

DATA PROTECTION

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1. INTRODUCTION

The College needs to keep certain information about employees, students, homestays and other users to allow it to monitor, for example, performance, achievements and health and safety. It is also necessary to process information so that staff can be recruited and paid, courses organised and legal obligations to funding bodies and government complied with. To comply with the law, information must be used fairly, stored safely and not disclosed to any other person unlawfully. To do this the College must comply with the Data Protection Principles, which are set out in the GDPR. In summary, these state that personal data shall:

- be processed lawfully, fairly and in a transparent manner
- be obtained for specified, explicit and legitimate purposes
- be adequate, relevant and limited
- be accurate and kept up to date (where applicable)
- be kept in a form which allows data subjects to be identified only as long as necessary
- be processed in a way that ensures appropriate security of the personal data

The College and all staff or others who process or use any personal information must ensure that they follow these principles at all times. In order to ensure that this happens, the College has developed this Data Protection Policy.

2. STATUS OF THE POLICY

This policy does not form part of the formal contract of employment, but it is a condition of employment that employees will abide by the rules and policies made by the College from time to time. Any failure to follow the policy can, therefore, result in disciplinary proceedings.

Any member of staff who considers that the policy has not been followed in respect of personal data about themselves should raise the matter with the Privacy Lead (Elizabeth Rattley). If the matter is not resolved it should be raised as a formal grievance with the Executive Manager.

3. NOTIFICATION OF DATA HELD AND PROCESSED

All staff, students and other users are entitled to:

- know what information the College holds and processes about them and why;
- know how to gain access to it;
- know how to keep it up to date;
- know what the College is doing to comply with its obligations under the GDPR

They also have the right to request for processing of their personal data to be restricted, to object to processing entirely or to request for their data to be deleted – this will be done if there are no other reasons why the data needs to be kept, such as a legal requirement

The College will, therefore, provide all staff and students and other relevant users with a standard form of notification. This will state all the types of data the College holds and processes about them and the reasons for which it is processed.

4. RESPONSIBILITIES OF STAFF

- Checking that any information that they provide to the College in connection with their employment is accurate and up to date.
- Informing the College of any changes to information which they have provided, ie changes of address.
- Checking the information that the College will send out from time to time, giving details of information kept and processed about staff.
- Informing the College of any errors or changes. The College cannot be held responsible for any errors unless the staff member has informed the College of them.

If, and when, as part of their responsibilities, staff collect information about other people (e.g. about students' coursework, opinions about ability, references to other academic institutions or details of personal circumstances) they must comply with the guidelines for staff.

5. DATA SECURITY

All staff are responsible for ensuring that:

- any personal data which they hold is kept securely;
- personal information is not disclosed either orally or in writing or accidentally or otherwise to any unauthorised third party.
- Any paperwork with personal data is destroyed securely when no longer required

Staff should note that unauthorised disclosure will usually be a disciplinary matter and may be considered gross misconduct in some cases.

Personal information should be:

- kept in a locked filing cabinet; or
- in a locked drawer; or
- if it is computerised, be password protected; or
- kept only on disk which is itself secure.

6. STUDENT OBLIGATIONS

Students must ensure that all personal data provided to the College is accurate and up to date. They must ensure that changes of address, etc, are notified to the Director of Studies.

Students who use the College computer facilities may, from time to time, process personal data. If they do, they must notify the Privacy Lead.

7. RIGHTS TO ACCESS INFORMATION

Staff, students and other users of the College have the right to access any personal data that is being kept about them either on computer or in certain files. Any person who wishes to exercise this right should complete the college "Access to Information" form and hand it in to the Privacy Lead.

The College will make no charge for the first occasion that access is requested but may make a charge of £10 per each subsequent request, at its discretion.

The College aims to comply with requests for access to personal information as quickly as possible but will ensure that it is provided within 28 days unless there is good reason for delay. In such cases, the reason for delay will be explained in writing to the data subject making the request.

8. PUBLICATION OF COLLEGE INFORMATION

The following information will be available to the public for inspection:

- Names of College senior staff with significant financial responsibilities (for inspection during office hours only).
- List of staff.
- Photographs of key staff.

The College's internal phone list will not be a public document.

Any individual who has good reason for wishing details in these lists or categories to remain confidential should contact the appropriate Data Controller.

9. LAWFUL BASES FOR PROCESSING

The school relies on the following legal bases for processing data:

- **Performance of a contract** – such as with homestay hosts and employees
- **Legal obligation** – for example when collecting data in order to comply with the law, such as for criminal records checks, pension schemes, and data needed for safeguarding purposes
- **Vital interests** – when data needs to be shared in an emergency situation because someone's life is at risk
- **Legitimate Interests** – when processing enquiries from perspective students, homestay hosts and education agents

The College does not usually rely on the basis of **Consent**, but when this is the case it will be made very clear and the data subject will always have the right to withdraw consent.

Sometimes it is necessary to process information about a person's health, criminal convictions, race and gender and family details. This may be to ensure the College is a safe place for everyone, or to operate other College policies such as the Sick Pay Policy or Equal Opportunities Policy.

When processing special category data, such as data relating to race, ethnic origin and medical information, as well as criminal offence data, we rely on the condition of carrying out the obligations of employment and social security and social protection law, in order to provide appropriate safeguards for the fundamental rights and interests of data subjects.

The college asks for information about particular health needs, such as allergies to particular forms of medication, or any conditions such as asthma or diabetes. The College will only use the information in the protection of the health and safety of the individual, but will need consent to process in the event of, for example, a medical emergency.

Some jobs or courses will bring job applicants into contact with children, including young people between the ages of 14 and 18. The College has a duty under the Children Act and other enactments to ensure that staff are suitable for the job and students for the courses offered. The College also has a duty of care to all staff and students and must, therefore, make sure that employees and those who use the College facilities do not pose a threat or danger to other users.

11. EXAMINATION MARKS

Students will be entitled to information about their marks for both coursework and examinations. However, this may take longer than other information to provide. The College may withhold certificates, accreditation or references in the event that the full course fees have not been paid, or all books and equipment returned to the College.

12. RETENTION AND DISPOSAL OF DATA

The College will keep some forms of information for longer than others. Because of storage problems, information about students cannot be kept indefinitely, unless there are specific requests to do so. A list is attached of the archiving guidelines and retention times employed by the College.

When disposing of any document containing personal data, care should be taken to ensure that the document is shredded before consigning to the waste collection.

13. CONCLUSION

Compliance with the GDPR is the responsibility of all members of the College. Any deliberate breach of the Data Protection Policy may lead to disciplinary action being taken, or access to College facilities being withdrawn, or even prosecution. Any questions or concerns about the interpretation or operation of this policy should be taken up with the Privacy Lead.

15. APPENDICES

1. Staff Guidelines for Data Protection (including checklist for recording data)
2. Standard request for Access to Data
Standard form for notification of Personal Data held by the College
3. Guidelines for archiving
4. Model Contract Clauses

APPENDIX 1

STAFF GUIDELINES FOR DATA PROTECTION

1. All staff will process data about students on a regular basis when marking registers or College work, writing reports or references or as part of a pastoral or academic supervisory role. Information that staff deals with on a day-to-day basis will be 'standard' and will cover categories such as:
 - general personal details such as name and address;
 - details about class attendance, course work marks and grades and associated comments;
 - notes of personal supervision, including matters about behaviour discipline.
2. Information about a student's physical or mental health; sexual life; political or religious views; ethnicity or race is sensitive and can only be collected and processed when legally required or with explicit consent.
3. All staff have a duty to make sure that they comply with the data protection principles, which are set out in the College Data Protection Policy. In particular, staff must ensure that records are:
 - accurate;
 - up-to-date;
 - fair;
 - kept and disposed of safely and in accordance with the College policy.
4. The Administration team are the only staff members authorised to hold or process data that is:
 - not standard data; or
 - sensitive (special category) data.

The only exception to this will be if a non-authorized staff member is satisfied that the processing of the data is necessary

- and in the best interests of the student or staff member, or a third person, or the College; AND
- he or she has either informed an authorised person of this, or has been unable to do so and processing is urgent and necessary in all the circumstances.

This should only happen in very limited circumstances.

Example: A student is injured and unconscious but in need of medical attention and a staff tutor tells the hospital that the student is pregnant.

5. Authorised staff will be responsible for ensuring that all data is kept securely.
6. Staff must not disclose personal data to any student, unless for normal academic or pastoral purposes, without authorisation or agreement from the Executive Manager, or in line with the College policy.
7. Staff shall not disclose personal data to any other staff member, except with the authorisation or agreement of the Executive Manager.
8. Before processing any personal data, all staff should consider the checklist.

Staff Checklist for Recording Data

- Do you really need to record the information?
- Is the information 'standard' or is it 'sensitive'?
- If it is sensitive, is it required by law?
- Has the student been told that this type of data will be processed?
- Are you authorised to collect/store/process the data?
- If yes, have you checked with the data subject that the data is accurate?
- Are you sure that the data is secure?
- Have you reported the fact of data collection to the authorised person within the required time?

STANDARD REQUEST FORM FOR ACCESS TO DATA

I (insert name) wish to have access to:

Either

1. All the data that the College currently has about me, either as part of an automated system or part of a relevant filing system

Or

2. Data that the College has about me in the following categories:

- (a) Academic marks or course work details
- (b) Academic or employment references
- (c) Disciplinary records
- (d) Health and medical matters
- (e) Political or religious information
- (f) Any statements of opinion about my abilities or performance
- (g) Personal details including name, address, date of birth etc.
- (h) Other information (please list below)

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Please tick appropriate boxes

I understand that I may have to pay a fee of £10 (payable for second and subsequent request for the same category(ies) of information within a twelve month period.

Signed:

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Date:

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**STANDARD FORM FOR NOTIFICATION OF PERSONAL
DATA HELD BY THE COLLEGE**

This sets out the types of personal data that this College currently holds about you and gives details of that data.

When you receive this form you should:

- Check that the information included about you is correct.
- Tell us if there are any errors or if any of the data is incomplete.
- Ask to see any of the information if you want further details.

We cannot provide all the data on this form but you do have the right to access most of the information we have about you.

We currently hold information in the following categories:

1. Personal details: this includes name, address, qualifications, and next of kin
(Insert details of this information for the data subject to check)
2. Details of physical and/or mental health: this includes details about specific conditions individuals may suffer from, such as asthma or diabetes; information about pregnancy, if appropriate; information about sickness absences and any medical reports we may have received.
(Insert details of this information for the data subject to check)
3. Membership/non-membership of trade unions
(Insert details of this information for the data subject to check)
4. Details about student academic performance and expected results, references and recommendations and attendance.
(Insert details of this information for the data subject to check)
5. Details about student course fees, course registration, library and other equipment on loan.
(Insert details of this information for the data subject to check)
6. Details about employee's work performance, including notes of supervision sessions, appraisals and training assessment.
(Insert details of this information for the data subject to check)

GUIDELINES FOR ARCHIVING

Type of data	Retention period	Reason
Personnel files; training records; notes of grievance and disciplinary hearings	6 years from the end of employment	Provision of references and limitation period for litigation
Staff application forms; interview notes	6 months from the date of the interviews	Limitation period for litigation
Facts relating to redundancies (less than 20)	3 years from the date of redundancies	Limitation period for litigation
Facts relating to redundancies (20 or more)	12 years from the date of redundancies	Limitation period for litigation
Income Tax and NI returns; correspondence with Tax Office	3 years after the end of the financial year to which the records relate	Income Tax (Employment) Regulations 1993
Statutory Maternity Pay records and calculations	3 years after the end of the financial year to which the records relate	Statutory Maternity Pay (General) Regulations 1986
Statutory Sick Pay records and calculations	3 years after the end of the financial year to which the records relate	Statutory Sick Pay (General) Regulations 1982
Wages and salary records	6 years from the last date of employment	Taxes Management Act 1970
Records and reports of accidents	3 years after the date of the last entry	RIDDOR 1985
Health records	During employment	Management of Health and Safety at Work Regulations
Health records where reason for termination of employment is concerned with health, including stress-related illness	3 years	Limitation period for personal injury claims
Medical records kept by reason of the control of substances hazardous to health	40 years	COSHH 1994
Student records including academic achievements and conduct	6 years from the last day of the course. 10 years with the consent of the student for personal and academic reasons.	Limitation period for negligence

MODEL CONTRACT CLAUSES

A. Model Contract Clauses

1. Data Protection

- 1.1 All staff are required to abide by the College Data Protection Policy, a copy of which is included in the staff handbook.
- 1.2 A failure to follow any of the guidelines in relation to the collection, keeping, processing or destruction of any personal data, whether regarding another staff member, student or other third party, and whether deliberate or accidental, will be regarded as potential misconduct and may result in disciplinary proceedings being brought.
- 1.3 Deliberate or negligent misuse of data, whether by unlawful disclosure or otherwise, may be considered gross misconduct and may result in summary dismissal in the most serious cases.

B. Model Clause for use in recruitment literature:

Data Protection

The College collects and keeps information from job applicants so that we can send details of future job opportunities to you. We keep your name and address and details of your application. If you do not want us to do this please indicate by ticking the box below.

I do not want you to keep my details on file if I am unsuccessful
in my application
(Tick box if appropriate)

Signed by the student (or their guardian or representative)

Dated: