



Cedars Academy

Data Protection Policy

Reviewed: April 2022

Next review: April 2023

Mission statement

Ours is a community of learning, where secure partnerships create opportunities for students, staff, governors, parents and carers alike to participate and grow to become intellectually, emotionally and socially *fit for life*.

1. Introduction

In order to operate efficiently Cedars Academy has to collect and use information about people with whom it works and the pupils it provides an education to. These may include members of the public, current, past and prospective employees, clients and customers, and suppliers. In addition it may be required by law to collect and use information in order to comply with the requirements of central government.

The Academy is committed to ensuring personal data is properly managed and that it ensures compliance with current data protection legislation. The Academy will make every effort to meet its obligations under the legislation and will regularly review procedures to ensure that it is doing so.

The Academy, and any person who handles personal data on behalf of the school (including all staff) must comply with this policy and in particular, the data protection principles in order for the School to comply with the applicable law.

2. Scope

This policy applies to all employees, governors, contractors, agents and representatives, volunteers and temporary staff working for or on behalf of the Academy.

This policy applies to all personal data created or held by the Academy in whatever format (e.g. paper, electronic, email, microfiche, film) and however it is stored, (for example ICT system/database, shared drive filing structure, workbooks, email, filing cabinet, shelving and personal filing drawers).

Personal data is information about living, identifiable individuals, or an identifier or identifiers that can be used to identify a living individual. It covers both facts and opinions about the individual. Such data can be part of a computer record or manual record.

Current data protection legislation does not apply to access to information about deceased individuals. However, the duty of confidentiality may continue after death.

This policy should be read in conjunction with the Academy's other policies and procedures relating to data protection, including any relevant Privacy Notices, the Data Breach Policy, the Access Control Policy and Records Management (Retention) Policy.

3. Responsibilities

Overall responsibility for ensuring that the Academy meets the statutory requirements of any data protection legislation lies with the Governors and the Chair of Governors has overall responsibility for information management issues. They have delegated the day-to-day responsibility of implementation to the Chief Executive.

The Chief Executive is responsible for ensuring compliance with data protection legislation and this policy within the day-to-day activities of the Academy. The Chief Executive is responsible for ensuring that appropriate training is provided for all staff.

All contractors who hold or collect personal data on behalf of the Academy by way of written contract are responsible for their own compliance with data protection legislation and must ensure that personal information is kept and processed in line with data protection legislation and only upon instruction from the school, via a contract.

4. The Requirements

Data protection legislation stipulates that anyone processing personal data must comply with principles of good practice; these principles are legally enforceable. The 6 data protection principles require that personal data:

1. Shall be processed fairly and lawfully and transparently;
2. Shall be obtained only for one or more specified and lawful purposes and shall not be further processed in any manner incompatible with that purpose or those purposes;
3. Shall be adequate, relevant and not excessive in relation to the purpose or purposes for which it is processed;
4. Shall be accurate and where necessary, kept up to date;
5. Shall not be kept for longer than is necessary for that purpose or those purposes;
6. Shall be kept secure i.e. protected by an appropriate degree of security;

In addition:

- the Academy is responsible for and must be able to demonstrate compliance with the data protection principles listed above.
- the data shall be processed in accordance with the rights of data subjects. (See Part 9.)

Personal data shall also not be transferred to a country unless that country or territory ensures an adequate level of data protection or another secure method of transfer is guaranteed.

5. Notification

The Digital Economy Act 2017 requires every data controller who is processing personal data, to notify and renew their notification, on an annual basis. Failure to do so is a criminal offence. The Information Commissioner maintains a public register of data controllers, in which the Academy must be registered.

The Academy will review the Data Protection Register annually, prior to renewing its notification to the Information Commissioner, (<https://ico.org.uk/esdwebpages/search>).

6. Privacy Notices

Whenever information is collected about individuals they must be made aware of the following at that initial point of collection:

- The identity of the data controller, e.g. the Academy;
- Contact details of the Data Protection Officer;
- The purpose that the information is being collected for;
- Any other purposes that it may be used for;
- What the lawful basis is for processing the data;
- Who the information will or may be shared with;
- If the data is transferred outside of the EU, and if yes, how is it kept secure;
- How long the data will be kept for; and
- How data subjects can exercise their rights.

The Academy will review its Privacy Notice annually and alert pupils and parents to any updates.

7. Conditions for Processing

Processing of personal information may only be carried out where one of the conditions of Article 6 of the GDPR has been satisfied.

Processing of special category (sensitive) personal data may only be carried out if a condition in Article 9 of the GDPR is met as well as one in Article 6.

8. Data Protection Officer

The Academy shall appoint a Data Protection Officer in line with the requirements of the GDPR.

9. Data Protection Impact Assessments

The Academy shall undertake high risk Data Protection Impact Assessments in line with the requirements of the GDPR and as per the Information Commissioner's Office (ICO) guidance.

10. Data Breaches

All employees, governors, contractors, agents and representatives, volunteers and temporary staff must immediately report a security incident or data breach to the Chief Executive in accordance with the Data Breach Policy.

The Academy shall report any personal data breach to the ICO in line with the requirements of the GDPR.

11. Contracts

The Academy shall ensure that a legally binding contract is in place with all of its data processors in line with the requirements of the GDPR.

12. Consent

Where the Academy processes data with consent (for example, to publish photographs of children, to send direct marketing emails about school uniform for sale) it will ensure that the consent is freely given, specific, informed and unambiguous, and the consent is recorded.

13. Information Society Services

Where the Academy offers Information Society Services (online services with a commercial element) targeted at children, it will take reasonable steps to seek the consent of the child's parent or guardian if the child is under 13 years of age.

14. Direct Marketing

Where the Academy sends any direct marketing (the promotion of aims and ideals as well as selling goods and services) via electronic communications e.g. email, SMS text, fax or recorded telephone messages, it will only do so if the recipient has given explicit consent to receive them e.g. has ticked a box to 'opt in'.

15. Provision of Data

It is a criminal offence to knowingly or recklessly obtain or disclose information about an individual without legitimate cause. Relevant, confidential data should only be given to:

- Other members of staff on a need to know basis;
- Relevant Parents/Guardians;
- Other authorities if it is necessary in the public interest, e.g. prevention of crime, safeguarding;
- Other authorities, such as the Local Authority and schools to which a pupil may move, where there are legitimate requirements.

The Academy should not disclose anything on a pupil's record which would be likely to cause harm to their physical or mental health or that of anyone else. Therefore, those who create such records should ensure that such information is separated from other records.

Where there is doubt, or statutory requirements conflict, legal advice should be obtained. Where there are safeguarding concerns, the matter should be referred to the Academy's Designated Safeguarding Lead (DSL).

When giving information to an individual, particularly by telephone, it is most important that the individual's identity is verified. If in doubt, questions should be asked of the individual, to which only he/she is likely to know the answers. Information should not be provided to other parties, even if related. For example: in the case of divorced parents it is important that information regarding one party is not given to the other party to which he/she is not entitled. Care must always be taken when there is any doubt about parental responsibility.

16. The Individual's Rights

Any person whose details are held by the Academy is entitled to ask for a copy of information held about them (or child for which they are responsible). They are entitled to see if the data held are accurate, and who it is shared with.

When a request is received it must be dealt with promptly; a response must be provided as soon as possible and within one month and in some instances, for education records, 15 school days. All staff must recognise and log such a request immediately with the Chief Executive.

17. Provision of Data to Children

In relation to the capacity of a child to make a subject access request, guidance provided by the Information Commissioner's Office has been that by the age of 12 a child can be expected to have sufficient maturity to understand the nature of the request. A child may of course reach sufficient maturity earlier; each child should be judged on a case by case basis.

If the child does not understand the nature of the request, someone with parental responsibility for the child, or a guardian, is entitled to make the request on behalf of the child and receive a response.

Pupils who submit requests to access their educational records should be allowed to do so unless it is obvious that they do not understand what they are asking for.

18. Parents' Rights

An adult with parental responsibility can access the information about their child, as long as the child is not considered to be sufficiently mature. They must be able to prove their parental responsibility and the Academy is entitled to request relevant documentation to evidence this as well as the identity of the requestor and child. The Academy has the right to ask the Child if they object to release of information to the Parent if the Child is deemed mature enough to make such a decision.

In addition, parents have their own independent right under The Education (Pupil Information) (England) Regulations 2000 of access to the official education records of their children. Students do not have a right to prevent their parents from obtaining a copy of their school records (as defined in the Education Act).

19. Information Security

All members of staff should be constantly aware of the possibility of personal data being seen or accessed by unauthorised personnel. For example, possibilities may arise when computer screens are visible to the general public; files may be seen by the cleaners if left on desks overnight (all papers must be locked in cabinets when not in use).

The use of computer passwords is a requirement of the school to avoid unauthorised access. All removable devices e.g. laptops, USB sticks, personal mobile phones and digital cameras must not be used to store School data unless they are encrypted and complex password protected wherever possible. Staff and visitors are not permitted to use their own devices in school unless they have the permission from the Chief Executive.

All members of staff should take care when transporting paper files between sites. No personal data is ever to be left unattended off site e.g. in a car overnight, on view to family members when working at home.

All members of staff should take care when emailing personal data and always check the email address is correct and the right attachment has been attached. When copying to several people externally, all members of staff should always use the BC field and not the CC field or create a group.

20. Maintenance of Up to Date Data

Out of date information should be discarded if no longer relevant. Information should only be kept as long as needed, for legal or business purposes. In reality most relevant information should be kept for the period during which the person is associated with the Academy plus an additional period which the Academy has determined. Under GDPR the Academy must produce a Retention and Disposal Policy to clarify this.

21. Inaccurate Data

If an individual complains that the personal data held about them is wrong, incomplete or inaccurate, the position should be investigated thoroughly including checking with the source of the information. This must be answered within one month. In the meantime a caution should be marked on the person's file that there is a question mark over the accuracy. An individual is entitled to apply to the court for a correcting order and it is obviously preferable to avoid legal proceedings by working with the person to correct the data or allay their concerns.

22. Recording of Data

Records should be kept in such a way that the individual concerned can inspect them. It should also be borne in mind that at some time in the future the data may be inspected by the courts or some legal official. It should therefore be correct, unbiased, unambiguous, factual and clearly decipherable/readable. Where information is obtained from an outside source, details of the source and date obtained should be recorded.

Any person whose details, or child's details, are to be included on the School's website will be required to give written consent unless it is a legal requirement (e.g. Governors' details). At the time the information is included all such individuals will be properly informed about the consequences of their data being disseminated worldwide.

23. Photographs

Whether or not a photograph comes under the data protection legislation is a matter of interpretation and quality of the photograph. However, the Academy takes the matter extremely seriously and seeks to obtain parents' permission for the use of photographs outside the Academy and, in particular, to record their wishes if they do not want photographs to be taken of their children.

24. Breach of the Policy

Non-compliance with the requirements of data protection legislation by the members of staff could lead to serious action being taken by third parties against the Academy. Non-compliance by a member of staff is therefore considered a disciplinary matter which, depending on the circumstances, could lead to dismissal without notice. It should be noted that an individual can commit a criminal offence under the law, for example, by obtaining and/or disclosing personal data for his/her own purposes without the consent of the data controller.

25. Further Information

Further advice and information about data protection legislation, including full details of exemptions, is available from the Academy website at www.cedarstrust.org.uk, or from Gateshead Council's Information Governance & Risk Team:

Information Rights Officer
Gateshead Council
Civic Centre
Regent Street
Gateshead
NE8 1HH

0191 433 3000

informationrights@gateshead.gov.uk

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To be next reviewed: April 2023

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