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## Appropriate Policy Document

In order to operate effectively, the Trust and its schools process special category and criminal offence data in accordance with the requirements of Article 9 and 10 of the UK General Data Protection Regulation (UK GDPR), and schedule 1 of the Data Protection Act 2018 (DPA 2018).

Some of the conditions in Schedule 1 of the DPA 2018 require an Appropriate Policy Document (APD) to be in place that sets out and explains how we comply with the principles detailed in Article 5 of the UK General Data Protection Regulation (UK GDPR), together with our retention policies for this personal data.

This APD complements the Trust's record of processing under Article 30 of the UK GDPR and provides special category and criminal offence data with further protection. This policy should be viewed in conjunction with our Data Protection Policy and Privacy Notices to understand the Trust's overall approach to data protection.

### Special Category Data

Special category data is personal data that needs more protection because it is sensitive. In order to lawfully process special category data, we must identify both a lawful basis under Article 6 of the UK GDPR and a separate condition for processing under Article 9. These do not have to be linked.

The UK GDPR defines special category data as:

- personal data revealing **racial or ethnic origin**;
- personal data revealing **political opinions**;
- personal data revealing **religious or philosophical beliefs**;
- personal data revealing **trade union membership**;
- **genetic data**;
- **biometric data** (where used for identification purposes);
- data concerning **health**;
- data concerning a person's **sex life**; and
- data concerning a person's **sexual orientation**.

(source [ICO website](#))

Article 10 of the 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'

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## Conditions for processing special category under the UK GDPR

Conditions for processing special category data:

- Article 9(2)(a)** The data subject has given 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 in order to administer medicines during the school day or consent to provide pupil pastoral support.
- Article 9(2)(b)** Processing is necessary for fulfilling our obligations or those of data subjects, in connection with employment, social security or social protection, for example maintaining records of statutory sick pay and maternity pay.
- Article 9(2)(c)** Processing is necessary to protect the vital interests of the data subject or of another natural person, for example using health information about a member of staff in a medical emergency.
- Article 9(2)(d)** Processing is 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. An example would be using information about a Trust Director's involvement with their local church.
- Article 9(2)(f)** For the establishment, exercise or defence of legal claims for example, litigation or employment tribunal, for example processing relating to any employment tribunal or other litigation.
- Article 9(2)(g)** For reasons of substantial public interest. We have a statutory duty to safeguard and promote the welfare of all our pupils, as set out in the statutory guidance including 'Keeping Children Safe in Education' (issued under Section 175 of the Education Act 2002) and 'Working Together to Safeguard Children' (issued under Section 11 of the Children Act 2004). Examples include referring suspected cases of abuse to children's social care, managing allegations of abuse against staff and carrying out pre-employment checks.
- Article 9(2)(h)** Processing for health and social care purposes, for example to provide occupational health services to our employees and volunteers.
- Article 9(2)(j)** Processing for archiving, research and statistics, for example maintaining a school archive of significant school events for historical purposes. This could include photographs.

We process criminal offence data under Article 10 of the UK GDPR. Examples of our processing of criminal offence data include pre-employment checks and declarations by an employee in line with contractual obligations or receiving information regarding a parent's or carer's criminal convictions which may have an impact on the safeguarding or well-being of pupils.

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## Processing which requires an Appropriate Policy Document (APD)

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(1)(b) and 5(1)).

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 special category data about our pupils in order to fulfil our obligations as a trust. This includes information about pupil health and wellbeing status and ethnicity. Further information about this processing can be found in our pupil and families privacy notice.

We process special category data about our employees, governors, directors and volunteers that is necessary to fulfil our obligations as an employer. This includes information about their health and wellbeing, ethnicity, sexual orientation, religion and their membership of any trade union. Further information about this processing can be found in our staff privacy notice and our privacy notice for trustees, governors and other volunteers.

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

Section 10 of the UK DPA 2018 requires the trust to meet one of the additional conditions in Schedule 1 when we are processing special category data and relying on a GDPR condition.

We process special category data for the following purposes in Part 1 of Schedule 1:

- Paragraph 1 employment, social security and social protection
- Paragraph 2 health or social care purposes
- Paragraph 3 public health
- Paragraph 4 archiving purposes in the public interest

We process special category data for the following purposes in Part 2 of Schedule 1:

- Paragraph 6 statutory purposes
- Paragraph 8 equality of opportunity or treatment
- Paragraph 10 preventing or detecting unlawful acts
- Paragraph 12 regulatory requirements relating to unlawful acts
- Paragraph 17 counselling
- Paragraph 18 safeguarding of children and of individuals at risk

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

- Paragraph 1 employment, social security and social protection
- Paragraph 6 statutory purposes
- Paragraph 18 safeguarding of children and individuals at risk

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## Procedures for ensuring compliance with the Data Protection 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 (DPO) 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 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 detailed 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 controller 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.

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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 the trust's needs. Our retention schedule is reviewed regularly and updated when necessary in line with the Information and Records Management Society (IRMS) guidance.

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. 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.

**Review**

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 in conjunction with our Data Protection Policy, or as necessary, and any changes made will be communicated to all members of staff.