



**Tudhoe Learning Trust**

# **Data Protection Policy**

<b>Approved by:</b>	Trust Chief Executive Officer	<b>Date:</b> October 2021
<b>Last reviewed on:</b>	October 2021	
<b>Next review due by:</b>	October 2022	

## Introduction

The schools within Tudhoe Learning Trust collect and use personal information about staff, pupils, parents and other individuals who come into contact with the 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 schools comply with its statutory obligations.

The Trust is registered, as a Data Controller, with each school included within this registration 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 Fair Processing Notice to all pupils/parents, this summarises the information held on pupils, why it is held and the other parties to whom it may be passed on.

### Purpose

This policy is intended to ensure that personal information is dealt with correctly and securely and in accordance with the the General Data Protection Regulations 2016 (GDPR) and Data Protection Act 2018 (DPA). 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.

This policy applies to all staff employed by our schools, and to external organisations or individuals working on our behalf. 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. Responsibilities include asking the Trust Data Protection officer any questions they may have and report any concerns that this policy isn't being followed. Staff who do not comply with this policy may be subject to disciplinary action.

All staff and governors are provided with data protection training as part of their induction process. Data protection will also form part of continuing professional development, where changes to legislation, guidance or the school's processes make it necessary.

### 1. The Head Teacher

The Trust data protection officer (DPO) is responsible for overseeing the implementation of this policy, monitoring our compliance with data protection law, and developing related policies and guidelines where applicable.

They will undertake regular audits and provide an annual report of their activities directly to the governing board and, where relevant, report to the board their advice and recommendations on school data protection issues.

The Trust DPO is also the first point of contact for individuals whose data the school processes, and for the ICO.

In addition, this policy complies with our funding agreement and articles of association.

Full details of the Trust DPO's responsibilities are set out in their job description.

Our DPO is contactable via Tel: 01388811765 or email: [office@tudhoelearningtrust.co.uk](mailto:office@tudhoelearningtrust.co.uk)

### **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.

In applying this policy, the Trust schools will not unlawfully discriminate in respect of any of the protected characteristics as defined under the Equality Act and specified below:

- Age
- Disability
- Gender reassignment
- Pregnancy and Maternity
- Race
- Religion or Belief
- Sex
- Sexual Orientation
- Marriage and civil partnership

The operation of this Policy will be kept under review and such changes will be made as deemed appropriate.

### **Data Protection Principles**

The GDPR is based on data protection principles that our schools must comply with. The principles say that personal data must be:

- processed fairly lawfully and in a transparent manner;
- collected for one or more specified, explicit and lawful purposes;
- adequate, relevant and limited to what is necessary to fulfil the purposes for which it is processed;
- accurate and where necessary, kept up to date;
- shall not be kept for no longer than is necessary for the purpose for which it was processed;
- processed in a way that ensures it is appropriately secure.

### **General Statement**

Our schools are committed to maintaining the above principles at all times. Therefore the Trust schools will:

- Inform individuals why the information is being collected when it is collected
- Inform individuals when their information is shared, and why and with whom it was shared
- Check the quality and the accuracy of the information it holds
- Ensure that information is not retained for longer than is necessary
- Ensure that when obsolete information is destroyed that it is done so appropriately and securely
- Ensure that clear and robust safeguards are in place to protect personal information from loss, theft and unauthorised disclosure, irrespective of the format in which it is recorded
- 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 our staff are aware of and understand our policies and procedures

Whenever we first collect personal data directly from individuals, we will provide them with the relevant information required by data protection law.

We will only collect personal data for specified, explicit and legitimate reasons. We will explain these reasons to the individuals when we first collect their data.

We will always consider the fairness of our data processing. We will ensure we do not handle personal data in ways that individuals would not reasonably expect, or use personal data in ways which have unjustified adverse effects on them.

## **Collecting personal data**

### **Lawfulness, fairness and transparency**

We will only process personal data where we have one of 6 'lawful bases' (legal reasons) to do so under data protection law:

- The data needs to be processed so that the school can fulfil a contract with the individual, or the individual has asked the school to take specific steps before entering into a contract
- The data needs to be processed so that the school can comply with a legal obligation
- The data needs to be processed to ensure the vital interests of the individual or another person i.e. to protect someone's life
- The data needs to be processed so that the school, as a public authority, can perform a task in the public interest or exercise its official authority
- The data needs to be processed for the legitimate interests of the school (where processing is not for any tasks the school performs as a public authority)
- The individual (or their parent/career when appropriate in the case of a pupil) has freely given clear consent

For special categories of personal data, we will also meet one of the special category conditions for processing under data protection law:

- The individual (or their parent/career when appropriate in the case of a pupil) has given explicit consent
- The data needs to be processed to perform or exercise obligations or rights in relation to employment, social security or social protection law
- The data needs to be processed to ensure the vital interests of the individual or another person, where the individual is physically or legally incapable of giving consent
- The data has already been made manifestly public by the individual
- The data needs to be processed for the establishment, exercise or defence of legal claims
- The data need to be processed for reasons of substantial public interest as defined in legislation
- The data needs to be processed for health or social care processes, and the processing is done by, or under the direction of, a health or social work professional or by any other person obliged to confidentiality under law
- The data needs to be processed for public health reasons, and the processing is done by, or under the direction of, a health professional or by any other person obliged to confidentiality under law
- The data needs to be processed for archiving purposes, scientific or historical research purposes, or statistical purposes, and the processing is in the public interest

For criminal offence data, we will meet both a lawful basis and a condition set out under data protection law. Conditions include:

- The individual (or their parent/carer when appropriate is in the case of a pupil) has given consent
- The data needs to be processed to ensure the vital interests of the individual or another person, where the individual is physically or legally incapable of giving consent
- The data has already been made manifestly public by the individual
- The data needs to be processed for or in connection with legal proceedings, to obtain legal advice, or for the establishment, exercise or defence of legal rights
- The data needs to be processed for reasons of substantial public interest as defined in legislation

Whenever we first collect personal data directly from individuals, we will provide them with the relevant information required by data protection law.

We will always consider the fairness of our data processing. We will ensure we do not handle personal data in ways that individuals would not reasonably expect, or use personal data in ways which have unjustified adverse effects on them.

#### **Limitation, minimisation and accuracy**

We will only collect personal data for specified, explicit and legitimate reasons. We will explain these reasons to the individuals when we first collect their data.

If we want to use personal data for reasons other than those given when we first obtained it, we will inform the individuals concerned before we do so, and seek consent where necessary.

Staff must only process personal data where it is necessary in order to do their jobs.

We will keep data accurate and, where necessary up-to-date. Inaccurate data will be rectified or erased when appropriate.

In addition, when staff no longer need the personal data they hold, they must ensure it is deleted or anonymized. This will be done in accordance with the school's record retention schedule.

## **Sharing Data**

We will not normally share personal data with anyone else without consent, but there are certain circumstances where we may be required to do so. These include, but are not limited to, situations where:

- There is an issue with a pupil or parent/carer that puts the safety of our staff at risk
- We need to liaise with other agencies - we will seek consent as necessary before doing this
- Our suppliers or contractors need data to enable us to provide services to our staff and pupils - for example, IT companies. When doing this, we will:
  - Only appoint suppliers or contractors which can provide sufficient guarantees that they comply with data protection law
  - Establish a contract with the supplier or contractor to ensure the fair and lawful processing of any personal data we share
  - Only share data that the supplier or contractor needs to carry out their service

We will also share personal data with law enforcement and government bodies where we are legally required to do so.

We may also share personal data with emergency services and local authorities to help them to respond to an emergency situation that affects any of our pupils or staff.

## **Subject Access Requests**

Individuals have a right to make a 'subject access request' to gain access to personal information that the school holds about them. This includes:

- Confirmation that their personal data is being processed
- Access to a copy of the data
- The purposes of the data processing
- The categories of personal data concerned
- Who the data has been, or will be, shared with
- How long the data will be stored for, or if this isn't possible, the criteria used to determine this period
- Where relevant, the existence of the right to request rectification, erasure or restriction, or to object to such processing
- The right to lodge a complaint with the ICO or another supervisory authority
- The source of the data, if not the individual
- Whether any automated decision-making is being applied to their data, and what the significance and consequences of this might be for the individual
- The safeguards provided if the data is being transferred internationally

Subject access requests can be submitted in any form, but we may be able to respond to requests more quickly if they are made in writing and include:

- Name of individual
- Correspondence address
- Contact number and email address
- Details of the information requested

If staff receive a subject access request in any form they must immediately forward it to the Trust DPO.

### **Children and subject access requests**

Personal data about a child belongs to that child, and not the child's parents or carers. For a parent or carer to make a subject access request with respect to their child, the child must either be unable to understand their rights and the implications of a subject access request, or have given their consent.

Children below the age of 12 are generally not regarded to be mature enough to understand their rights and the implications of a subject access request. Therefore, most subject access requests from parents or carers of pupils at school's within our Trust may be granted without the express permission of the pupil. This is not a rule and a pupil's ability to understand their rights will always be judged on a case-by-case basis.

### **Responding to subject access requests**

When responding to requests, we:

- May ask the individual to provide 2 forms of identification
- May contact the individual via phone to confirm the request was made
- Will respond without delay and within 1 month of receipt of the request (or receipt of the additional information needed to confirm identity, where relevant)

- Will provide the information free of charge
- May tell the individual we will comply within 3 months of receipt of the request, where a request is complex or numerous. We will inform the individual of this within 1 month, and explain why the extension is necessary

We may not disclose information for a variety of reasons, such as if it:

- Might cause serious harm to the physical or mental health of the pupil or another individual
- Would reveal that the child is being or has been abused, or is at risk of abuse, where the disclosure of that information would not be in the child's best interests
- Would include another person's personal data that we can't reasonably anonymise, and we don't have the other person's consent and it would be unreasonable to proceed without it
- Is part of certain sensitive documents, such as those related to crime, immigration, legal proceedings or legal professional privilege, management forecasts, negotiations, confidential references, or exam scripts

If the request is unfounded or excessive, we may refuse to act on it, or charge a reasonable fee to cover administrative costs. We will take into account whether the request is repetitive in nature when making this decision.

When we refuse a request, we will tell the individual why, and tell them they have the right to complain to the ICO or they can seek to enforce their subject access right through the courts.

## **Other data protection rights of the individual**

In addition to the right to make a subject access request (see above), and to receive information when we are collecting their data about how we use and process it, individuals also have the right to:

- Withdraw their consent to processing at any time
- Ask us to rectify, erase or restrict processing of their personal data (in certain circumstances)
- Prevent use of their personal data for direct marketing
- Object to processing which has been justified on the basis of public interest, official authority or legitimate interests
- Challenge decisions based solely on automated decision making or profiling (i.e. making decisions or evaluating certain things about an individual based on their personal data with no human involvement)
- Be notified of a data breach (in certain circumstances)
- Make a complaint to the ICO
- Ask for their personal data to be transferred to a third party in a structured, commonly used and machine-readable format (in certain circumstances)

Individuals should submit any request to exercise these rights to the Trust DPO. If school staff receive such a request, they must immediately forward it to the Trust DPO.

### **Parental requests to see the educational record**

There is no automatic parental right of access to the educational record of their child. If a request is made for a copy of the educational record of a child, provided the child is aged under 18, this request may be granted. However, the school may charge a fee to cover the cost of supplying it.

There are certain circumstances in which a request may be denied, such as if releasing the information might cause serious harm to the physical or mental health of the pupil or another individual.

## **CCTV**

Some Trust schools use CCTV in various locations around the school site to ensure it remains safe. Schools will adhere to the ICO's [code of practice](#) for the use of CCTV.

We do not need to ask individuals' permission to use CCTV, but we make it clear where individuals are being recorded. Security cameras are clearly visible and accompanied by prominent signs explaining that CCTV is in use.

Any enquiries about the CCTV system should be directed to the Trust DPO.

## **Telephone Calls**

Some of our Trust schools record incoming and/or outgoing calls for training purposes and where a school undertakes this practice, they will clearly make callers aware of this and state the reason why.

Our schools will adhere to the ICO's code of practice, Telecommunication Regulations and other relevant regulations. All recordings will be stored securely and appropriate security controls will be applied to ensure recordings can only be accessed by authorised individuals.

## **Photographs and videos**

As part of our school activities, we may take photographs and record images of individuals within our schools.

We will obtain written consent from parents/carers for photographs and videos to be taken of their child for communication, marketing and promotional materials. We will clearly explain how the photograph and/or video will be used to both the parent/carer and pupil.

Any photographs and videos taken by parents/carers at school events for their own personal use are not covered by data protection legislation. However, we will ask that photos or videos with other pupils are not shared publicly on social media for safeguarding reasons, unless all the relevant parents/carers have agreed to this.

Where the school takes photographs and videos, uses may include:

- Within school on notice boards and in school magazines, brochures, newsletters, etc.
- Outside of school by external agencies such as the school photographer, newspapers, campaigns
- Online on our school website or social media pages

Consent can be refused or withdrawn at any time. If consent is withdrawn, we will delete the photograph or video and not distribute it further.

When using photographs and videos in this way we will not accompany them with any other personal information about the child, to ensure they cannot be identified.

## Data Protection by design and default

We will put measures in place to show that we have integrated data protection into all of our processing activities, including:

- Appointing a suitably qualified DPO, and ensuring they have the necessary resources to fulfil their duties and maintain their expert knowledge
- Only processing personal data that is necessary for each specific purpose of processing, and always in line with the data protection principles set out in relevant data protection law
- Completing data protection impact assessments where the school's processing of personal data presents a high risk to rights and freedoms of individuals, and when introducing new technologies (the DPO will advise on this process)
- Integrating data protection into internal documents including this policy, any related policies and privacy notices
- Regularly conducting reviews and audits to test our privacy measures and make sure we are compliant
- Appropriate safeguards being put in place if we transfer any personal data outside the UK, where different data protection laws may apply
- Maintaining records of our processing activities, including:
  - For the benefit of data subjects, making available the name and contact details of our school and DPO and all information we are required to share about how we use and process their personal data (via our privacy notices)
  - For all personal data that we hold, maintaining an internal record of the type of data, type of data subject, how and why we are using the data, any third-party recipients, any transfers outside of the UK and the safeguards for those, retention periods and how we are keeping the data secure

## Data security and storage of records

We will protect personal data and keep it safe from unauthorised or unlawful access, alteration, processing or disclosure, and against accidental or unlawful loss, destruction or damage.

In particular:

- Paper-based records and portable electronic devices, such as laptops and hard drives that contain personal data, are kept under lock and key when not in use
- Papers containing confidential personal data will not be left on office and classroom desks, on staffroom tables, or left anywhere else where there is general access
- Where personal information needs to be taken off site, staff will sign it in and out from the school office
- Passwords that are at least 10 characters long containing letters and numbers are used to access school computers, laptops and other electronic devices. Staff and pupils are reminded that they should not reuse passwords from other sites
- Encryption software is used to protect all portable devices and removable media, such as laptops and USB devices
- Staff, pupils or governors who store personal information on their personal devices are expected to follow the same security procedures as for school-owned equipment
- Where we need to share personal data with a third party, we carry out due diligence and take reasonable steps to ensure it is stored securely and adequately protected

### Disposal of records

Personal data that is no longer needed will be disposed of securely. Personal data that has become inaccurate or out of date will also be disposed of securely, where we cannot or do not

need to rectify or update it. For example, we will shred or incinerate paper-based records, and overwrite or delete electronic files. We may also use a third party to safely dispose of records on the school's behalf. If we do so, we will require the third party to provide sufficient guarantees that it complies with data protection law.

## **Personal data breaches**

Trust schools will make all reasonable endeavours to ensure that there are no personal data breaches.

In the unlikely event of a suspected data breach, we will follow the procedure set out in Appendix 1.

When appropriate, we will report the data breach to the ICO within 72 hours after becoming aware of it. Such breaches in a school context may include, but are not limited to:

- A non-anonymised dataset being published on the school website
- Safeguarding information being made available to an unauthorised person
- The theft of a school laptop containing non-encrypted personal data about pupils

## **Training**

All staff and governors are provided with data protection training as part of their induction process.

Data protection will also form part of continuing professional development, where changes to legislation, guidance or the school's processes make it necessary.

## **Complaints**

Complaints about the above procedures should be made to the Trust's Chief Executive Officer who will decide whether it is appropriate for the complaint to be dealt with in accordance with the school's complaint procedure.

Complaints which are not appropriate to be dealt with through the school's complaint procedure can be dealt with by the Information Commissioner. Contact details of both will be provided with the disclosure information.

## **Further Information**

If you have any enquires in relation to this policy, please contact the Director of Business Finance and Development who is the Designated Data Protection Officer with the ICO.

Further advice and information is available from the Information Commissioner's Office, [www.ico.gov.uk](http://www.ico.gov.uk) or telephone 0303 1231113.

## Personal data breach procedure

This procedure is based on [guidance on personal data breaches](#) produced by the ICO.

On finding or causing a breach, or potential breach, the staff member or data processor must immediately notify the DPO

The DPO will investigate the report, and determine whether a breach has occurred. To decide, the DPO will consider whether personal data has been accidentally or unlawfully:

- Lost
  - Stolen
  - Destroyed
  - Altered
  - Disclosed or made available where it should not have been
  - Made available to unauthorised people
- Staff and Governors will cooperate with the investigation (including allowing access to information and responding to questions). The investigation will not be treated as a disciplinary investigation.
  - The DPO will alert the Head Teacher and the Trust Chief Executive Officer
  - The DPO will make all reasonable efforts to contain and minimise the impact of the breach, assisted by relevant staff members or data processors where necessary (actions relevant to specific data types are set out at the end of this procedure)
  - The DPO will assess the potential consequences, based on how serious they are, and how likely they are to happen
  - The DPO will work out whether the breach must be reported to the ICO. This must be judged on a case-by-case basis. To decide, the DPO will consider whether the breach is likely to negatively affect people's rights and freedoms, and cause them any physical, material or non-material damage (e.g. emotional distress), including through:
    - Loss of control over their data
    - Discrimination
    - Identify theft or fraud
    - Financial loss
    - Unauthorised reversal of pseudonymisation (for example, key-coding)
    - Damage to reputation
    - Loss of confidentiality
    - Any other significant economic or social disadvantage to the individual(s) concerned

If it's likely that there will be a risk to people's rights and freedoms, the DPO must notify the ICO.

- The DPO will document the decision (either way), in case it is challenged at a later date by the ICO or an individual affected by the breach. Decision are recorded and held in the Trust Office.
- Where the ICO must be notified, the DPO will do this via the ['report a breach' page](#) of the ICO website, or through their breach report line (0303 123 1113), within 72 hours. As required, the DPO will set out:
  - A description of the nature of the personal data breach including, where possible:
    - The categories and approximate number of individuals concerned
    - The categories and approximate number of personal data records concerned
  - The name and contact details of the DPO

- A description of the likely consequences of the personal data breach
- A description of the measures that have been, or will be taken, to deal with the breach and mitigate any possible adverse effects on the individual(s) concerned
- If all the above details are not yet known, the DPO will report as much as they can within 72 hours. The report will explain that there is a delay, the reasons why, and when the DPO expects to have further information. The DPO will submit the remaining information as soon as possible
- The DPO will also assess the risk to individuals, again based on the severity and likelihood of potential or actual impact. If the risk is high, the DPO will promptly inform, in writing, all individuals whose personal data has been breached. This notification will set out:
  - A description, in clear and plain language, of the nature of the personal data breach
  - The name and contact details of the DPO
  - A description of the likely consequences of the personal data breach
  - A description of the measures that have been, or will be, taken to deal with the data breach and mitigate any possible adverse effects on the individual(s) concerned

As above, any decision on whether to contact individuals will be documented by the DPO.

- The DPO will notify any relevant third parties who can help mitigate the loss to individuals - for example, the police, insurers, banks or credit card companies
- The DPO will document each breach, irrespective of whether it is reported to the ICO. For each breach, this record will include the:
  - Facts relating to the breach
  - Effects
  - Action taken to contain it and ensure it does not happen again (such as establishing more robust processes or providing further training for individuals)

Records of all breaches will be stored by the Head Teacher and the DCP

As above, any decision on whether to contact individuals will be documented by the DPO.

- The DPO and Head Teacher will meet to review what happened and how it can be stopped from happening again. This meeting will happen as soon as reasonably possible.
- The DPO and Head Teacher will meet regularly to assess recorded data breaches and identify any trends or patterns requiring action by the school to reduce risks of future breaches

### **Actions to minimise the impact of data breaches**

We will take the actions set out below to mitigate the impact of different types of data breach, focusing especially on breaches involving particularly risky or sensitive information. We will review the effectiveness of these actions and amend them as necessary after any data breach.

Where sensitive data has been disclosed via email (including safeguarding records) the following actions will be taken:

- If special category data is accidentally made available via email to unauthorised individuals, the sender will attempt to recall the email as soon as they become aware of the error
- Members of staff who receive personal data sent in error must alert the sender and the DPO as soon as they become aware of the error
- If the sender is unavailable or cannot recall the email for any reason, the DPO will liaise with the Trust ICT provider as to whether it can be recalled
- In any cases where the recall is unsuccessful, the DPO will contact the relevant unauthorised individuals who received the email, explain that the information was sent in error, and request that those individuals delete the information and do not share, publish, save or replicate it in any way

- The DPO will ensure we receive a written response from all the individuals who received the data, confirming that they have complied with this request
- The DPO will carry out an internet search to check that the information has not been made public; if it has, we will contact the publisher/website owner or administrator to request that the information is removed from their website and deleted
- If safeguarding information is compromised, the DPO will inform the designated safeguarding lead and discuss whether the school should inform any, or all, of its three local safeguarding partners

Other types of breach can include:

- Details of pupil premium interventions for named children being published on the school website
- Non-anonymised pupil exam results or staff pay information being shared with governors
- A school laptop containing non-encrypted sensitive personal data being stolen or hacked
- The school's cashless payment provider being hacked and parents' financial details stolen
- Hardcopy reports sent to wrong pupils or families