



THE DOWNS MALVERN

Policy	SG01-08	Data Protection Policy	
Responsible Member of staff	Anna Spencer		
Responsible Governor			
Approved	August 2022	Next Review Date	August 2023
Last Technical Review	August 2022		

This policy is relevant to all sections of the school, EYFS, Pre-Prep and Prep, including Boarding.

Communications With Parents

To help fulfil their important role in their child's education and to be as informed as possible in any communications or discussions with teachers, parents are requested and encouraged to communicate any concerns or difficulties, interests or aspirations that are either specific to, or seriously affecting their child's education. Staff record and deal with this information in a confidential and professional manner.

General Information & Educational Records

Pupils' confidential copies of reports, pupil profiles, assessment results and portfolios of work are kept as general information. Such curricular records comprise a major part of a pupil's educational record. Contents of educational records must be disclosed to parents upon request within a specified time, to another school which is considering a pupil for admission, or which has just admitted that pupil.

Medical/Confidential Information

Pupils' confidential medical information and reports (e.g. Social Services and Psychological Reports) are also kept and show:

- personal details, doctor's name/address/telephone number;
- treatment needed regularly (e.g. asthma prevention) and
- relief treatment (e.g. asthma reliever) if required.

The Headmaster (or those with delegated authority) can decide not to disclose/transfer/copy or amend a pupil's record.

There are two special considerations relating to Child Protection:

- The Education (Schools' Records) Regulations 1989 exempt any information relating to actual, alleged or suspected child abuse from the requirements of disclosure to those with 'Parental Responsibility' (Children Act 1989); and
- When a child dies the LSCB carries out a Section 8 Review under the Children's Act 1989.

This is a multiagency investigation and a report is produced. All school records must be kept in these circumstances – only copies may be given to parents. This section may also contain other details relating to Child Protection but additionally drugs, HIV and mentoring.

Admission Documents & Personal Information

Pupils The Downs Malvern keeps confidential admission records.

Staff Records The Downs Malvern maintains detailed, confidential personnel records relating to individual employees including job descriptions, qualifications, experience, length of service and salary levels.

General Data Protection Regulation (GDPR)

The GDPR will apply in the UK from 25 May 2018 and will be unaffected by the UK's decision to leave the EU. The GDPR is a new data protection regulation that's designed to strengthen and unify the safety and security of all data held within the School. The GDPR will replace the current Data Protection Act, making radical changes to many existing data protection rules and regulations. Whilst there are similarities between the GDPR and the DPA, there will be some significant differences that will have a real impact on the way the data is handled and ultimately the way in which the school manages information.

Some of the differences include:

- **Penalties** – under the DPA, non-compliance could see fines of up to £500,000 imposed by the ICO. However, non-compliance under the GDPR could see fines of up to €20 million for the Data Controller, i.e. the School, and anyone else involved in the chain such as the Data Processors.
- **Contracts** – currently there is no formal obligation to have a contract in place with your chosen Data Processor. However, under the GDPR, it will be illegal to not have a formal contract or Service Level Agreement (SLA) in place with your chosen partner.
- **Data Processors** – under the GDPR it will also be a criminal offence to choose an IT recycling partner/Data Processor who doesn't hold the minimum competencies and for IT asset disposal (i.e. ADISA, ISO 27001, Blancco etc. The School must be able to demonstrate that it is working with an accredited company when it comes to disposing of your data bearing end of life IT assets. Whilst the GDPR's main principles are similar to those in the DPA, there will inevitably be some new elements and enhancements to be made.

In accordance with the ICO's guidance, the School will prepare for the changes by:

- **Awareness** – ensuring that decision makers and key people in the school are aware that the DPA is changing to the GDPR. The School appreciates the impact it will have and will be investigate how the new legislation will affect schools.
- **Information Held** – organising an information audit and document personal staff and student data held, where it came from and with whom it is shared.
- **Communicating Privacy Information** – review the School's current privacy guidance and put a plan in place for making any necessary changes in time for when GDPR comes into force.

- **Individuals' Rights** – check the School's current procedures to ensure they cover all the rights individuals have, including how you to delete personal data or provide data electronically.
- **Subject Access Requests** – update the School's procedures and plan how to handle requests within the new timescales and provide any additional information.
- **Legal Basis for Processing Personal Data** – look at the various types of data processing the School carried out carries out, identify the legal basis for carrying it out and document it.
- **Consent** – review how the School seeks, obtains and records consent and whether the School needs to make any changes.
- **Pupils** – considering what systems the School will put in place to verify individuals' ages and to gather parental or guardian consent for the data processing activity.
- **Data Breaches** – ensuring that the School has the right procedures in place to detect, report and investigate a personal data breach.
- **Data Protection** - by design and data protection impact assessments – begin to work out when to start implementing Privacy Impact Assessments into the school.
- **Data Protection Officers** – designating a Data Protection Officer or someone to take responsibility for data protection compliance Data Protection Act 1998 This document is a statement of the aims and principles of the School, for ensuring the confidentiality of sensitive information relating to staff, pupils and parents. The School needs to keep certain information about its employees, students and other users to allow it to monitor performance, achievements, and health & safety, for example. It is also necessary to process information so that staff can be recruited and paid, courses organised and legal obligations complied with. To comply with the law, information is collected and used fairly, stored safely and not disclosed to any other person unlawfully.
- **CCTV** - The school has a number of CCTV cameras sited around the school. The data is recorded and will be kept for one academic term and not reviewed unless such review is required. No review of the CCTV data will take place without the joint consent of at least two members of the SLT (the Headmaster, the Deputy Head, the Head of Pre-Prep and the Designated Safeguarding Lead with at least one of them being either the HM or the DHM).

The School so far as is reasonably practicable, complies with the data protection principles, as contained in the GDPR.

In summary these state that personal data shall:

- Be obtained and processed fairly and lawfully and shall not be processed unless certain conditions are met.
- Be obtained for a specified and lawful purpose and shall not be processed in any manner not in line with that purpose.
- Be adequate, relevant and not excessive for that purpose.
- Be accurate and kept up to date.
- Not be kept for longer than is necessary for that purpose.
- Be processed in accordance with the data subject's rights.
- Be securely protected from unauthorised access, accidental loss or destruction.
- Be stored only in countries within the EU or with companies that comply with the EU's Data Protection Directive.

The School and all staff or others who process or use personal information must ensure that they follow these principles at all times. In order to ensure that this happens, the School has developed this Data Protection Policy.

Status of this Policy

This policy does not form part of the contract of employment for staff, but it is a condition of employment that employees abide by the rules and policies made by the School from time to time. Any failures to follow the policy can therefore result in disciplinary proceedings.

The Data Controller and the Designated Data Controllers

The School as a corporate body is the Data Controller, and the Headmaster is ultimately responsible for implementation. However, Designated Data Controllers may deal with day-to-day matters. Any member of staff, parent or other individual who considers that the Policy has not been followed in respect of personal data about himself or herself or their child should raise the matter with The Headmaster.

Responsibilities of Staff

All staff are responsible for:

- Checking that any information that they provide to the School in connection with their employment is accurate and up to date.
- Informing the School of any changes to information that they have provided, e.g. change of address, either at the time of appointment or subsequently. The School cannot be held responsible for any errors unless the staff member has informed the School of such changes.

If and when, as part of their responsibilities, staff collect information about other people (e.g. about a pupil's assessment data, opinions about ability, references to other academic institutions, or details of personal circumstances), they must comply with the regulations.

Data Security

All staff are responsible for ensuring that:

- Any personal data that they hold is kept securely.
- Personal information is not disclosed either orally, in writing, via Web pages or by any other means, accidentally or otherwise, to any unauthorised third party. Staff should note that unauthorised disclosure will usually be a disciplinary matter and may be considered gross misconduct in some cases.

Personal information should:

- Be kept in a locked filing cabinet, drawer, or safe; or
- If it is computerised, be coded, encrypted or password protected both on a local hard drive and on a network drive that is regularly backed up; and
- If a copy is kept on a diskette or other removable storage media, that media must itself be kept in a locked filing cabinet, drawer, or safe.

Rights to Access Information

All staff, parents and other users are entitled to:

- Know what information the School holds and processes about them or their child and why.
- Know how to gain access to it.
- Know how to keep it up to date.
- Know what the School is doing to comply with its obligations under the 1998 Act. All staff, parents and other users have a right under the 1998 Act to access certain personal data being kept about them or their child either on computer or in certain files.

Any person who wishes to exercise this right should complete a Subject Access Request and submit it to the Headmaster.

The School aims to comply with requests for access to personal information as quickly as possible, but will ensure that it is provided within 20 days.

Subject Consent

In many cases, the School can only process personal data with the consent of the individual. In some cases, if the data is sensitive, as defined in the 1998 Act, express consent must be obtained.

Agreement to the school processing some specified classes of personal data is a condition of acceptance of employment for staff. This includes information about previous criminal convictions. How we use employee information we process personal data relating to those we employ to work at, or otherwise engage to work at, our school. This is for employment purposes to assist in the running of the School and/or to enable individuals to be paid.

The collection of this information will benefit the School by:

- enabling development of a comprehensive picture of the workforce and how it is deployed;
- informing the development of recruitment and retention policies;
- allowing better financial modelling and planning; and
- enabling ethnicity and disability monitoring.

This personal data includes identifiers such as names and National Insurance numbers and characteristics such as ethnic group, employment contracts and remuneration details, qualifications and absence information. We will not share information about staff, pupils or parents with third parties without suitable consent unless the law allows us to.

We may be required, by law, to pass on some of this personal data to:

- our local authority;
- the Department for Education (DfE).

How The Downs Malvern Uses Pupil Information

Upon entry to the school all parents will be issued with a Privacy Notice in accordance with the Data Protection Act 1998 which details how we use pupil information.

Roles that will bring the applicants into contact with children.

The School has a duty under The Children Act 1989 and other enactments to ensure that staff are suitable for the job. The School has a duty of care to all staff and students and must therefore make sure that employees and those who use School facilities do not pose a threat or danger to other users. The School may also ask for information about particular health needs, such as allergies to particular forms of medication, or any medical condition such as asthma or diabetes. The School will only use this information in the protection of the health and safety of the individual, but will need consent to process this data in the event of a medical emergency, for example.

Processing Sensitive Information

Sometimes it is necessary to process information about a person's health, criminal convictions, or race. This may be to ensure that the School is a safe place for everyone. Because this information is considered sensitive under the 1998 Act, staff (and pupils where appropriate) will be asked to give

their express consent for the School to process this data. An offer of employment may be withdrawn if an individual refuses to consent to this without good reason.

Publication of School Information

Certain items of information relating to School staff will be made available via searchable directories on the public Web site, in order to meet the legitimate needs of researchers, visitors and enquirers seeking to make contact with the School.

Examples Of Personal Data

Definitions of personal data are highly complex, and it is difficult to define categorically. However, broadly speaking and in day-to-day use, 'personal data' is information which relates to a living, identifiable individual. In the context of this document and the School's requirement to process 'personal data' as part of its duty of care and to educate its pupils, 'personal data' may include:

- school admission and attendance registers;
- pupil's curricular records;
- reports to parents on the achievements of their children;
- records in connection with pupils entered for prescribed public examinations;
- staff records, including payroll records;
- pupil disciplinary records;
- personal information for teaching purposes;
- records of contractors and suppliers.

If it is necessary for the School to process certain personal data to fulfil its obligations to pupils and their parents or guardians then consent is not required. However, any information which falls under the definition of personal data, and is not otherwise exempt (see below), will remain confidential. Data will only be disclosed to third parties with the consent of the appropriate individual or under the terms of this Policy.

Sensitive data may include:

- ethnic or racial origin
- political opinions
- religious beliefs
- other beliefs of a similar nature
- membership of a trade union
- physical or mental health or condition
- offence or alleged offence
- proceedings or court sentence

Where sensitive personal data is processed by the School, the explicit consent of the appropriate individual will be required in writing.

Exemptions Certain data is exempted from the provisions of the Data Protection Act, examples include:

- The prevention or detection of crime;
- The assessment of any tax or duty;
- Where the processing is necessary to exercise a right or obligation conferred or imposed by law upon the school.

There are further exemptions detailed under the act.

Retention of Data

The School has a duty to retain some staff and student personal data for a period of time following their departure from the School, mainly for legal reasons. Different categories of data will be retained for different periods of time. The time span can be requested in writing from school. Non-Compliance with the 1998 Act and the GDPR is the responsibility of all members of the School. Any deliberate breach of the General Data Protection Regulations may lead to disciplinary action being taken, or even to a criminal prosecution.

Andrew Nuttall
Headmaster
August 2022

Review August 2023
(Reviewed in accordance to GDPR updates produced by the EU's "Article 29" working party.)