



Excalibur Academies Trust Data Protection Policy

Including Fair Processing (Privacy) Notice

Approved: October 2015

Review Date: October 2019 or sooner if legislative changes

NOTE: The Trust Data Protection Policy is also included within the Trust HR Manual

Background

In order to operate efficiently The Trust and the academies within it have to collect and use information about people with whom it works. These may include students, members of the public, current, past and prospective employees, clients and customers, and suppliers. In addition it may be required by law to collect and use information in order to comply with the requirements of central government.

The Data Protection Act stipulates that anyone processing personal data must comply with eight principles of good practice; these principles are legally enforceable. The principles require that personal information is:

1. processed fairly and lawfully;
2. obtained only specified and lawful purposes;
3. adequate, relevant and not excessive in relation to the purposes for which it is processed;
4. accurate and where necessary, kept up to date;
5. not kept for longer than is necessary;
6. processed in accordance with the rights of individuals;
7. kept secure;
8. not transferred to a country or territory outside the EEA.

Personal data is information about living, identifiable individuals. It covers both facts and opinions about the individual, but need not be sensitive information. It can be as little as a name and address. Such data can be part of a computer record or manual record.

Introduction

- 1 **Application:** This Policy is aimed at all Trust staff including temporary staff, agency workers and volunteers and explains the Trust's general approach to data protection, and provides practical guidance which will help to ensure that the Trust and its Academies comply with the Data Protection Act 1998 (**Act**).
- 2 **Compliance:** Compliance with this policy will help the Trust to meet its obligations under the Act but it does not commit the Trust to a higher standard than is required by the Act and in some circumstances, where the Act allows, compliance with the Act will be subsidiary to other considerations.
- 3 **Responsibility:** As the data controller, the Trust is responsible for complying with the Act. The Trust has delegated day-to-day responsibility for compliance with the Act to the Chief Finance Officer. All staff are responsible for complying with this policy.

Terminology

- 4 **Terminology:** In this policy, we have used the terms Personal Data, Sensitive Personal Data, Data Controller and processing in the same way as they are used in the Act.
- 5 **Personal data:** This policy covers the Trust's acquisition and use of the personal data it holds, and in particular records about students, parents, staff and suppliers. Personal Data is:
 - 5.1 personal information that has been, or will be, word processed or stored electronically (e.g. computer databases and CCTV recordings);
 - 5.2 personal information that is, or will be, kept in a file which relates to an individual or in a filing system that is organised by reference to criteria which relate to the individuals concerned (e.g. name, school year, school activities);
 - 5.3 health records prepared by a doctor, nurse or other health professional.
- 6 Personal information is any information about someone who can be identified (e.g. their address, school activities, attendance record, exam results). It makes no difference whether they can be identified directly from the record itself or indirectly using other information.

- 7 The data subject is the person the information relates to. There may be more than one Data Subject, such as when a record concerns an incident involving two students.
- 8 **Sensitive personal data:** The Trust has special obligations in connection with the use of Sensitive Personal Data, namely information about an individual's race, ethnic origin, political or religious beliefs, trade union membership, health, sex life and actual or alleged criminal activity.
- 9 **Data controller:** For the purposes of the Act, the Trust is the Data Controller.

Acquiring and using personal data

- 10 **Specific legitimate purposes:** The Trust shall only process Personal Data for specific and legitimate purposes. These are:
- 10.1 providing students and staff with a safe and secure environment, an education and pastoral care;
 - 10.2 providing activities for students and parents - this includes school trips and activity clubs;
 - 10.3 providing academic, examination and career references for students and staff;
 - 10.4 protecting and promoting the interests and objectives of the Academy and the Trust - this includes fundraising;
 - 10.5 fulfilling the Academy's and the Trust's contractual and other legal obligations.
- 11 Trust staff must not process Personal Data for any other purpose without the Chief Finance Officer's permission.
- 12 **No incompatible purpose:** The Trust shall not use Personal Data for any purpose that is incompatible with the purpose for which it was originally acquired without obtaining the Data Subject's permission. Staff should seek advice from the Chief Finance Officer in all but the clearest of cases, but if information has been obtained in confidence for one purpose, it shall not be used for any other purpose without the Chief Finance Officer's permission.
- 13 **Necessary, sufficient information:** The Trust shall not hold unnecessary Personal Data, but shall hold sufficient information for the purpose for which it is required. The Trust shall record that information accurately and shall take reasonable steps to keep it up-to-date. This includes an individual's contact and medical details.
- 14 **Outside the EEA:** The Trust shall not transfer Personal Data outside the European Economic Area (**EEA**) without the Data Subject's permission unless it is satisfied that the Data Subject's rights under the Act will be adequately protected. This applies even if the transfer is to a student's parents or guardians living outside the EEA.
- 15 **Fair:** When the Trust acquires personal information that will be kept as Personal Data, the Trust shall be fair to the Data Subject and fair to whoever provides the information (if that is someone else).
- 16 **Retaining personal data:** The Trust shall only keep Personal Data for as long as is reasonably necessary. More specific guidelines apply in particular situations: further details are available from the Chief Finance Officer.

Information and explanation

- 17 **Explanations when asking for personal data:** Unless it is already clear to the person concerned, when the Trust asks for personal information which may be kept as Personal Data the Trust shall:
- 17.1 explain which information is optional, which is mandatory, and the consequences if it is withheld;

- 17.2 explain why the Trust is asking for that information, and how it will be used;
 - 17.3 identify the Trust as the data controller;
 - 17.4 explain who outside the Trust will receive that information.
- 18 **Informing the data subject:** If the Trust obtains personal information from someone other than the Data Subject, the Trust shall:
- 18.1 inform the Data Subject that the Trust has recorded that information;
 - 18.2 identify its source;
 - 18.3 explain why the Trust has acquired it, and how it will be used;
 - 18.4 identify the Trust as the data controller;
 - 18.5 explain who outside the Trust will receive that information.
- 19 A different approach may be necessary when medical, child protection or staff issues are involved: further advice is available from the Chief Finance Officer.

Protecting confidentiality

- 20 **Disclosing personal data:** Only staff with the appropriate authorisation from the Trust may access any Personal Data. Personal Data shall not be disclosed to anyone who does not have the appropriate authority to receive such information. This is irrespective of their seniority within the Trust, their relationship to the Data Subject or their professional role (such as a Police Officer), unless they need to know it for a legitimate purpose and if required have the correctly authorised paperwork.
- 21 The Trust will not disclose anything on a pupil's record which would be likely to cause serious harm to their physical or mental health or that of anyone else.
- 22 Any information disclosed relating to Child Safeguarding issues are fully subject to the Trust Child Protection Policy.
- 23 Where there is doubt or statutory requirements conflict advice should be obtained.
- 24 **Protecting personal data:** The Trust shall do all that is reasonable to ensure that Personal Data is not lost or damaged, or accessed or used without proper authority, and the Trust shall take appropriate steps to prevent these events happening. In particular:
- 24.1 paper records which include confidential information shall be kept in a cabinet or office which is kept locked when unattended;
 - 24.2 the Trust uses a range of measures to protect Personal Data stored on computers, including file encryption, anti-virus and security software, user passwords, audit trails and back-up systems;
 - 24.3 staff must not remove Personal Data from the Academy's premises unless it is stored in an encrypted form on a password protected computer or memory device. Further information is available from the ICT Services Manager;
 - 24.4 staff must not use or leave computers, memory devices or papers where there is a significant risk that they may be viewed or taken by unauthorised persons: they should not be viewed in public, and they must never be left in view in a car, where the risk of theft is greatly increased;
 - 24.5 staff must not use personal accounts for email and file sharing of Personal Data.

Requests for information by data subjects

- 25 **Data subject access request:** Individuals are entitled to know whether the Trust is holding any Personal Data which relates to them, what that information is, the source of the information, how the Trust uses it, and who it has been disclosed to.
- 26 **Use of personal data:** Individuals have a legal right to ask the Trust not to use their Personal Data for direct marketing purposes or in ways which are likely to cause substantial damage or distress.
- 27 **Photographs** Whether or not a photograph comes under the DPA is a matter of interpretation and quality of the photograph. However, the Trust takes the matter extremely seriously and seeks to obtain parents' permission for the use of photographs outside their home academy and the Trust. In particular, the Trust will record their wishes if they do not want photographs to be taken of their children.
- 28 **Corrections:** Individuals have a legal right to ask for incorrect Personal Data to be corrected or annotated.
- 29 **Automatic decisions:** Individuals have a legal right to ask the Trust not to make automatic decisions (using Personal Data) if such automatic decisions would affect them to a significant degree.
- 30 **Receiving a request:** Any member of staff who receives a request for information covered by this policy from a student, parent or any other individual must inform the Chief Finance Officer as soon as is reasonably possible, which should in most cases be the same day. This is important as there is a statutory procedure and timetable which the Academy must follow.
- 31 **Making a request – parents and students** Any parent or student wishing to exercise a right to request information covered by this policy, can do so by submitting a request in writing to the Chief Finance Officer, and by paying the appropriate fee. When a request is received it will be dealt with promptly; a response will be provided as soon as possible and within 40 calendar days and in the case of copies of a student's educational record, within 15 school days. The Trust may make a charge of up to £10 for responding to a subject access request and up to £50 (depending on the amount of information held) for access to a pupil's educational record.
- 32 **Parents' rights** An adult with parental responsibility can access the information about their child, as long as the child is not considered to be sufficiently mature. The Trust is entitled to request relevant documentation to evidence this as well as the identity of the requestor and child.
- 33 In addition, parents have their own independent right under The Education (Pupil Information) (England) Regulations 2000 of access to the official education records of their children. Students do not have a right to prevent their parents from obtaining a copy of their Trust records.
- 34 **Provision of data to children** In relation to the capacity of a child to make a subject access request, guidance provided by the Information Commissioner's Office has been that by the age of 12 a child can be expected to have sufficient maturity to understand the nature of the request. A child may of course reach sufficient maturity earlier; each child should be judged on a case by case basis. If the child does not understand the nature of the request, someone with parental responsibility for the child, or a guardian, is entitled to make the request on behalf of the child and receive a response.
- 35 **Making a request - staff:** Any member of staff wishing to exercise a right to request information covered by this policy, can do so by submitting a request in writing to the Chief Finance Officer, and by paying the appropriate fee.

Further information

- 36 **ICO website:** The Trust has registered its use of Personal Data with the Information Commissioner's Office (**ICO**) and further details of the Personal Data it holds, and how it is used,

can be found in the Trust's register entry on the Information Commissioner's website at www.ico.gov.uk under registration number Z3515923. This website also contains further information about data protection.

- 37 **Contact:** If you would like to any further information about anything within this statement, then please contact the Chief Finance Officer.

Breach of this policy

- 38 A member of staff who deliberately or recklessly discloses Personal Data held by the Trust without proper authority is guilty of a criminal offence and gross misconduct. This could result in summary dismissal.

Local Academy Procedures

- 39 Individual academies within the Trust may have detailed local procedures regarding specific aspects of management of data.

APPENDIX A - Fair Processing Notice



FAIR PROCESSING NOTICE

Academies within Excalibur Academies Trust processes personal data about their students and is a “data controller” in respect of this for the purposes of the Data Protection Act 1998. It processes this data to:

- support students’ teaching and learning;
- monitor and report on their progress;
- provide appropriate pastoral care;
- provide academic, examination and career references for students and staff;
- assess how well the academies and Trust as a whole is doing, and
- fulfil the Academy's and the Trust's contractual and other legal obligations.

This data includes contact details, national curriculum assessment results, attendance information, characteristics such as ethnic group, special educational needs and any relevant medical information.

This data may only be used or passed on for specific purposes allowed by law. From time to time the school is required to pass on some of this data to local authorities, the Department for Education (DfE), and to agencies that are prescribed by law, such as the Qualifications and Curriculum Development Agency (QDCA), Ofsted, the Department of Health (DH), Primary Care Trusts (PCT) and the Police. These are data controllers in respect of the data they receive, and are subject to the same legal constraints in how they deal with the data.

The Trust is also required by law to supply basic information. This only includes the name and address of the child, contact details for their parents or carers (with parental responsibility) and the contact details of the academy.

Students, as data subjects, have certain rights under the Data Protection Act, including a general right to be given access to personal data held about them by any data controller. The presumption is that by the age of 12 a child has sufficient maturity to understand their rights and to make an access request themselves if they wish. A parent would normally be expected to make a request on a child’s behalf if the child is younger.

If you wish to access your personal data, or that of your child, then please contact the relevant organisation in writing.

Contact details for data held by the Trust are: **Excalibur Academies Trust Data Protection Officer, Granham Hill, Marlborough, Wilts SN8 4AX Tel: 01672 516156.**