East Midlands Education Trust

Data Protection Policy

Spring 2023

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Mid-Reviews *(statutory):*			
Document No:	POL-OPS-002	*The information contained on this document is considered proprietary to East Midlands Education Trust in that these items and processes were developed at private expense. This information shall not be released, disclosed, or duplicated.*	

Contents

1. Introduction

1.1 The Data Protection Act (DPA) 2018 and the UK General Data Protection Regulations (UK GDPR) provide the law which safeguards personal privacy, giving protection for individuals as to how their personal information is used. It applies to anyone who handles or has access to people's personal data.

1.2 Schools are required to have a data protection policy which must comply with the UK GDPR. The Trust is classed as a Data Controller under the data protection legislation because they decide how personal data for which they are responsible is processed. In addition, each school and every employee has a legal duty to protect the privacy of information relating to individuals that it processes.

1.3 The Information Commissioner as the Regulator can impose severe sanctions for serious breaches of the UK GDPR, therefore it is imperative that the Trust, our schools and all staff comply with the legislation.

2. Policy objectives

2.1 This policy is intended to ensure that each school's personal information is dealt with properly and securely and in accordance with the legislation. It will apply to personal information regardless of the way it is used, recorded and stored and whether it is held in paper files or electronically.

2.2 Our schools are committed to being concise, clear and transparent about how they obtain and use personal information and will ensure data subjects are aware of their rights under the legislation.

2.3 All staff must have a general understanding of the law and understand how it may affect their decisions in order to make an informed judgement about how information is gathered, used and ultimately deleted. All members of staff involved with the collection, processing and disclosure of personal data will be aware of their duties and responsibilities by adhering to these guidelines and shall attend regular training (to be completed at least every two years) to ensure compliance with their responsibilities.

3. Information Covered

3.1 Personal data is defined under the UK GDPR as "any information relating to an identifiable person who can be directly or indirectly identified by reference to an identifier held by the school."

3.2 The information includes factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of a living individual. This includes any expression of opinion about an individual and intentions towards an individual. Under the UK GDPR, personal information also includes an identifier such as a name, an identification number, location data or an online identifier.

3.3 Schools collect and use a large amount of personal information every year about staff, pupils, parents and other individuals who come into contact with them. By way of example, this includes pupil records, staff records, names and addresses of those requesting prospectuses, test marks, references and fee collection, Local Authorities (LAs), government agencies and other bodies. In addition, there may be a legal requirement for schools to process personal information to ensure that they comply with statutory obligations.

3.4 The information collected is processed in order to enable our schools to provide education and other associated functions.

4. Key Principles

4.1 Data Protection Principles – there are six enforceable principles contained in Article 5 of the General Data Protection Regulations, which everyone must adhere to when processing personal data.

4.1.1 Principle 1 – Personal data shall be processed lawfully, fairly and in a transparent manner (lawfulness, fairness and transparency)

4.1.2 Principle 2 – Personal data shall be collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes (purpose limitation)

4.1.3 Principle 3 – Personal data shall be adequate, relevant and limited to what is necessary in relation to the purpose(s) for which they are processed (data minimisation)

4.1.4 Principle 4 – Personal data shall be accurate and where necessary, kept up to date. Every reasonable step must be taken to ensure that personal data that are inaccurate are erased or rectified without delay. (accuracy)

4.1.5 Principle 5 - Personal data shall be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed. (storage limitation)

4.1.6 Principle 6 (the Security Principle) - Personal data shall be processed in a manner that ensures appropriate security of the data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage to personal data, using appropriate technical or organisational measures (integrity and confidentiality)

4.2 There is a 7th Principle - the Accountability Principle which requires organisations to take responsibility for what they do with personal data and how they comply with the other principles. The responsibility for adherence to the principles lies with all school staff.

4.3 The Trust must have appropriate measures and records in place to be able to demonstrate their compliance.

4.4 In addition to adherence to the principles, there are transfer limitations relating to the transfer of personal data to a country outside the EEA. Should an occasion arise requiring such a transfer, members of staff should contact the Data Protection Officer (Data Protection Education) for assistance.

4.5 Overall commitment to compliance with the above principles.

4.6 Alongside actions relating to specific obligations with which the legislation obliges the Trust to comply, and which are included below in relevant sections of this Policy, our schools will:

4.6.1 Produce a record of processing activity that contains details of the data being processed, where it is and what is done with it.

4.6.2 Inform individuals why the information is being collected at the point it is collected by way of privacy notices.

4.6.3 Inform individuals when their information is shared, and why and with whom it will be shared.

4.6.4 Check the quality and the accuracy of the information it holds.

4.6.5 Ensure that information is not retained for longer than is necessary.

4.6.6 Ensure that when obsolete, information is destroyed and it is done so appropriately and securely.

4.6.7 Use the trust retention and disposal schedule timeline, based on the ICO version for common data sets and other information.

4.6.8 Ensure that clear and robust safeguards are in place to protect personal information from loss, theft and unauthorised disclosure, irrespective of the format in which it is recorded.

4.6.9 Share information with others only when it is fair and lawful to do so and satisfies the lawful basis for processing that information (lawful bases are set out in §5.0).

4.6.10 Share personal data with other organisations for the purpose of crime prevention and/or detection, or for the purpose of legal proceedings, provided that the disclosure falls within an exemption to the non-disclosure provisions contained within the Data Protection Act 2018 or any subsequent legislation.

4.6.11 Disclose personal data where required to do so by law for example, following receipt of a Court Order.

4.6.12 Set out procedures to ensure compliance with the duty to respond to an individual's rights to:

- request access to personal information, known as Subject Access Requests.
- be informed about the way their data is used;
- have inaccurate personal data rectified;
- have their personal data erased;
- restrict the processing of their personal data; and
- object to the processing of their personal data.

4.6.13 Ensure all staff are appropriately and regularly trained and aware of and understand the school's policies and procedures.

4.6.14 Create and maintain a data breach notification log to record data breaches and also circumstances where a breach was narrowly avoided

4.6.15 Automated Decision Making
If any school carries out automated decision making (including profiling), comply with all the relevant requirements of the UK GDPR.

5. Lawful Basis for processing personal information (Article 6 UK GDPR)

5.1 Before any processing activity starts for the first time, and then regularly afterwards, the purpose(s) for the processing activity and the most appropriate lawful basis (or bases) for that processing, must be selected by the School/Trust.

5.2 The lawful basis for processing which has been selected must be recorded, to demonstrate compliance with the data protection principles, and include information about the purpose of the processing and the justification for why you believe this basis applies.

5.3 The lawful bases

5.3.1 The data subject has given consent to the processing of his or her data for one or more specific purposes. (Consent)

5.3.2 Processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract. (Contract)

5.3.3 Processing is necessary for compliance with a legal obligation to which the data controller is subject. (Legal Obligation)

5.3.4 Processing is necessary in order to protect the vital interests of the data subject or of another natural person. (Vital interests)

5.3.5 Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the school (Public Task)

5.3.6 Processing is necessary for the purposes of the legitimate interests pursued by the data controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child. (Legitimate Interests) N.B. This basis does not apply to processing carried out by public authorities in the performance of their tasks. However, the ICO indicates that where there are other legitimate purposes outside the scope of the tasks as a public authority, legitimate interests may be considered where appropriate.

5.4 Where the lawful basis for processing is consent this must be unambiguous (clearly evidenced by a very clear and specific statement); freely given (enquiring a positive opt-in, and so pre-ticked boxes or any other method of default consent will not be sufficient); and, be explicit (if consent is given in a document which deals with other matters, the consent must be kept separate from those other matters). The data subject shall have the right to withdraw their consent at any time and withdrawal must be promptly honoured. Prior to giving consent, the data subject shall be notified of the right of withdrawal.

5.5 Processing of special categories of personal data – Article 9

5.5.1 Processing of sensitive personal information is prohibited unless a lawful special condition for processing is identified. It comprises data which reveals racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, sex life or orientation or which concerns health or is genetic or biometric data which uniquely identifies a natural person.

5.5.2 Such personal data will only be processed by the School/Trust if:

(a) There is a lawful basis for doing so as identified in Article 6.

(b) One of the special conditions for processing sensitive personal information applies:

(i) the individual ('data subject') has given explicit consent (which has been clearly explained in a Privacy Notice)
(ii) the processing is necessary for the purposes of exercising the employment law rights or obligations of the school or the data subject
(iii) the processing is necessary to protect the data subject's vital interests, and the data subject is physically incapable of giving consent
(iv) the processing is carried out during its legitimate activities with appropriate safeguards by a foundation, association or any other not-for-profit body with a political, philosophical, religious or trade-union aim
(v) the processing relates to personal data which are manifestly made public by the data subject
(vi) the processing is necessary for the establishment, exercise or defence of legal claims
(vii) the processing is necessary for reasons of substantial public interest
(viii) the processing is necessary for purposes of preventative or occupational medicine, for the assessment of the working capacity of the employee, the provision of social care and the management of social care systems or services
(ix) the processing is necessary for reasons of public interest in the area of public health.

(c) Our schools' privacy notice(s) set out the types of sensitive personal information that it processes, what it is used for, the lawful basis for the processing and the special condition that applies.

5.6 Sensitive personal information will not be processed until a data protection impact assessment has been made of the proposed processing as to whether it complies with the criteria above and the individual has been informed (by way of a privacy notice or consent) of the nature of the processing, the purposes for which it is being carried out and the legal basis for it.

5.7 Unless the School can rely on another legal basis of processing, explicit consent is usually required for processing sensitive personal data. In such circumstances the School will obtain evidence of and record consent so that it can demonstrate compliance with the UK GDPR.

6. Data Protection Officer (DPO)

6.1 The DPO cannot hold a position that requires them to determine the purpose and means of processing personal data, for example, the Head Teacher, or Head of Information Technology. For this reason, we have appointed:

Address: Data Protection Education Limited
1 Saltmore Farm, New Inn Road, Hinxworth, Baldock SG7 5EZ
Telephone: 0800 0862018
Email: dpo@dataprotection.education

7. Data Protection Impact Assessments (DPIA)

7.1 The School will carry out a DPIA when processing is likely to result in high risk to the data protection rights and freedoms of individuals

7.2 The UK GDPR does not define high risk but guidance highlights a number of factors that are likely to trigger the need for a DPIA, which include

7.2.1 the use of new technologies,
7.2.2 processing on a large scale,
7.2.3 systematic monitoring,
7.2.4 processing of special categories of personal data.

7.3 The purpose of the DPIA is to assess:

7.3.1 whether the processing is necessary and proportionate in relation to its purpose
7.3.2 the risks to individuals, including both the likelihood and the severity of any impact on them
7.3.3 what measures can be put in place to address those risks and protect personal information.

7.4 Staff should adhere to the Data Protection Toolkit for Schools from the DfE with reference to the DPIA template https://www.gov.uk/government/publications/data-protection-toolkit-for-schools . When carrying out a DPIA they should seek the advice of the DPO for support and guidance and once complete, refer the finalised document to the DPO for sign off.

8. Documentation and Records

8.1 The Trust in accordance with its duty as a Data Controller and Data Processor will keep detailed records of data processing activities and the records shall contain

8.1.1 the name and contact details of the School and, if applicable, of any joint controllers,
8.1.2 the name and contact details of the School's Data Protection Lead
8.1.3 the name and details of individuals or roles that carry out the processing
8.1.4 the purposes of the processing
8.1.5 a description of the categories of individuals i.e. the different types of people whose personal data is processed
8.1.6 categories of personal data processed.
8.1.7 categories of recipients of personal data
8.1.8 details of any transfers to third countries, including documentation of the transfer mechanism safeguards in place
8.1.9 retention schedule
8.1.10 a description of technical and organisational security measures

8.2 The Trust will make these records available to the Information Commissioner's Office (ICO) upon request and will, on an annual basis, provide its registrable particulars and pay the data protection fee to the ICO.

8.3 As part of the Trust's record of processing activities the DPO will document, or link to documentation on:

8.3.1 information required for privacy notices such as:
8.3.2 the lawful basis for the processing
8.3.3 the legitimate interests for the processing
8.3.4 individuals' rights
8.3.5 the source of the personal data
8.3.6 records of consent
8.3.7 controller-processor contracts
8.3.8 the location of personal data
8.3.9 DPIA reports and
8.3.10 records of personal data breaches.

8.4 Records of processing of sensitive information are kept on:
8.4.1 the relevant purposes for which the processing takes place, including why it is necessary for that purpose
8.4.2 the lawful basis for the processing and
8.4.3 whether the personal information is retained or has been erased in accordance with the retention schedule and, if not, the reasons for not following the policy.

8.5 The School will conduct regular reviews of the personal information it processes and update its documentation accordingly. This may include:

8.5.1 Carrying out information audits to find out what personal information is held
8.5.2 Talking to staff about their processing activities
8.5.3 Reviewing policies, procedures, contracts and agreements to address retention, security and data sharing.

9. Privacy Notices

9.1 A privacy notice under the UK GDPR should include:

9.1.1 The School's name and contact details
9.1.2 The contact details of the DPO
9.1.3 The personal data you are collecting and why you are collecting it
9.1.4 Where you get the personal data from & who you are sharing it with
9.1.5 The lawful basis for processing the data
9.1.6 How long the data will be held for
9.1.7 Transfers to third countries and safeguards
9.1.8 Description of the data subjects' individual rights
9.1.9 The data subject's right to withdraw consent for the processing of their data
9.1.10 How individuals can complain.

9.2 The School will publish an overarching privacy notice, which will be posted on its website, which will provide information about how and why the school gathers and uses images and shares personal data.

9.3 In addition to publication of that notice, the School will also issue privacy notices, to all parents and pupils, before, or as soon as possible after, any personal data relating to them is obtained. This may simply be an explanation of why the information is being requested and the purpose for which it will be used.

9.4 The School will take appropriate measures to provide information in privacy notices in a concise, transparent, intelligible and easily accessible form, using clear and plain language.

9.5 The School will issue a minimum of two privacy notices, one for pupil information, and one for workforce information, and these will be reviewed at regular intervals to ensure they reflect current processing and are in line with any statutory or contractual changes. Schools are advised to follow the DfE format for these two privacy notices https://www.gov.uk/government/publications/data-protection-and-privacy-privacy-notices

9.6 The privacy notices will be amended to reflect any changes to the way the School processes personal data.

9.7 The privacy notice will include details of how/ if the School uses CCTV (if applicable), whether it intends to use biometric data and how consent will be requested to do this and include details of the School's policy regarding photographs and electronic images of pupils.

10. Data Minimisation

10.1. Purpose Limitation

The School will ensure that personal data

10.1.1 is only collected for specified, explicit and legitimate purposes

10.1.2 is not further processed in any manner incompatible with those purposes

10.1.3 is not used for new, different or incompatible purposes from that disclosed when it was first obtained unless the data subject has been informed of the new purposes and they have consented where necessary.

10.2 Data minimisation

10.2.1. Personal data must be adequate, relevant and limited to what is necessary in relation to the purposes for which it is processed.

10.2.2. Staff may only process data when their role requires it. Staff will not process personal data for any reason unrelated to their role.

10.2.3. The School should follow the trust's retention to ensure personal data is deleted after a reasonable time for the purpose for which it was being held, unless a law requires such data to be kept for a minimum time.

10.2.4 Staff will take all reasonable steps to destroy or delete all personal data that is held in its systems when it is no longer required in accordance with the Schedule, unless retained for lawful historical or archiving purposes. This includes requiring third parties to delete such data where applicable. 10.2.5. The School will ensure that data subjects are informed of the period for which data is stored and how that period is determined in any applicable Privacy Notice.

11. Individual Rights and Responsibilities

11.1 Individual rights

The School will observe the following rights which staff as well as any other 'data subjects' (or the parents/carers of data subjects where data subjects are not able to demonstrate the capacity to understand their rights) enjoy in relation to their personal information:

11.1.1 To be informed about how, why and on what basis that information is processed (see the relevant privacy notice)

11.1.2 To obtain confirmation that personal information is being processed and to obtain access to it and certain other information, by making a subject access request

11.1.3 To have data corrected if it is inaccurate or incomplete

11.1.4 To have data erased if it is no longer necessary for the purpose for which it was originally collected/processed, or if there are no overriding legitimate grounds for the processing ('the right to be forgotten')

11.1.5 To restrict the processing of personal information where the accuracy of the information is contested, or the processing is unlawful (but the individual(s) concerned does/do not want the data to be erased) or where the School no longer needs the personal information, but the individual(s) require(s) the data to establish, exercise or defend a legal claim

11.1.6 To restrict the processing of personal information temporarily where they do not think it is accurate (and the School is verifying whether it is accurate), or where they have objected to the processing (and the School is considering whether the School's legitimate grounds override the individual's(s') interests)

11.1.7 In limited circumstances to receive or ask for their personal data to be transferred to a third party in a structured, commonly used and machine-readable format

11.1.8 To withdraw consent to processing at any time (if applicable)

11.1.9 To request a copy of an agreement under which personal data is transferred outside of the EEA.

11.1.10 To object to decisions based solely on automated processing, including profiling

11.1.11 To be notified of a data breach which is likely to result in high risk to their rights and obligations

11.1.12 To make a complaint to the ICO or a Court.

11.2 Individual Responsibilities

During their employment, staff may have access to the personal information of other members of staff, suppliers, clients or the public. The School expects staff to help meet its data protection obligations to those individuals.

If members of staff have access to personal information, they must:

11.2.1 only access the personal information that they have authority to access and only for authorised purposes

11.2.2 only allow other staff to access personal information if they have appropriate authorisation

11.2.3 only allow individuals who are not School staff to access personal information if they have specific authority to do so

11.2.4 keep personal information secure (e.g. by complying with rules on access to premises, computer access, password protection and secure file storage and destruction in accordance with the school's policies).

11.2.5 not remove personal information, or devices containing personal information (or which can be used to access it) from the School's premises unless appropriate security measures are in place (such as pseudonymisation, encryption or password protection) to secure the information and the device

11.2.6 not store personal information on local drives or on personal devices that are used for work purposes.

12. Photographs and Electronic Images

12.1 **CCTV** may be used by a School for the purpose of protecting the safety of staff, students and visitors and to help secure the physical premises.Each School will maintain a dedicated CCTV Policy.

12.1.1 There is no requirement to ask individuals' permission to use CCTV, but The School has to make it clear where individuals are being recorded. Security cameras are clearly visible and accompanied by prominent signs explaining that CCTV is in use, details of the system operator and their contact details.

12.1.2 All CCTV footage is securely stored and can only be accessed by appropriate members of staff. All images recorded by CCTV will be deleted as defined in the retention schedule.

12,1,3 Any enquiries about the CCTV system should be directed to the DPO.12.2 **Photographs and Videos**: As part of the school's activities, we or a 3rd party (e.g. school photographers) may want to take photographs and record images of individuals within the school.

12.2.1 The School will obtain *written* consent from parents/carers for photographs and videos to be taken of their child for communication, marketing and promotional materials. We will clearly explain how the photograph and/or video will be used and who it will be shared with to both the parent/carer and pupil.

12.2.3 Uses may include:

- Within school on notice boards and in school magazines, brochures, newsletters, etc.
- Outside of school by external agencies such as the school photographer or shared with newspapers or campaigns
- Online on our school website or social media pages

12.2.4 Consent can be refused or withdrawn at any time. If consent is withdrawn, we will delete the photograph or video and not distribute it further. However, where the media has been shared with another data controller (e.g. a news media organisation) we cannot enforce such requests.

12.2.5 When using photographs and videos in this way we will not accompany them with any other personal information about the child, to ensure they cannot be identified.

13. Access to Personal Data

13.1 This section sets out the process that will be followed by the School when responding to requests for access to personal data made by the pupil or their parent or carer with parental responsibility.

13.1.1 There are two distinct rights of access to information held by schools about pupils, parents/carer and staff:

13.1.2 Pupils and parents or those with Parental Responsibility have a right to make a request under the UK GDPR to access the personal information held about them.

13.2 Handling a subject access request for access to personal data:

13.2.1 Article 15 of the UK GDPR gives individuals the right to access personal data relating to them, processed by a data controller. The right can be exercised by a person with Parental Responsibility on behalf of their child dependent on the age and the understanding of the child.

For the purposes of a subject access request the School will apply the full legal definition of 'Parental Responsibility' when determining who can access a child's personal data.

13.2.2 Requests for information may come in from various sources whether verbally, through web forms/social networks or in writing, which can include e-mail, to any member of staff. Where possible the requestor should be encouraged to complete a request form to best capture what information is being requested. If the original request does not clearly identify the information required, then the School will seek further enquiries to clarify what information is being requested.

13.2.3 The request will be recorded within the GDPRiS portal and assigned to a member of staff to monitor and ensure the request is investigated and either fulfilled or rejected.

13.2.4. The identity of the requestor must be established before the disclosure of any information is made. Proof of the relationship with the child (if not known) must also be established as this will verify whether the individual making the request can lawfully exercise that right on behalf of the child.

Below are some examples of documents which can be used to establish identity:

- Passport
- Driving licence
- Utility bill with current address
- Birth/marriage certificate
- P45/P60
- Credit card or mortgage statement.

13.2.5 It is widely accepted that children of primary school age do not have the maturity to understand and exercise their own rights and as such it is acceptable for those with Parental Responsibility to exercise these rights on their child's behalf. However, each request will be considered on its own merits and the circumstances surrounding the request and the child. A child with competency to understand can refuse to consent to a request for their personal information made under the UK GDPR.

13.2.6 No charge can be made for access to personal data that is not contained within an education record but the School reserves the right to cover its communication costs e.g. photocopying, postage, in which case a fees notice will be sent to the requestor

13.2.7 The response time for a subject access request is **1 calendar month** from the date of receipt

13.2.8 The relevant response time period for a subject access request will not commence until any necessary clarification of information has been sought and received from the requestor. The time to respond can be **extended to 2 months** where the request is complex or numerous.

13.2.9 There are some exemptions available under the Data Protection Act which will mean that occasionally personal data will need to be redacted (information blacked out/removed) or withheld from the disclosure. All information will be reviewed prior to disclosure to ensure that the intended disclosure complies with the School's legal obligations.

13.2.10 Where the personal data also relates to another individual who can be identified from the information, the information will be redacted to remove the information that identifies the third party. If it is not possible to separate the information relating to the third party from the information relating to the subject of the request, consideration will be given to withholding the information from disclosure. These considerations can be complex and additional advice will be sought when necessary.

13.2.11 Any information which may cause serious harm to the physical or mental health or emotional condition of the pupil or another person will be withheld along with any information that would reveal that the child is at risk of abuse, or information relating to Court Proceedings.

13.2.12 Where redaction has taken place then a full copy of the information provided will be retained in order to maintain a record of what was redacted and why and a clear explanation of any redactions will be provided in the School's response to the request.

13.2.13 If there are concerns about the disclosure of information additional advice will be sought.

14. Retention and Disposal of personal data

14.1 The Governing Body of the School will ensure that the School has an up to date and accurate retention and disposal schedule that is compliant with UK GDPR. The School will ensure that personal data is stored, transferred and disposed of securely and in accordance with the retention schedule.

15. Security of personal data

15.1. The Security Principle

The Security Principle requires that appropriate security is put in place to prevent the personal data it holds being accidentally or deliberately compromised.

15.2 In order to comply with this principle the School will:

15.2.1 Ensure that all individuals involved in processing data understand the requirements of confidentiality, integrity and availability for the personal data being processed.

15.2.2 Undertake an analysis of the risks presented by its processing, and uses this to assess the appropriate level of security it needs to put in place to keep paper and electronic personal data secure and ensure that appropriate security measures are enforced

15.2.3 Ensure that only authorised individuals have access to personal data.

15.2.4 Put in place appropriate physical and organisational security measures, as well as technical measures, and regularly review the physical security of the School buildings and storage systems.

15.2.5 Require staff to ensure that no personal data will be left unattended in any vehicles and that if it is necessary to take personal data from School premises, for example to complete work from home, the data is suitably secured.

15.2.6 Review its information security policy regularly and takes steps to make sure the policy is implemented.

15.2.7 Put in place basic technical controls and be aware that it may also need to put other technical measures in place depending on the circumstances and the type of personal data it processes.

15.2.8 Use encryption and/or pseudonymisation where it is appropriate to do so.

15.2.9 Ensure that all portable electronic devices containing personal data are password protected.

15.2.10 Refer to any relevant guidance and seek advice where necessary if processing personal data utilising a cloud based solution.

15.2.11 Make sure that it can restore access to personal data in the event of any incidents, such as by establishing an appropriate backup process.

15.2.12 Ensure that any data processor it uses also implements appropriate technical and organisational measures.

15.3. The School will conduct regular testing and reviews of its measures to ensure they remain effective, and act on the results of those tests where they highlight areas for improvement.

16. Data breaches

16.1 A data breach may take many different forms:

16.1.1 Loss or theft of data or equipment on which personal information is stored

16.1.2 Unauthorised access to or use of personal information either by a member of staff or third party

16.1.3 Loss of data resulting from an equipment or systems (including hardware or software) failure

16.1.4 Human error, such as accidental deletion or alteration of data

16.1.5 Unforeseen circumstances, such as a fire or flood

16.1.6 Deliberate attacks on IT systems, such as hacking, viruses or phishing scams

16.1.7 Blagging offences where information is obtained by deceiving the organisation which holds it

16.2 In the event of the loss, damage or theft of equipment:

16.2.1 notification of the loss, damage or theft of any equipment should be sent at the first opportunity to the DPO and nominated Data Protection Lead at the school, with any details of personal data that may have been affected.

16.2.2 a written or e-mail report must be filed within 24 hours to the Head Teacher and nominated Data Protection Lead and logged within the GDPRiS portal

16.2.3 the employee responsible for that equipment will describe to their management the circumstances surrounding the loss, damage, or theft.

16.2.4 The Head Teacher will provide guidance as to notice to be provided to the appropriate police authorities.

16.3 The School will require Staff, in the event of a data breach however caused, and whether or not it occurs on a school working day, in term time or school holiday time, to ensure they inform the Head Teacher, or in their absence, the Senior Leader, immediately that a breach is discovered and make all reasonable efforts to recover the information, following the School's agreed breach reporting process.

16.4 In the event of a data breach occurring the School will comply with the requirement to report the breach to the DPO without undue delay and the DPO will determine whether there is a requirement to report such breach to the Information Commissioner's Office, on the basis that it is likely to result in a risk to the rights and freedoms of individuals. The School is required to report such a breach within 72 hours of discovery. The School will also notify the affected individuals if the breach is likely to result in such a high risk.

17. Complaints

17.1 Subject to paragraphs 17.2 and 17.3, complaints relating to the School's compliance with the UK GDPR will be dealt with in accordance with the EMET Complaints Policy.

17.2 Complaints relating to access to personal information or access to education records should be made to the Head Teacher (see section 4 of this policy) who will decide whether it is appropriate for the complaint to be dealt with through the Trust's complaints procedure. Complaints which are not appropriate to be dealt with through the Trust's complaints procedure can be referred to the Information Commissioner. Details of how to make a complaint to the ICO will be provided with the response letter.

17.3 Complaints relating to information handling may be referred to the Information Commissioner's Office (the statutory regulator). Contact details can be found on their website at www.ico.org.uk or telephone 01625 5457453

18. Consequences of a failure to comply

18.1 The Trust takes compliance with this policy very seriously. Failure to comply puts data subjects whose personal information is being processed at risk and carries the risk of significant civil and criminal sanctions for the Trust, individual and the School and may in some circumstances amount to a criminal offence by the individual.

18.2 Any failure to comply with any part of this policy may lead to disciplinary action under the Trust's procedures and this action may result in dismissal for gross misconduct. If a non-employee breaches this policy, they may have their contract terminated with immediate effect.

19. Links to other policies

19.1 This Policy should be read in conjunction with the following policies:

Biometric Data
CCTV
Code of Conduct
Complaints
e-Safety
Safeguarding - Child Protection

Other documents:

EMET retention schedule
ICO CCTV Code of Practice
DfE Privacy Notice examples for pupils and staff
EMET COVID-19 testing privacy notice

20. Contacts

20.1 Any enquiries in relation to this policy, should initially be directed to the school's DP Lead.

20.2 Further advice and information is available from the Information Commissioner's Office at www.ico.org.uk or telephone 01625 5457453

21. Glossary

21.1 **Automated Decision-Making (ADM)**: when a decision is made which is based solely on automated processing (including profiling) which produces legal effects or significantly affects an individual. The UK GDPR prohibits automated decision-making (unless certain conditions are met) but not automated processing.

21.2 **Automated Processing**: any form of automated processing of personal data consisting of the use of personal data to evaluate certain personal aspects relating to an individual, in particular to analyse or predict aspects concerning that individual's performance at work, economic situation, health, personal preferences, interests, reliability, behaviour, location or movements. profiling is an example of automated processing.

21.3 **Consent**: agreement which must be freely given, specific, informed and be an unambiguous indication of the data subject's wishes by which they, by a statement or by a clear positive action, which signifies agreement to the processing of personal data relating to them.

21.4 **Data Controller**: The natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data. It is responsible for establishing practices and policies in line with the UK GDPR. The school is the Data Controller of all personal data relating to its pupils, parents and staff.

21.5 **Data Subject**: a living, identified or identifiable individual about whom we hold personal data. Data Subjects may be nationals or residents of any country and may have legal rights regarding their personal data.

21.6 **Data Privacy Impact Assessment (DPIA)**: tools and assessments used to identify and reduce risks of a data processing activity. DPIA can be carried out as part of Privacy by Design and should be conducted for all major systems or business change programs involving the processing of personal data.

21.7 **Data Protection Officer (DPO)**: the person required to be appointed in public authorities under the UK GDPR.

21.8 **EEA**: the 28 countries in the EU, and Iceland, Liechtenstein and Norway.

21.9 **Explicit Consent**: consent which requires a very clear and specific statement (not just action).

21.10 **UK General Data Protection Regulation (UK GDPR)**: UK General Data Protection Regulation. Personal data is subject to the legal safeguards specified in the UK GDPR.

21.11 **Personal data**: Any information relating to an identified or identifiable natural person (data subject) who can be identified, directly or indirectly by reference to an identifier such as a name, identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person. Personal data includes sensitive personal data and pseudonymised personal data but excludes anonymous data or data that has had the identity of an individual permanently removed. Personal data can be factual (for example, a name, email address, location or date of birth) or an opinion about that person's actions or behaviour.

21.12 **Personal data breach**: A breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed.

21.13 **Privacy by Design**: implementing appropriate technical and organisational measures in an effective manner to ensure compliance with the UK GDPR.

21.14 **Privacy Notices**: separate notices setting out information that may be provided to Data Subjects when the school collects information about them. These notices may take the form of general privacy statements applicable to a specific group of individuals (for example, school workforce privacy policy) or they may be stand-alone privacy statements covering processing related to a specific purpose.

21.15 **Processing**: Anything done with personal data, such as collection, recording, structuring, storage, adaptation or alteration, retrieval, use, disclosure, dissemination or otherwise making available, restriction, erasure or destruction.

21.16 **Processor**: A natural or legal person, public authority, agency or other body which processes personal data on behalf of the data controller.

21.17 **Pseudonymisation or Pseudonymised**: replacing information that directly or indirectly identifies an individual with one or more artificial identifiers or pseudonyms so that the person, to whom the data relates, cannot be identified without the use of additional information which is meant to be kept separately and secure.

21.18 **School Day**: Any day in which there is a session and pupils are in attendance.

21.19 **Sensitive Personal Data**: information revealing racial or ethnic origin, political opinions, religious or similar beliefs, trade union membership, physical or mental health conditions, sexual life, sexual orientation, biometric or genetic data, and Personal data relating to criminal offences and convictions.

21.20 **Working Days:** Exclude school holidays and “inset” or training days where the pupils are not present.