Appropriate Policy Document
The Cottesloe School



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1. Introduction and Background

This document covers our processing of special categories of personal data and criminal offence data.

To carry out our official functions as a school, we process special category data and criminal offence data in accordance with the requirements of Article 9 and 10 of the General Data Protection Regulation (GDPR), and Schedule 1 of the UK's Data Protection Act 2018 (UK DPA 2018).

Some of the Schedule 1 conditions for processing special category and criminal offence data in the UK DPA 2018 require us to have an Appropriate Policy Document in place.

Our Appropriate Policy Document (page 4) sets out our compliance measures with the GDPR principles (Article 5), as well as our retention procedures for special category data.

2. Definitions

Under Article 9 of the GDPR **special category data** is defined as personal data that reveals:

- 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
- Data concerning a natural person's sex life or sexual orientation.

Article 10 of the GDPR covers processing in relation to **criminal convictions and offences** or related security measures. In addition, section 11(2) of the UK 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**'.

3. GDPR conditions for processing special category and criminal offence data

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

a. Article 9(2)(b) – where processing is necessary for fulfilling our obligations or those of data subjects, in connection with employment, social security or social protection.

Examples of our processing include checking if individuals are entitled to work in the UK and maintaining records of statutory sick pay and maternity pay.

b. Article 9(2)(g) - reasons of substantial public interest.

We have a statutory duty to safeguard and promote the welfare of all our pupils. This is set out in the statutory guidance:

- Keeping Children Safe in Education, issued under Section 175 of the Education Act 2002
- Working Together to Safeguard Children, issued under Section 11 of the Children Act 2004.

Examples of our processing include carrying out pre-employment checks, managing allegations of abuse against staff and referring suspected cases of abuse to children's social care.

The Equality Act 2010 requires us to have due regard to the need to eliminate discrimination, harassment and victimisation; advance equality of opportunity and foster good relations.

Examples of our processing include reviewing attainment data to ensure our educational policies and procedures do not lead to indirect discrimination.

c. Article 9(2)(f) – for the establishment, exercise, or defence of legal claims.

Examples of our processing include processing relating to any employment tribunal or other litigation.

d. 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; that it is given by an affirmative action and is recorded as the condition for processing.

Examples of our processing includes pupils' medical information we receive from parents which allows us to administer medicines during the school day.

e. Article 9(2)(c) – where processing is necessary to protect the vital interests of the data subject or of another natural person.

An example of our processing would be using health information about a member of staff in a medical emergency.

We process **criminal offence data** under Article 10 of the GDPR.

Examples of our processing of criminal offence data include pre-employment checks and declarations by an employee in line with contractual obligations.

4. Our Appropriate Policy Document

Almost all of the substantial public interest conditions in Schedule 1, Part 2 of the UK DPA 2018, plus the condition for processing employment, social security and social protection data, require an Appropriate Policy Document (this is set out in Schedule 1, paragraphs 1 and 5).

This Appropriate Policy Document demonstrates that our processing of special category and criminal offence data based on these specific Schedule 1 conditions is compliant with the requirements of the GDPR Article 5 principles. In particular, it outlines our retention procedures with respect to this data.

Description of data processed

We process the special category data about our employees that is necessary to fulfil our **obligations as an employer**. This includes information about their health and wellbeing, ethnicity, and their membership of any trade union. Further information about this processing can be found in our staff privacy notice.

Our processing for reasons of **substantial public interest** relates to the data we receive or obtain in order to safeguard the children in our care, as well as ensure equality of opportunity and treatment for everyone in our school.

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 GDPR.

UK DPA 2018 Schedule 1 additional conditions for processing special category and criminal offence data

Section 10 of the UK DPA 2018 requires us to meet one of the additional conditions in Schedule 1 when we are processing special category data and relying on a GDPR condition, which requires authorisation by law, or a basis in law.

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:

Paragraph 8 - equality of opportunity or treatment.

Paragraph 18 - 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.

Paragraph 6(2)(a) – statutory, etc. purposes.

Procedures for ensuring compliance with the GDPR 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
- 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.

The processing of special category data that requires being authorised by law or has a basis in law, is lawful if the data subject has given their consent or the

processing meets at least one of the conditions in Schedule 1 of the UK's DPA 2018.

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

Our processing of special category data for the purposes of substantial public interest is necessary for us to fulfil our statutory duty to safeguard and promote the welfare of all our pupils. This is under Section 175 of the Education Act and Section 11 of the Children Act 2004.

We also process special category data to comply with our obligations under the Equality Act 2010 to have due regard to the need to advance equality of opportunity and eliminate discrimination.

Our processing for the purposes of employment relates to our obligations as an employer under a number of employment laws, such as The Employment Rights Act 1996 and the Employment Act 2002.

Principle (b): purpose limitation

We process personal data for purposes of substantial public interest as explained above when the processing is necessary for us to fulfil our statutory functions. This includes where it is necessary to assist another to comply with their statutory requirements to safeguard and promote the welfare of children.

We process personal data for the purposes of employment as explained above and in our staff privacy notice.

We are authorised by law to process personal data for these purposes. We may process personal data collected for these purposes (whether by us or another controller), providing the processing is necessary and proportionate to that purpose.

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, unless retained longer for archiving purposes.

We determine the retention period for this data based on our legal obligations and the necessity of its retention for our school's needs. Our retention schedule is reviewed regularly and updated when necessary (available from the Business Manager in the school office).

Principle (f): integrity and confidentiality (security)

Electronic information is processed within our secure network and we follow the National Cyber Security's '10 Steps to Cyber Security'. Hard copy information is processed in line with our security procedures set out in our Data Protection Policy https://www.cottesloe.bucks.sch.uk/our-school/key-information/policies

Our electronic systems and physical storage have appropriate access controls applied.
The systems we use to process personal data allow us to erase or update personal data at any point in time where appropriate.

Data Retention and Erasure

Our retention and erasure practices are set out in our retention schedule

Review date
This document will be retained for the duration of our processing and for a minimum of 6 months after processing ceases.
It will be reviewed annually, or revised more frequently if necessary.