



APPROPRIATE POLICY

DOCUMENT

FOR THE PROCESSING OF SPECIAL CATEGORY AND CRIMINAL OFFENCE PERSONAL DATA

Date of policy / last review:	10.05.2022
Review period:	To be periodically reviewed and updated
Owner:	Business and Finance Committee

1. INTRODUCTION

The Data Protection Act 2018 outlines the requirement for an Appropriate Policy Document (APD) to be in place when processing special category and criminal offence data under certain specified conditions.

This document demonstrates how Peterborough Diocese Education Trust (PDET) processes special category and criminal offence data based on specific Schedule 1 conditions compliant with the requirements of the UK General Data Protection Regulation (GDPR) Article 5 principles and outlines its retention policies with respect to this data.

This policy links to the following PDET policies and documents:

- [Combined Data Protection and FOI Policy](#)
- [Records Retention Policy and Retention Working document](#)
- [Privacy Notices](#) (pupils, parent / carers, staff and volunteers)

2. DESCRIPTION OF DATA PROCESSED

The special category data (as defined at Article 9 GDPR) processed by PDET is as follows:

In relation to pupils:

- Racial or ethnic origin;
- Religious or philosophical beliefs;
- Data concerning health (including records of special educational needs and disabilities, records of illness etc.).

In relation to parents/carers:

- Racial or ethnic origin;
- Religious or philosophical beliefs;
- Data concerning a natural person's sexual orientation.

In relation to staff (including job applicants):

- Racial or ethnic origin;
- Religious or philosophical beliefs;
- Trade union membership;
- Data concerning health (including records of disabilities, illness etc.);
- Data concerning a natural person's sexual orientation.

In relation to volunteers (including governors and directors):

- Racial or ethnic origin;
- Religious or philosophical beliefs;
- Data concerning health (including records of special educational needs and disabilities, records of illness etc.);
- Data concerning a natural person's sexual orientation.

We also process criminal offence data in relation to staff and volunteers (including governors and directors) job/role applications. We also sometimes process criminal offence data for parents/carers, if appropriate in order to safeguard their children.

'Criminal offence data' covers processing in relation to criminal convictions and offences or related security measures. It also includes personal data relating to the alleged commission of offences or proceedings for an offence committed or alleged to have been committed, including sentencing. Information about victims and witnesses of crime is also included in the scope of data relating to criminal convictions and offences.

3. SCHEDULE 1 CONDITION FOR PROCESSING

Below we have listed the Schedule 1 conditions on which we are relying for processing, and which need to be covered by this document:

Special category personal data:

In relation to staff (including job applicants) and volunteers (including governors and directors):

- **Schedule 1, Part 1, Paragraph 1 Data Protection Act ("DPA") 2018 (employment, social security and social protection)** - *processing is necessary for the purposes of performing or exercising obligations or rights which are conferred by law on the controller of the data subject in connection with employment, social security or social protection.*

In relation to staff (including job applicants), volunteers (including governors and directors), parents / carers and pupils:

- **Schedule 1, Part 2, Paragraph 6(1) and (2)(a) DPA 2018 (statutory, etc. and government purposes)** – *processing is necessary for the exercise of a function conferred on a person by an enactment or rule of law and is necessary for the reasons of substantial public interest.*
- **Schedule 1, Part 2, Paragraph 8(1) DPA 2018 (Equality of opportunity or treatment)** – *processing is of a specified category of personal data, and is necessary for the purposes of*

identifying or keeping under review the existence or absence of equality of opportunity or treatment between groups of people specified in relation to that category with a view to enabling such equality to be promoted or maintained.

- **Schedule 1, Part 2, Paragraph 18 (safeguarding)** – *processing of special category or criminal offence data is necessary in order to protect the physical, mental or emotional well-being of an individual under the age of 18, or over the age of 18 and at risk, only where, in the circumstances, consent cannot be given by the data subject, cannot be reasonably obtained from the data subject, or where the processing must be carried out without the consent of the data subject because obtaining the data subject's consent would prejudice the provision of the protection, and is necessary for reasons of substantial public interest.*

Criminal offence data for the following purposes in parts 1 and 2 of Schedule 1 DPA 2018:

- **Paragraph 1** – employment, social security and social protection – *see above.*
- **Paragraph 6(2)(a)** – statutory, etc. purposes – *see above.*
- **Paragraph 18** – safeguarding – *see above.*

4. PROCEDURES FOR ENSURING COMPLIANCE WITH THE PRINCIPLES

4.1 Accountability principle

PDET has appropriate measures in place across the Trust to meet the requirements of accountability, including:

- The appointment of a Data Protection Officer;
- Reporting on data protection (including any personal data breaches) to the Trust Board and CEO;
- Maintaining records of processing activity for each academy and the PDET central team;
- Having data protection and retention policies in place;
- Screening new uses of personal data and completing a data protection impact assessment (DPIA) when processing is likely to result in a high risk to individuals and where risks are identified. Proportionate safeguards are implemented to protect personal data;
- Implementing appropriate security measures in relation to the personal data that we process, for example, multi-factor authentication and encryption;

- Publishing Privacy Notices for pupils, parents, staff, and volunteers which explain to individuals how and why their data is processed, what their rights are, and how they can get in touch with our DPO and the ICO.

We regularly review our accountability measures and update or amend them where required.

4.2 Principle (a): lawfulness, fairness and transparency

PDET satisfies this principle by:

- Routinely making available clear and transparent information to individuals about the way in which we process personal data, including our lawful bases for processing within our relevant privacy notices. This includes information about any processing of special category and criminal offence data;
- Always being open and honest when we collect special category and criminal offence data, and ensuring that we do not deceive or mislead people about its use. We understand that where personal data has been collected from a source other than a data subject, we are exempted from the obligation to provide individuals with privacy information only if the provision of such information proves impossible or would involve disproportionate effort;
- Identifying and recording an appropriate lawful basis for processing and, whenever we process special category or criminal offence data, we identify an appropriate condition for processing personal data.

Further information about the lawful bases we rely upon to process personal data (in line with Article 6 UK GDPR) and the conditions relied upon to process special category personal data and criminal offences data (in line with Articles 9 and 10 UK GDPR) are set out in our [Privacy Notices](#).

4.3 Principle (b): purpose limitation

PDET process special category and criminal offence data where it is necessary to meet the following purposes:

- in connection with the recruitment of employees and volunteers, and the subsequent management of PDET's relationship with its employees;
- to promote and maintain equality of opportunity and treatment during the recruitment processes and the course of employment / engagement by PDET;
- to ensure compliance with our legal obligations, including employment obligations, safeguarding of individuals and complying with health and safety obligations.

We have included appropriate details of these purposes in our Privacy Notices, see link.

We do not process any personal data for purposes that would be incompatible with the purpose for which the data was originally collected.

4.4 Principle (c): data minimisation

PDET satisfies this principle by:

- Employing measures to ensure that we only collect special category and criminal offence personal data that we actually need for our specified purposes and ensures it is not excessive;
- In line with our Records Retention policy, periodically reviewing the data we hold, and securely deleting anything we don't need;
- Not collecting excessive personal data in line with the data minimisation principle, and only holding special category and criminal offence data for the period set out in our retention policy.

4.5 Principle (d): accuracy

PDET satisfies this principle by:

- Implementing adequate processes to ensure that personal data we hold is accurate and kept up to date as necessary;
- Having a process in place for dealing with individual right to rectification;
- Where we become aware that personal data is inaccurate or out of date, having regard to the purpose for which it is being processed, taking every reasonable step to ensure that data is erased or rectified without delay;
- If a decision is taken not to either erase or rectify it, for example because the lawful basis we rely on to process the data means these rights don't apply, documenting our decision;
- Explaining in our Privacy Notices that individuals have the right to rectify personal data we are holding. Our Data Protection Policy explains how we deal with challenges to the accuracy of data and how we ensure compliance with the right to rectification.

4.6 Principle (e): storage limitation

PDET satisfies this principle by:

- Routinely considering the length of time necessary to retain personal data to ensure we keep it only as long as necessary / required to by law – see PDET's [Records Retention Policy](#);
- Erasing data when it is no longer required;
- Ensuring any data kept for statistical purposes is anonymised;
- Having appropriate processes in place to comply with individuals' requests for erasure of their personal data (Article 17 UK GDPR);

- Clearly identifying any personal data that we need to keep for archiving in the public interest, scientific or historical research, or statistical purposes.

4.7 Principle (f): integrity and confidentiality (security)

PDET satisfies this principle by:

- Ensuring that electronic and hardcopy information is kept securely in line with our Data Protection Policy in order to protect personal data;
- Having appropriate access controls and levels in place for data stored within electronic systems and physical storage;
- Carrying out DPIAs on any new processes or system involving the use of personal data if the processing is likely to result in a high risk to individuals or where risks are identified;
- Completing due diligence checks where a full DPIA is not required, for example education platforms;
- Ensuring all staff and volunteers receive regular data protection training.

5. RETENTION AND ERASURE POLICIES

Our [Records Retention Policy](#) incorporates a working document which details the retention period for each type of special category / criminal offence data processed and the person responsible for its review and deletion at the appropriate time. The working document is mapped into the records management toolkit for schools from the Information and Records Management Society (IRMS). A copy of the policy can be requested by contacting admin@pdet.org.uk.

6. APD 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 was last updated on 10.05.2022. This policy will be periodically reviewed and updated.