for the purposes of employment relates to our obligations as an employer.

We also process special category personal data to comply with other obligations imposed on the academy/Trust by the Department for Education or our local authority.

#### **Principle (b): purpose limitation**

We process personal data for the purposes explained above when the processing is necessary for us to fulfil our statutory functions as a Trust/Academy.

If we are sharing data with another controller, we will document that they are authorised by law to process the data for their purpose.

We will not process personal data for purposes incompatible with the original purpose it was collected for.

#### **Principle (c): data minimisation**

We collect personal data necessary for the relevant purposes and ensure it is not excessive. The information we process is necessary for and proportionate to our purposes. Where personal data is provided to us or obtained by us, but is not relevant to our stated purposes, we will erase it.

#### **Principle (d): accuracy**

Where we become aware that personal data is inaccurate or out of date, having regard to the purpose for which it is being processed, we will take every reasonable step to ensure that data is erased or rectified without delay. If we decide not to either erase or rectify it, for example because the lawful basis we rely on to process the data means these rights don't apply, we will document our decision.

#### **Principle (e): storage limitation**

All special category data processed by us for the purpose of employment or substantial public interest is retained for the periods set out in our retention schedule.

We determine the retention period for this data based on our legal obligations and the necessity of its retention for our business needs. Our retention schedule is reviewed regularly and updated when necessary.

#### **Principle (f): integrity and confidentiality (security)**

Electronic information is processed within our secure network. Paper copies of personal data are kept locked in filing cabinets in locked offices.

Our electronic systems and physical storage have appropriate access controls applied, only relevant staff have access to the files.

The systems we use to process personal data allow us to erase or update personal data at any point in time where appropriate.

## RETENTION AND ERASURE POLICIES

Our retention and erasure practices are set out in our retention schedule which is available on request from the Trust office.

## APD REVIEW DATE

This policy will be retained for the duration of our processing and for a minimum of 6 months after processing ceases.

This policy will be reviewed annually or revised more frequently if necessary.

## ADDITIONAL SPECIAL CATEGORY PROCESSING

We process special category personal data in other instances where it is not a requirement to keep an appropriate policy document. Our processing of such data respects the rights and interests of the data subjects. We provide clear and transparent information about why we process personal data including our lawful basis for processing in our privacy notice and workforce privacy notice.