

## **Data Protection (GDPR) policy**

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### **Summary**

The aim of this policy is to provide a framework to enable staff, parents and pupils to understand:

- the law regarding personal data
- how personal data should be processed, stored, archived and disposed of
- how staff, parents and pupils can access personal data

**Date adopted:** April 2019

**Review date:** Bi-Annually

**Last reviewed:**

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### **1. Aims and Objectives**

**1.1 It is a statutory requirement for all schools to have a Data Protection Policy:**

**1.2 Data Protection Principles**

**In accordance with Article 5 of the GDPR, Woodham Academy will ensure that personal data shall be:**

- a) processed lawfully, fairly and in a transparent manner in relation to individuals;
- b) 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, subject to measures respecting the principle of 'data minimisation', not be considered to be incompatible with the initial purposes;
- c) adequate, relevant and limited to what is necessary in relation to the purpose for which they are processed;
- d) 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;
- e) 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 GDPR in order to safeguard the rights and freedoms of individuals, and again subject to the 'data minimisation' principle; and
- f) 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 organisation measures.

Woodham Academy (the controller) shall be responsible for, and be able to demonstrate, compliance with the principles i.e. its policies and systems comply with requirements of GDPR.

### **2. Lawful Basis for processing data**

The vast majority of information that the school will collect and process is required to enable the school to perform tasks carried out in the public interest or in the exercise of official authority vested in the school, as the data controller.

There are other bases that, such as a specific legal obligation applying to the data controller that makes the processing necessary.

**2.1 Age.** Children under the age of 13 are not considered able to give consent to process data or to directly access the rights of a data subject, so parents or guardians do this on their behalf. Over the age of 13 this responsibility is transferred to the child and parents will not have responsibility for their child’s data.

**2.2 Consent.** If there is a lawful basis for collecting data then consent to collect data is not required. However, a privacy notice which explains to data subjects (or the parents of the data subject if under the age of 10) will be provided. This explains the lawful basis for processing the data, and also explains to the individual their rights.

Parents/Carers of children under the age of 13 will need to give consent when there is not a legal reason for processing, for instance for images used in school publicity or social media feeds. The consent will be transparent, revocable, and will be on a “opt-in” basis.

## RIGHTS

The GDPR provides for the following rights:

1. The right to be informed
2. The right of access
3. The right to rectification
4. The right to erasure
5. The right to restrict processing
6. The right to data portability
7. The right to object
8. Rights in relation to automated decision making and profiling

For “Privacy notices” covering the right to be informed, please see section 5 below.

Different rights attach to different lawful bases of processing:

	Right to erasure	Right to portability	Right to object
Vital Interests	✓	✗	✗
Legal Obligation	✗	✗	✗
Public Task	✗	✗	✓
Legitimate Interests	✓	✗	✓
Contract	✓	✓	✗
Consent	✓	✓	✗
			But right to withdraw consent

**The right to erasure.** GDPR includes a right to erasure – but this is not an absolute right and does not necessarily override the lawful basis for continuing to hold data. This does not mean the data will never be erased. It will still not be retained for any longer than necessary, in accordance with statutory requirements and/or the school’s data retention guidelines.

### 3. Data Types

*GDPR defines different types of data and prescribes how it should be treated.*

### **3.1 Personal data**

The school will have access to a wide range of personal information and data. The data may be held in a digital format or on paper records. Personal data will include:

- Personal information about members of the school community – including pupils / students, members of staff and parents / carers e.g. names, addresses, contact details, legal guardianship contact details, disciplinary records
- Curricular / academic data e.g. class lists, pupil / student progress records, reports, references
- Professional records e.g. employment history, taxation and national insurance records, appraisal records, disciplinary records and references
- Any other information that might be disclosed by parents / carers or by other agencies working with families or staff members.

### **3.2 Special Category Data**

“Special Category Data” is more sensitive, and so needs more protection.

In a school the most likely special category data is likely to be:

- Information on the racial or ethnic origin of a pupil or member of staff
- Information about the sexuality of a child, his or her family or a member of staff
- Medical information about a child or member of staff (SEND)
- Some information regarding safeguarding will also fall into this category

### **3.3 Other types of Data not covered by the act**

This is data that does not identify a living individual and could include Lesson Plans (where no individual pupil is named), Teaching Resources, and other information about the school which does not relate to an individual. Some of this data would be available publicly (for instance the diary for the forthcoming year).

## **4. Responsibilities**

The Headteacher and Governing Body are responsible for Data Protection, and will appoint a Data Protection Officer to manage data.

### **4.1 Risk Management – Roles: Data Protection Officer**

The role of the DPO will include:

- To inform and advise the organisation and its employees about their obligation to comply with the GDPR and other data protection laws
- To monitor compliance with the GDPR and other data protection laws, including managing internal data protection activities, advise on data protection impact assessments; train staff and conduct internal audits
- To be the first point of contact for supervisory authorities and for individuals whose data is processed (employees, customers etc.)

### **4.2 Risk management – Staff and Governors Responsibilities**

- Everyone in the school has the responsibility of handling personal information in a safe and secure manner
- Governors are required to comply fully with this policy in the event that they have access to personal data, when engaged in their role as a Governor

## **5. Legal Requirements**

### **5.1 Registration**

The school will be registered as a Data Controller on the Data Protection Register held by the Information Commissioner

## **5.2 Information for Data Subjects (Parents, Staff): PRIVACY NOTICES**

In order to comply with the fair processing requirements of the DPA, the school **must** inform parents / carers of all pupils / students and staff of the data they collect, process and hold on the pupils / students, the purposes for which the data is held, the legal basis for holding it and the third parties (e.g. LA, DfE, etc.) to whom it may be passed. The privacy notice will set out the data subjects' rights under the GDPR.

New privacy notices will be issued to all 'data subjects' even if the data subject has previously received a similar notice.

## **6. Transporting, Storing and Disposing of personal Data**

### **6.1 Information security – Storage and Access to Data**

#### **6.1.1 Technical Requirements**

- The school will ensure that ICT systems are set up so that the existence of protected files is hidden from unauthorised users and that users will be assigned a clearance that will determine which files are accessible to them. Access to protected data will be controlled according to the role of the user. Members of staff will not, as a matter of course, be granted access to the whole management information system.
- Personal data may only be accessed on machines that are securely password protected. Any device that can be used to access data must be locked if left unattended (even for very short periods).
- All storage media must be stored in an appropriately secure and safe environment that avoids physical risk, loss or electronic degradation.
- Personal data can only be stored on school equipment (this includes computers and portable storage media (where allowed). Private equipment (i.e. owned by the users) must not be used for the storage of personal data.
- The school / academy has clear policy and procedures for the automatic backing up, accessing and restoring all data held on school systems, including off-site backups.

#### **6.1.2 Portable Devices**

##### **When personal data is stored on any portable computer system:**

- The data must be encrypted and password protected.
- The device must be password protected.
- The data must be securely deleted from the device, in line with school policy once it has been transferred or its use is complete.
- Data storage of personal information on removal media e.g. USB, portable hard drive, is not allowed, even if encrypted.
- Staff may only use removable media e.g. USB, portable hard drive to transfer non personal information e.g. for use in lesson planning.

##### **Passwords**

- All users will use strong passwords which must be changed regularly. User passwords must never be shared.

#### **6.1.3 Images**

- Images of pupils (will only be processed and transported by use of authorised agents of the school and permission for this will be obtained in the privacy notice or other photographic permission notice.)
- Images will be protected and stored in a secure area.

#### **6.1.4 Cloud Based Storage**

- The school / academy has clear policy and procedures for the use of "Cloud Based Storage Systems" and is aware that data held in remote and cloud storage is still required to be protected

in line with the Data Protection Act. The school will ensure that it is satisfied with controls put in place by remote / cloud based data services providers to protect the data.

## **6.2 Third Party data transfers**

As a Data Controller, the academy is responsible for the security of any data passed to a “third party”. Data Protection clauses will be included in all contracts where data is likely to be passed to a third party as well as data processing agreements.

## **6.3 Retention of Data**

- The guidelines given by the Information and Records Management Society – Schools records management toolkit will be used to determine how long data is retained.
- Personal data that is no longer required will be destroyed and this process will be recorded.

*Persuading staff to reduce the quantity of personal information they have collected over time should be regarded as an important priority.*

## **6.4 Systems to protect data**

### **6.4.1 Paper Based Systems**

- All paper based personal data will be protected by appropriate controls, for example:
  - Paper based safeguarding chronologies will be in a locked cupboard when not in use
  - Class lists used for the purposes of marking may be stored in a teacher’s bag
- Paper based personal information sent to parents will be checked before the envelope is sealed.

### **6.4.2 School Websites**

- Uploads to the school website will be checked prior to publication, for instance:
  - To check that appropriate photographic consent has been obtained
  - To check that the correct documents have been uploaded

### **6.4.3 E-mail**

- Where technically possible all e-mail containing sensitive information must be encrypted.
- The use of a secure e-mail system allows for secure communication.

## **7. Data Sharing**

The school is required by law to share information with the LA and DfE.

## **8. Data Breach – Procedures**

In the event of a data breach the data protection officer will inform the head teacher and chair of governors.

The school will follow the procedures set out in Appendix 5.

## **9. Policy Review Reviewing:**

This policy will be reviewed, and updated if necessary every two years or when legislation changes.

**The Data Protection Officer is Mrs Tina Taylor**

## **Appendix 1 – Links to resources and guidance**

### **ICO Guidance on GDPR**

<https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr>

[http://ico.org.uk/for\\_organisations/sector\\_guides/education](http://ico.org.uk/for_organisations/sector_guides/education)

Specific information for schools is available here. This includes links to guides from the DfE

[http://ico.org.uk/for\\_organisations/data\\_protections/topic\\_guides/cctv](http://ico.org.uk/for_organisations/data_protections/topic_guides/cctv)

Specific information about CCTV

### **Information and Records Management Society – Schools records management toolkit**

<http://irms.org.uk/page/SchoolsToolkit>

A downloadable scheduled for all records management in schools

### **Disclosure and Barring Service (DBS)**

<https://www.gov.uk/government/publications/handling-of-dbs-certificate-information/handling-of-dbs-certificate-information>

Details of storage and access to DBS certificate information

### **DfE Privacy Notices**

<https://www.gov.uk/government/publications/data-protection-and-privacy-privacy-notices>

### **DfE Use of Biometric Data**

<https://www.gov.uk/government/publications/protection-of-biometric-information-of-children-in-schools>

## **Appendix 2 – Privacy Notices**

These are now a separate attachment

## **Appendix 3 – Glossary**

**GDPR – The General Data Protection Regulation.** These are new European-wide rules that are the basis of data protection legislation. They are enforced in the UK by the ICO.

### **Data Protection Act 1998: Now superseded by GDPR**

All personal data which is held must be processed and retained in accordance with the eight principles of the Act and with the rights of the individual. Personal data must not be kept longer than is necessary (this may be affected by the requirements of other Acts in relation to financial data or personal data disclosed to Government departments). Retention of personal data must take account of the Act, and personal data must be disposed of as confidential waste. Covers both personal data relating to employees and to members of the public.

### **ICO:**

The Information Commissioner's Office. This is a government body that regulated the Data Protection Act and GDPR.

The ICO website is here <http://ico.org.uk>

### **Data Protection Act 1998: Compliance Advice. Subject access – Right of access to education records in England:**

General information note from the Information Commissioner on access to education records. Includes timescale (15 days) and photocopy costs.

### **Data protection Act 1998: Compliance Advice. Disclosure of examination results by schools to the media:**

General information note from the Information Commissioner on publication of examination results.

### **Education Act 1996:**

Section 509 covers retention of home to school transport appeal papers. (By LA)

### **Education (Pupil Information) (England) Regulations 2005:**

Retention of Pupil records

### **Health and Safety at Work Act 1974 and Health and Safety at Work Act 1972:**

Retention requirements for a range of health and safety documentation including accident books, H&S manuals etc.

### **School Standards and Framework Act 1998:**

Retention of school admission and exclusion appeal papers and other pupil records.

## **Appendix 4 – Check Sheet**

Schools may find it beneficial to use this to check their systems for handling data.

- Data Protection Officer in place
- Information asset log complete
- School able to demonstrate compliance with GDPR
- Training for staff on Data Protection, and how to comply with requirements
- Data Protection Policy in place
- All portable devices containing personal data are encrypted
- Password – Staff use complex passwords
- Passwords – Not shared between staff
- Privacy notice sent to parents / pupils aged 13 or over
- Privacy notice given to staff
- Images stored securely
- School registered with the ICO as a data controller
- Systems in place to ensure that data is retained securely for the required amount of time
- Process in place to allow for subject access requests
- If school has CCTV, appropriate policies are in place to cover use, storage and deletion of the date, and appropriate signage is displayed
- Paper based documents secure
- Electronic backup of data both working and secure
- Systems in place to help reduce the risk of a data breach *e.g. personal data sent out checked before the envelope sealed, uploads to websites checked etc.*