



# Shebbear College

## **DATA PROTECTION POLICY**

### **Whole School - from EYFS to Sixth Form**

**Reviewed and ratified by the Governing Body on 10<sup>th</sup> November 2016**

**Next Review by 10<sup>th</sup> November 2017**

### **INTRODUCTION**

The College is required to process relevant personal data regarding pupils, parents, guardians and staff (the “data subjects”) as part of its normal operations and shall take all reasonable steps to do so in accordance with this policy.

Processing may include obtaining, recording, holding, disclosing, destroying or otherwise using data. In this policy, any reference to the above data subjects includes past as well as current individuals.

### **DATA PROTECTION CONTROLLER**

The College has appointed the Bursar as Data Protection Controller (DPC) who will endeavour to ensure that all personal data is processed in compliance with this Policy and the Principles of the Data Protection Act 1998.

### **THE DATA PROTECTION ACT**

The Data Protection Act 1998, which came into force on 1st March 2000, has 3 principal elements of law:

- Notification – the office of the Data Protection Commissioner must be notified of the types of data held, intended disclosures of data and the purposes for which the data is held.
- Individuals’ Rights – individuals have a right to access to any personal data held, to correct any such data and to ensure that no decision is made by a purely automated process.
- Data Protection Principles – these effectively constitute the rules governing the holding, processing and disclosure of data.

The Act covers both manual and computerised records.

### **DATA PROTECTION PRINCIPLES**

The Act requires the College to adhere to certain standards regarding the gathering, use and disclosure of personal data, as set out in the Data Protection Principles.

The school shall, so far as is reasonably practicable, comply with the Data Protection Principles (the "Principles") contained in the Data Protection Act to ensure that all data is:

- Fairly and lawfully processed;
- Processed for a lawful purpose;
- Adequate, relevant and not excessive;
- Accurate and up-to-date;
- Not kept for longer than necessary;
- Processed in accordance with the data subject's rights;
- Secure;
- Not transferred to other countries without adequate protection.

### **PERSONAL DATA**

Personal data covers both facts and opinions about an individual. The College may process a wide range of personal data on pupils, parents, guardians and staff as part of its operation.

This personal data may include (but is not limited to): names and addresses, academic, disciplinary, admissions and attendance records, examination scripts and marks, recruitment records, qualifications, employment history, results of DBS or similar enquiries, criminal records, appraisal and performance information, next of kin, payroll details (including bank, salary and deduction details, court orders, PAYE & NIC details, payment history, etc.), those records required by legislation, e.g. health & safety and employment legislation, etc.

### **PROCESSING OF PERSONAL DATA**

Consent may be required for the processing of personal data unless the processing is necessary for the College to undertake its obligations to pupils and their parents or guardians, or is necessary for the performance of contracts of employment. Any information that falls under the definition of personal data, and is not otherwise exempt, will remain confidential and will only be disclosed to third parties with the consent of the appropriate individual or under the terms of this Policy.

### **SENSITIVE PERSONAL DATA**

The College may, from time to time, be required to process sensitive personal data regarding a pupil, parents or guardians, or a member of staff. Sensitive personal data includes medical information, and data relating to religion, race, trade union membership or criminal records and proceedings. Where the school processes sensitive personal data, the explicit consent of the appropriate individual will generally be required in writing.

## **RIGHTS OF ACCESS TO INFORMATION**

Individuals have a right of access to information held by the College. Any individual wishing to access their personal data should put their request in writing to the DPC. The College will endeavour to respond to any such written requests as soon as is reasonably practicable and in any event, within 40 days for access to records and 21 days to provide a reply to an access to information request.

It should be noted that the College may charge an administration fee of up to £10.00 for providing this information.

Certain data is exempt from the right of access under the Data Protection Act this may include information that identifies other individuals, information that the College reasonably believes is likely to cause damage or distress, or information that is subject to legal professional privilege. The College is also not required to disclose any pupil examination scripts.

The College will also treat as confidential any reference given by the College for the purpose of the education, training or employment, or prospective education, training or employment of any pupil or member of staff. The College acknowledges that an individual may have the right to access a reference relating to them received by the College.

Such a reference will only be disclosed if such disclosure will not identify the source of the reference or where, notwithstanding this, the referee has given their consent or if disclosure is reasonable in all the circumstances.

## **WHOSE RIGHTS?**

The rights under the Data Protection Act are the individual's to whom the data relates.

The College will however in most cases rely on parental consent to process data relating to pupils unless, given the nature of the processing in question, and the pupil's age and understanding, it is unreasonable in all the circumstances to rely on the parent's consent.

Parents should be aware that in such situations they might not be consulted.

The College will only grant the pupil direct access to their personal data if, in the College's reasonable belief, the pupil understands the nature of the request.

Pupils agree that the College may disclose their personal data to their parents or guardian.

Where a pupil seeks to raise concerns confidentially with a member of staff and expressly withholds their agreement to their personal data being disclosed to their parents or guardian, the College will maintain confidentiality unless it has reasonable grounds to believe that the pupil does not fully understand the consequences of withholding their consent, or where the College believes disclosure will be in the best interests of the pupil or other pupils.

## **EXEMPTIONS**

Certain data is exempted from the provisions of the Data Protection Act, including the following:

- The prevention or detection of crime;
- The assessment of any tax or duty;
- Where the processing is necessary to exercise a right or obligation conferred or imposed by law upon the College.

The above are examples only of some of the exemptions under the Act. Any further information on exemptions should be sought from the DPC.

### **DISCLOSURE OF INFORMATION**

The College may receive requests from third parties to disclose personal data it holds about pupils, their parents or guardians, or members of staff. The College confirms that it will not generally disclose information unless the individual has given their consent or one of the specific exemptions under the Data Protection Act applies. However the College does intend to disclose such data as is necessary to third parties for the following purposes:

- To give a confidential reference relating to a pupil to any educational institution which it is proposed that the pupil may attend.
- To give information relating to outstanding fees or payment history to any educational institution which it is proposed that the pupil may attend
- To publish the results of public examinations or other achievements of pupils of the College.
- To disclose details of a pupil's medical condition where it is in the pupil's interests to do so, for example for medical advice, insurance purposes or to organisers of school trips.

Where the College receives a disclosure request from a third party it will take reasonable steps to verify the identity of that third party before making any disclosure.

### **USE OF PERSONAL INFORMATION BY THE SCHOOL**

The College may, from time to time, make use of personal data relating to pupils, their parents or guardians, or members of staff, in various ways. These may include:

#### **Use of photographic images of pupils in College publications and on the College website.**

The College endeavours to follow DFE guidelines, as below:

- If the pupil is named, his/her photograph will not normally be used;
- If the pupil is pictured, his/her name will not normally be used.

This policy is explained to parents on joining the College, and an opportunity is given for the parents to withhold their permission for their children's photographs to be used.

#### **Maintaining relationships**

This includes fundraising, marketing or promotional purposes and maintaining relationships with pupils, parents or members of staff (past or present) of the College, including transferring information to any association, society or club set up for the purpose of establishing or maintaining contact or for fundraising, marketing or promotional purposes.

This specifically includes the provision of parents' names and addresses to the College's Parents' Association (FOSC). This policy is also explained to parents on joining the College, or to pupils as they leave the school, and an opportunity is given for permission to be withheld.

## **EXAMINATIONS**

The publication of examination results is lawful under the Act, as it is necessary for the legitimate interests of the College. This means that it is not strictly necessary to obtain pupils' or parents' consent to the publishing of results, the College should make them aware that this may take place. In order to reduce the possibility of potential upset, any publication should be alphabetical rather in result order, or even anonymously.

## **RECRUITMENT and SELECTION**

Recruitment generates personal data from prospective employees, some of it of a sensitive nature. The information relating to successful candidates will generally be transferred to the individual's personnel file, and retained in the normal way. Information and documents provided by rejected job applicants should not normally be held on file without their consent. If there is a possibility of a complaint of unlawful discrimination on grounds of sex, race, disability or trade union membership, then the information from unsuccessful candidates may be kept for up to 6 months, in a secure location, after which the documents should be destroyed.

Staff should take care when interviewing prospective employees to ensure that their written notes (and verbal comments) are confined to the capabilities and qualities of the candidates, and to refrain from making scurrilous, racist, sexist, speculative or needlessly prurient comments or notes about a job applicant's appearance, accent, nationality, disabilities, trade union activities, or similar. Such notes are not only admissible in evidence in proceedings before an employment tribunal and court, but must also be produced on demand for inspection by the people to whom they relate.

## **REFERENCES**

Under a specific exemption in the Act, the individual does not have the right to gain access to a confidential reference from the organisation that has given it. However, once the reference is with the organisation to which it was sent then no such specific exemption from the right of access exists.

References given for certain purposes, including education, training or employment, can be exempt from the Act. Where the school gives a reference, e.g. a University reference on behalf of a pupil, or an employment reference for an employee or former employee, then the reference should be marked "Confidential for the Purposes of the Data Protection Act 1998". The reference should then be exempt from disclosure under a subject access request. However, it may be more difficult to withhold disclosure of references received, particularly if the candidate is turned down for the post or place.

References may only be given by the Head, or by some other person specifically authorised by the Head. All references should, wherever possible, be on College headed notepaper.

All references must be given with reasonable care, to make sure that the facts are correct and that opinions are based on accurate facts, so that any possibility of action from the employee or the prospective employer is avoided.

## **RETENTION OF RECORDS**

Neither the Act nor the various Codes of Practice issued under the Act specify a time limit for retaining records. Personal data should only be kept for as long as is necessary, and it is up to the DPC to decide this time, and to justify that decision if challenged.

### **Pupil Data**

The College should not collect or retain more information than is necessary, and all irrelevant or out of date personal information should be destroyed. Once a pupil has left the school, it is not necessary to retain all the information held on them. However, it is appropriate that some data is kept for longer periods than others, depending on its nature.

UCAS forms have traditionally been kept “on file” by schools. In order to satisfy authorised requests for copies of student references and/or personal statements, a copy of the form may be kept within a secure file after the pupil has left the College. It may not be necessary to retain the whole form, and some parts may be deleted, or certain information transferred to an individual’s record. Irrelevant or particularly sensitive information should be deleted or destroyed.

A list of former pupils may be maintained and used, provided the principles of the Act are observed. Processing should be for the legitimate interests of the College and not unduly prejudice the rights and freedoms of the individual. While disclosure, without consent, of name and address details to a third party, e.g. for marketing purposes, would not be acceptable, the retention of basic biographical information on a record-keeping database, and even its publication in a record of former pupils, is acceptable. Personal data such as health records should not be transferred to former pupil databases held for the distribution of former pupil mailings. Reasonable steps should be taken to keep such a database up-to-date with accurate entries of addresses and telephone numbers, etc. Such records may be kept indefinitely.

### **Employee Data**

Data on employees may be kept for varying lengths of time, depending on its nature. Any period that is set must be based on business need and take into account any professional guidelines. The Act does not override any statutory requirements to retain records, e.g. in relation to income tax or health and safety.

A copy of The Employment Practices Data Protection Code; Part 2; Employment Records (v1.0 August 2002) is kept on file in the Bursary for further reference.

## **ACCURACY**

The College will endeavour to ensure that all personal data held in relation to an individual is accurate. Individuals must notify the DPC of any changes to information held about them. An

individual has the right to request that inaccurate information about them is erased or corrected.

## **SECURITY**

The College will take reasonable steps to ensure that members of staff will only have access to personal data relating to pupils, their parents or guardians, or other members of staff, where it is necessary for them to do so.

All staff will be made aware of this policy and their duties under the Data Protection Act.

The College will ensure that all personal information is held securely and is not accessible to unauthorised persons.

## **ENFORCEMENT**

If an individual believes that the College has not complied with this Policy or acted otherwise than in accordance with the Data Protection Act, they should utilise the College complaints procedure and should also notify the DPC.