



# Appropriate Policy Document

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## Contents

1. Introduction .....	3
2. Relationship with existing policies.....	3
3. Scope.....	3
4. Description of data processed .....	4
5. Lawful basis for Processing .....	4
6. Conditions for processing .....	5
7. Substantial Public Interest.....	5
8. Criminal Offence and Conviction Data .....	8
9. Procedures for ensuring compliance with the principles.....	9
9.1. Accountability .....	9
9.2. Lawfulness, fairness, and transparency.....	9
9.3. Purpose limitation .....	9
9.4. Data minimisation .....	10
9.5. Accuracy.....	10
9.6. Storage limitation .....	10
9.7. Integrity and confidentiality (security) .....	10
10. Retention and erasure policies.....	11
11. Changes to this Appropriate Policy Document and Review Date.....	11
12. Further information .....	11

## 1. Introduction

The Data Protection Act 2018 (DPA 18) requires organisations who process personal data to meet certain legal obligations. As part of our statutory and corporate functions, St Paul's C of E Primary School processes special category data and criminal and conviction 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 DPA 18.

The School is committed to making sure that it is transparent about the ways in which we use personal information, and that we have the right controls in place to make sure it's used responsibly and is kept safe.

This document explains our processing and satisfies the requirements of Schedule 1, Part 4 of the DPA 18 which requires the School to have an appropriate policy document in place for the processing of special category and criminal offence data under certain specified conditions that sets out the safeguards that the School has put in place and explaining our procedures for securing compliance with the principles in Article 5 of the UK GDPR and policies regarding the retention and erasure of such personal data.

We process special category personal data in other instances where it is not a requirement to keep an appropriate policy document. Our processing of such data respects the rights and interests of the data subjects, and we provide clear and transparent information about why we process personal data including our lawful basis for processing in our privacy notice.

## 2. Relationship with existing policies

This document should be read in conjunction with the School data protection policy, the records retention schedule, safeguarding and child protection record keeping guidance and other legislation regulations or statutory guidance (including, audit, equal opportunities, and ethics) affecting the School.

## 3. Scope

This Policy covers all processing carried out by the School which is subject to the UK GDPR) Article 9 (Processing of special categories of personal data) and Article 10 (Processing of personal data relating to criminal convictions and offences) and in reliance of the conditions set out in the DPA 2018, Schedule 1 (Conditions for processing special categories of personal data and criminal offence data), in particular:

- Schedule 1, Part 1 - Conditions relating to employment, health, and research etc.
- Schedule 1, Part 2 - Substantial public interest conditions
- Schedule 1, Part 3 - Additional conditions relating to criminal convictions etc.

#### 4. Description of data processed

The School processes the following types of Special Category and Criminal Offence data:

- Personal data revealing racial or ethnic origin.
- Trade union membership.
- Genetic data and biometric data processed for the purpose of uniquely identifying a natural person.
- Data concerning health.
- Data concerning a natural person's sex life or sexual orientation.

#### 5. Lawful basis for Processing

The School is bound by statute and its functions are set out in numerous Acts of Parliament and many of these functions have associated legal and statutory functions and duties to provide a range of services to pupils and the wider community.

Within the UK GDPR, all processing of special category data must meet an Article 9(2) condition in order for that processing to be lawful. As part of the School's statutory and corporate functions and duties, we process special category and criminal offence data under the following paragraphs of Article 9 of the UK GDPR:

- Article 9(2)(a) (the data subject has given explicit consent to the processing of those personal data for one or more specified purposes)
- Article 9(2)(b) (processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the School or the data subject in the field of employment and social security and social protection law).
- Article 9(2)(c) (processing is necessary to protect the vital interests of the data subject or of another natural person).
- Article 9(2)(e) (processing relates to personal data which are manifestly made public by the data subject).
- Article 9(2)(f) (processing is necessary for the establishment, exercise, or defence of legal claims).
- Article 9(2)(g) (processing is necessary for reasons of substantial public interest).
- Article 9(2)(h) (processing is necessary for the purposes of preventive or occupational medicine, for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services).
- Article 9(2)(i) (processing is necessary for reasons of public interest in the area of public health).
- Article 9(2)(j) (processing is necessary for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes).

## 6. Conditions for processing

Section 10 of the DPA 18 provides that processing under Articles 9(2)(b), (h), (i) or (j) is only permitted by UK law if it meets a condition in Part 1 of Schedule 1. The conditions that the School relies on are;

- Paragraph 1 which relates to Article 9(2)(b) of the GDPR and allows the processing of special categories of data in connection with employment, social security, and social protection where obligations or rights are imposed or conferred by law on the controller or the data subject.
  - For the purpose of processing personal data concerning health and carrying out our obligations as an employer in connection with our rights under employment law.
  - Processing data relating to criminal convictions under Article 10 UK GDPR in connection with our rights under employment law in connection with recruitment, discipline, or dismissal.
- Paragraph 2(1) which relates to Article 9(2)(h) of the GDPR and enables processing of special categories of data for health or social care purposes. These purposes are defined as "health or social care purposes" in paragraph 2(2)
  - Referring staff to occupational health, safeguarding referrals,
- Paragraph 3 which relates to Article 9(2)(i) of the GDPR and enables processing of special categories of data for the purposes of public interest in the area of public health.
  - the provision of public health, monitoring and statistics and responding to new threats to public health in children and young people settings, including education.
- Paragraph 4 which relates to Article 9(2)(j) of the GDPR, and allows processing that is necessary for archiving purposes, scientific or historical research purposes or statistical purposes if the processing is carried out in accordance with Article 89(1) of the GDPR (as supplemented by Section 19 of the DPA 18) and is in the public interest.

## 7. Substantial Public Interest

Section 10 (3) of the DPA 18 sets out that in order for processing of special category and criminal offence data to be necessary for the purposes in Article 9(2)(g) of the UK GDPR (reasons of substantial public interest), it must meet one of the conditions in Part 2 of Schedule 1 of the DPA.

These conditions must have a basis in law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide suitable and specific measures to safeguard the fundamental rights and the interests of the data subject.

The School processes special category data under the following Substantial Public Interest Conditions and the conditions that the School relies on are;

- Paragraph 6 which permits processing of special categories of data that is in the substantial public interest and is necessary for the exercise of a function conferred on a person by an enactment or rule of law. For example:
  - Fulfilling the School's obligations under UK legislation for the provision of education to School aged children within the Borough.
  - Complying with other legal requirements, such as the requirement to disclose information in connection with legal proceedings.
  - Criminal offence data may also be processed under this condition.
- Paragraph 8 which permits processing of personal data revealing health or ethnic origin, personal data revealing religious or philosophical beliefs, data concerning health and personal data concerning an individual's sexual orientation for the monitoring of equality. For example:
  - Equality of opportunity or treatment and ensuring compliance with the School's obligations under legislation such as the Equality Act 2010.
  - Ensuring we provide equal access to our services, to all pupils in recognition of our legal and ethical duty to represent and serve pupils.
  - Ensuring the School fulfils its obligations with its Public Sector Equality Duty when carrying out its public function.
- Paragraph 9 which permits processing of special categories of data necessary for the purposes of promoting or maintaining diversity in the racial and ethnic origins of individuals who hold senior positions within the School.
- Paragraph 10 which permits processing of special categories of data for the purposes of the prevention or detection of any unlawful act. For example:
  - Processing data concerning criminal records in connection with employment in order to reduce the risk to the School and the local community.
- Paragraph 11 which permits processing of special categories of data which is necessary for the purposes of discharging certain protective functions which are designed to protect members of the public. For example:
  - Processing data concerning dishonesty, malpractice, unfitness, or other improper conduct in order to protect the School and local community.
  - Carrying out investigations and disciplinary actions relating to employees.
- Paragraph 12 which permits processing of special categories of data for the purposes of complying with, or assisting others to comply with, a regulatory requirement relating to unlawful acts, dishonesty etc. For example:
  - Assisting other authorities in connection with their regulatory requirements.

- Paragraph 16 which permits processing of special categories of data by a not-for-profit body which provides support to individuals with a particular disability or medical condition, for the purpose of raising awareness of the disability or medical condition or assisting those affected by it. For example:
  - To support for individuals with a particular disability or medical condition
  - To provide services or raise awareness of a disability or medical condition in order to deliver services to individuals.
- Paragraph 17 which permits processing of special categories of data required to discharge functions involving the provision of services such as confidential counselling and advice. For example:
  - For the provision of confidential counselling, advice, or support or of any other similar service provided confidentially.
- Paragraph 18 which permits processing of special categories of data required for the protection of children or of adults at risk. For example:
  - Protecting vulnerable children and young people from neglect, physical, mental, or emotional harm.
  - Identifying individuals at risk.
  - Obtaining further support for children and individuals at risk by sharing information with relevant agencies.
- Paragraph 20 which permits processing of special categories of data of data where it is necessary for an insurance purpose.
- Paragraph 21 which permits processing of special categories of data in certain occupational pension scheme. For example:
  - Fulfilling the School's obligation to provide an occupational pension scheme.
- Paragraph 23 which permits processing of special categories of data by elected representatives responding to requests where it is carried out by an elected representative or a person acting with his or her authority.
- Paragraph 24 which permits the disclosure of special categories of data to an elected representative or a person acting with the authority of such a representative. For example:
  - Assisting elected representatives such as local Councillors and Members of Parliament with requests for assistance on behalf of their constituents.

These conditions apply to the School's statutory and corporate functions. All processing is for the first listed purpose and might also be for others, depending on the context.

## 8. Criminal Offence and Conviction Data

Criminal offence data is personal data that's treated in a similarly sensitive way to special category data. It records criminal convictions and offences or related security measures. Criminal offence data includes:

- the alleged committing of an offence
- the legal proceedings for an offence that was committed or alleged to have been committed, including sentencing.

The School processes criminal offence data in storing the outcome of a Disclosure and Barring Service (DBS) check on their employees and, non-employed staff and volunteers. As this data relates to criminal convictions, collecting and retaining it means the School is processing criminal offence data. This applies even though the check has not revealed any conviction.

The School may process personal data relating to criminal convictions in connection with its statutory public function or as part of recruitment and employment checks to safeguard and protect pupils and the wider community against dishonesty.

Article 10 of the UK GDPR permits processing of personal data relating to criminal convictions and offences under the control of official authority. It follows that School may process criminal offence data under Article 10 of the UK GDPR when it is exercising official authority that enables it to do so.

When processing is for the School's statutory functions within the meaning set out in Section 8 of the DPA 2018, Lawfulness of processing: public interest etc. (including corporate functions), the School must meet one of the conditions in Schedule 1 of the DPA 2018 with the exception of Paragraph 8 which is only applicable to special category data.

The School may further process criminal offence data when the additional processing conditions relating to criminal offence data are met under Part 3 of Schedule 1 of the DPA 2018. Those conditions are;

- Paragraph 29 which permits processing of personal data relating to criminal convictions etc. if the data subject has given his or her consent.
- Paragraph 30 which permits processing of personal data relating to criminal convictions etc. where necessary to protect an individual's vital interests and if the data subject is physically or legally incapable of giving consent.
- Paragraph 32 which permits processing of personal data relating to criminal convictions etc. of personal data that has been put in the public domain by the data subject.
- Paragraph 33 which permits processing of personal data relating to criminal convictions etc. necessary for the purpose of legal proceedings; obtaining legal advice; or establishing, exercising, or defending legal rights.

- Paragraph 36 - Since there is no requirement for processing under Article 10 of the UK GDPR to be in the substantial public interest, paragraph 36(1) disapplies this express requirement where it exists in Part 2 for the purposes of processing criminal and conviction data.
- Paragraph 37 - Extension of insurance conditions Paragraph 37 extends paragraph 20 of Schedule 1 so that the processing of criminal and conviction data is permitted for an insurance purpose, because paragraph 20 only permits the processing of specified special categories of data, this provision is needed to ensure that criminal and conviction data can be processed.

## **9. Procedures for ensuring compliance with the principles.**

### **9.1. Accountability**

The School demonstrates full compliance with the data protection principles provided in Article 5 of the UK GDPR through the following measures and documents:

- The appointment of a data protection officer
- Adopting and implementing data protection policies
- Maintaining documentation of our processing activities (Record of Processing Activity (RoPA)).
- Recording and where necessary reporting personal data breaches.
- Putting appropriate contractual arrangements in place with third-party data processors.
- Conducting a Data Protection Impact Assessment where a new processing activity is proposed and results in high degree of risk for data subjects.
- Implementing appropriate security measures in relation to the personal data processed by the School.

### **9.2. Lawfulness, fairness, and transparency**

To comply with this principle, the School will ensure that:

- personal data is only processed lawfully and where a clear lawful basis to do so has been identified.
- personal data is processed fairly, and data subjects are not misled about the purposes of processing.
- privacy notices are provided to data subjects to ensure that the School is transparent about how and why they process personal data.

### **9.3. Purpose limitation**

To comply with this principle, the School will ensure that:

- we only collect personal data for specified explicit and legitimate purposes.
- we inform data subjects what those purposes are in a privacy notice.
- we don't use personal data for purposes other than the purposes for which the data was collected and should the School use personal data for new purposes permissible by law, the School will ensure that they first inform the data subjects.

#### **9.4. Data minimisation**

To comply with this principle, the School will ensure that:

- we only collect personal data we actually need for our specified purposes.
- we have sufficient personal data to properly fulfil those purposes.
- the data we collect is adequate and relevant.
- periodically review the data we hold and delete anything we don't need.

#### **9.5. Accuracy**

To comply with this principle, the School will ensure that:

- we have appropriate processes in place to check the accuracy of the data we collect, and we record the source of that data.
- we have a process in place to identify when we need to keep the data updated to properly fulfil our purpose, and we update it as necessary.
- if we need to keep a record of a mistake, we clearly identify it as a mistake.
- our records clearly identify any matters of opinion, and where appropriate whose opinion it is and any relevant changes to the underlying facts.
- we comply with the individual's right to rectification and carefully consider any challenges to the accuracy of the personal data.
- we keep a note of any challenges to the accuracy of the personal data.

#### **9.6. Storage limitation**

To comply with this principle, the School will ensure that we:

- only keep personal data in identifiable form as long as is necessary to fulfil the purposes for which it is collected, or where we have a legal obligation to do so.
- erase or anonymise personal data no longer needed.
- where we have identified any data that we need to keep for historical purposes, we will indicate this clearly in our privacy notices.
- review and update our retention schedule regularly.

#### **9.7. Integrity and confidentiality (security)**

To comply with this principle the School will ensure that:

- there are appropriate organisational and technical measures in place to protect personal data.
- it will analyse the risks involved in our processing of data to put appropriate level of security in place.

## 10. Retention and erasure policies

The School has appropriate policies in relation to retention and disposal of personal data and our data processing recording document contains details of the retention periods for our data processing activities, together with information on the lawful basis for processing this data.

- Personal data is held and disposed of in line with our Retention Schedule and Records Management Policy.
- Secure disposal methods are applied and duly recorded as per our School records and safe data destruction checklist.

## 11. Changes to this Appropriate Policy Document and Review Date

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 periodically reviewed and updated.

## 12. Further information

For further information about this policy and the School's compliance with data protection law, please contact: [igschoolsupport@stockport.gov.uk](mailto:igschoolsupport@stockport.gov.uk).