

General Data Protection Regulation Policy May 2018

SPT Data Protection Officer: Information & Data Manager

1. Introduction

The Special Partnership Trust collects and uses certain types of personal information about staff, pupils, parents and other individuals who come into contact with a member school in order to provide education and associated functions. In addition, it may be required by law to collect and use certain types of information to comply with statutory obligations of Local Authorities (LAs), government agencies and other bodies.

This policy is intended to ensure that personal information is dealt with properly and securely and in accordance with the General Data Protection Regulation 2018 and other related legislation. It will apply to information regardless of the way it is used, recorded and stored and whether it is held in paper files or electronically.

2. Data Protection Principles

The Six General Data Protection Regulation Principles as laid down in the 2018 General Data Protection Regulation Act must be followed at all times:

1. Lawfulness, fairness and transparency

Transparency: Tell the subject what data processing will be done.

Fair: What is processed must match up with how it has been described

Lawful: Processing must meet the tests described in GDPR [article 5, clause 1(a)]

2. Purpose limitations

Personal data can only be obtained for “specified, explicit and legitimate purposes” [article 5, clause 1(b)]. Data can only be used for a specific processing purpose that the subject has been made aware of and no other, without further consent.

3. Data minimisation

Data collected on a subject should be “adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed” [article 5, clause 1(c)]

i.e. No more than the minimum amount of data should be kept for specific processing.

4. Accuracy

Data must be “accurate and where necessary kept up to date” [article 5, clause 1(d)]

Baselining ensures good protection and protection against identity theft. Data holders should build rectification processes into data management / archiving activities for subject data.

5. Storage limitations

Regulator expects personal data is “kept in a form which permits identification of data subjects for no longer than necessary”. [article 5, clause 1(e)]

i.e. Data no longer required should be removed.

6. Integrity and confidentiality

Requires processors to handle data “in a manner [ensuring] appropriate security of the personal data including protection against unlawful processing or accidental loss, destruction or damage”. [article 5, clause 1(f)]

3. Our Commitment

The Trust is committed to maintaining the GDPR principles at all times. This means that the Trust will;

- Document what information the Trust holds and tell you what purposes we will use information for when we collect it.
- Review how we seek, record and manage consent.
- If information will be shared we will tell you why, with whom and under what circumstances.
- Check the quality and accuracy of the information we hold
- Apply our records management policies and procedures to ensure that information is not held longer than is necessary
- Ensure that when information is authorised for disposal it is done appropriately
- Ensure appropriate security measures to safeguard personal information whether that is help in paper files or on our computer system.
- Ensure we have the right procedures in place to detect, report and investigate a personal data breach.
- Set out clear procedures for responding to requests for access to personal information known as Subject Access Requests in the General Data Protection Regulation (see appendix 1).
- Train our staff so that they are aware of our policies and procedures.
- Update this policy as necessary to reflect best practice or amendments made to the GDPR 2018.
- The SPT Data Protection Officer is responsible for data protection compliance.

4. Complaints

Complaints under this policy should be made to the Chairperson of the Governing Body who will decide if it is appropriate for the complaint to be dealt with under the complaints procedure. Complaints that are not dealt with under the Trust school's complaint procedure should be forwarded in writing to the Information Commissioner. It is likely that complaints about procedural issues, due process and timeliness will be dealt with by the Governing Body, complaints that involve consideration of personal data or sensitive personal data should be referred to the Trust and subsequently the Information Commissioner.

5. Contacts

Further advice and information, including a full list of exemptions, is available from the Information Commission www.informationcommissioner.gov.uk

Appendix 1

The Special Partnership Trust Procedures for Responding to Requests for Personal Information in Accordance with the General Data Protection Regulation (2018)

Anybody who makes a request to see their file or their child's file or other personal data held on them is making a request under the GDPR 2018. All information relating to the child including that held in daybooks, diaries and on electronic systems and email should be considered for disclosure.

There is a statutory exception to the above, where parents do have an automatic right to access defined materials under The Education (School Records) Regulations 1989. The school will observe these statutory rights. If there is a current court order which relates to information regarding any child, that order must, regardless of other circumstances, be observed.

Dealing with a Subject Access Request

GDPR 2018 provides the data subject with a right to receive a copy of the data/information held on file about them or to authorise someone to act on their behalf. The Subject Access Request Form should be completed if requesting data on yourself or requesting on behalf of someone else.

The data subject will need to provide **proof of identity**. The request will be processed within 30 calendar days upon receipt of a fully completed form and proof of identity.

Proof of identity:

The Trust require proof of identity before disclosing any personal data. Proof of identity should include a copy of two documents such as a birth certificate, passport, driving license, official letter addressed to the data subject e.g. bank statement, recent utilities bill or council tax bill. The documents should include name, date of birth and current address.

The Head of School will have responsibility for ensuring the child's welfare is appropriately considered in deciding whether to comply with any request. The requester will have to prove both their relationship with the child.

In the event of a child having sufficient capacity to understand (normally age 12 or above) the Head of School should discuss the request with the child and take their views into account when making a decision. There may be circumstance in which a child can refuse their consent to a request.

The Trust school will make use of exemptions under the Act as appropriate. All files must be reviewed before any disclosure takes place. Under no circumstance will access be granted immediately or before this review process has taken place.

Where information has been provided to the Trust school by a third party, for example by the local authority, the police, a health care professional or another school, but is held on the MAT school's file it is normal to seek the consent of the third party before disclosing information. This must be done early in the process in order to stay within the 30 day timescale. Even if the third party does not consent or consent is explicitly not given the data may be disclosed. In these cases it may be appropriate to seek additional advice.

The applicant should be told the data that the Trust school holds, be given a copy of the data, be told the purposes for which it is processed and whether it has been shared with any other party. It is good practice to explain whether data has been withheld and if so why. There may be circumstances where this is not appropriate; the Head of School should at all times consider the welfare of the child. The Trust school should also give details of who to contact in the event of a complaint and the details of the Information Commission who can provide independent information.

Where all the data in a document cannot be disclosed a permanent copy should be made and the data obscured or parts of the data can be retyped if this is more sensible. In any event a copy of the full document (before obscuring) and the altered document should be retained together with the reason why the document was altered. This is so, that in the event of a complaint, there is an audit trail of what was done and why.

Information can be provided by post (registered mail) or on deposit at the school with an officer available to help the applicant. If the latter is used the applicant must have access to a photocopier in case they want a permanent copy of their data. In considering the method of delivery the views of the applicant should be taken into account. Any codes, technical terms or abbreviations should be explained. Any data which is difficult to read or illegible should be retyped.

The Trust schools should monitor the number of requests received and document whether they are dealt with within the 30 calendar day statutory timescale.

The Act applies only to living individuals.

Complaints

Complaints about the operation of these procedures should be made to the Chairperson of the Governing Body who will decide if it is appropriate for the complaint to be dealt with under the complaints procedure. Complaints that are not dealt with under the school's complaint procedure should be forwarded in writing to the Special Partnership Trust Board of Trustees and subsequently the Information Commissioner. It is likely that complaints about procedural issues, due process and timeliness will be dealt with by the Governing Body, complaints that involve consideration of personal data or sensitive personal data should be referred to the Information Commissioner.

Date of policy 25/05/2018

Next review due 25/05/2019