



KING'S HOUSE SCHOOL

RICHMOND



Member of staff responsible:	Compliance Manager/Bursar
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BACKGROUND

Data protection is an important legal compliance issue for King's House School (the "School"). During the course of the School's activities it collects, stores and processes personal data (sometimes sensitive in nature) about staff, pupils, their parents, its contractors and other third parties (in a manner more fully detailed in the School's Privacy Notice). The School, as 'data controller' is liable for the actions of its staff and governors in how they handle data. It is therefore an area where all staff have a part to play in ensuring the School complies with and is mindful of its legal obligations, whether that personal data is sensitive or routine.

UK data protection law consists primarily of the UK version of the General Data Protection Regulation (the GDPR) and the Data Protection Act 2018 (DPA 2018). The DPA 2018 includes specific provisions of relevance to independent schools; in particular, in the context of our safeguarding obligations, and regarding the right of access to personal data. .

Data protection law has in recent years strengthened the rights of individuals and placed compliance obligations on organisations including schools that handle personal information. The Information Commissioner's Office (ICO) is responsible for enforcing data protection law, and will typically look into individuals' complaints routinely and without cost, and has various powers to take action for breaches of the law.

DEFINITIONS

Key data protection terms used in this data protection policy are:

- Data controller – a person or body that determines the purpose and means of the processing of personal data, and who is legally responsible for how it is used. For example, the School is the controller of pupils' personal information. As a data controller, the School is responsible for safeguarding the use of personal data.
- Data processor – an organisation that processes personal data on behalf of a data controller, for example a payroll or IT provider or other supplier of services with whom personal data may be shared but who is not authorised to make any decisions about how it is used
- Personal data breach – a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data.
- Personal information (or personal data): any information relating to a living individual (a data subject) by which that individual may be identified by the controller. The is not simply



a name but any form of identifier, digital or contextual, including unique ID numbers, initials, job titles or nicknames. Note that personal information will be created almost constantly in the ordinary course of work duties (such as in emails, notes of calls, and minutes of meetings). The definition includes expressions of opinion about the individual or any indication of the School's, or any person's, intentions towards that individual.

- Processing – virtually anything done with personal information, including obtaining or collecting it, structuring it, analysing it, storing it, sharing it internally or with third parties (including making it available to be viewed electronically or otherwise), altering it or deleting it.
- Special categories of personal data – data relating to racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, health and medical conditions, sex life or sexual orientation, genetic or biometric data used to identify an individual. There are also separate rules for the processing of personal data relating to criminal convictions and offences.

APPLICATION OF THIS POLICY

This policy sets out the School's expectations and procedures with respect to processing any personal data we collect from data subjects (including parents, pupils, employees, contractors and third parties).

Those who handle personal data as employees or governors of the School are obliged to comply with this policy when doing so. For employees, breaches of this policy may result in disciplinary action. Accidental breaches of the law or this policy in handling personal data may happen from time to time, for example by human error, and will not always be treated as a disciplinary issue. However, failure to report breaches that pose significant risks to the School or individuals will be considered a serious matter.

In addition, this policy represents the standard of compliance expected of those who handle the School's personal data as contractors, whether they are acting as "data processors" on the School's behalf (in which case they will be subject to binding contractual terms) or as data controllers responsible for handling such personal data in their own right.

Where the School shares personal data with third party data controllers – which may range from other schools, to parents, to appropriate authorities, to casual workers and volunteers – each party will need a lawful basis to process that personal data, and will be expected to do so lawfully and with due regard to security and confidentiality, as set out in this policy.



Volunteers and contractors will be data controllers in their own right, but the same legal regime and best practice standards set out in this policy will apply to them by law.

DATA PROTECTION LEAD

The School has appointed the Bursar as the Data Protection Lead who will endeavour to ensure that all personal data is processed in compliance with this policy and the principles of the applicable data protection legislation. Any questions about the operation of this policy or any concerns that the policy has not been followed should be referred in the first instance to the Data Protection Lead.

THE PRINCIPLES

The GDPR sets out six principles relating to the processing of personal data which must be adhered to by data controllers (and data processors). These require that personal data must be:

1. Processed **lawfully, fairly** and in a **transparent** manner;
2. Collected for **specific and explicit purposes** and only for the purposes it was collected for;
3. **Relevant** and **limited** to what is necessary for the purposes it is processed;
4. **Accurate** and kept **up to date**;
5. **Kept for no longer than is necessary** for the purposes for which it is processed; and
6. Processed in a manner that ensures **appropriate security** of the personal data.

The GDPR's broader 'accountability' principle also requires that the School not only processes personal data in a fair and legal manner but that it is also able to *demonstrate* that its processing is lawful.

This involves, among other things:

- keeping records of our data processing activities, including by way of logs and policies;
- documenting significant decisions and assessments about how we use personal data; and
- generally having an 'audit trail' vis-à-vis data protection and privacy matters, including for example when and how our Privacy Notice(s) were updated, when staff training was undertaken, how and when data protection consents were collected from individuals, how personal data breaches were dealt with, whether or not reported (and to whom), etc.

LAWFUL GROUNDS FOR DATA PROCESSING

Under the GDPR there are several different lawful grounds for processing personal data. One of these is consent. However, given the relatively high bar of what constitutes consent under GDPR (and the fact that it can be withdrawn by the data subject) it is generally considered preferable for the School to rely on another lawful ground where possible.

One of these alternative grounds is 'legitimate interests', which is the most flexible basis for processing. However, it does require transparency and a balancing assessment between the rights of the individual and the interests of the School. It can be challenged by data subjects and also means the School is taking on extra responsibility for considering and protecting people's rights and interests. The School's legitimate interests are set out in its Privacy Policy, as GDPR requires.

Other lawful grounds include:

- compliance with a legal obligation, including in connection with employment, engagement of services and diversity;
- contractual necessity, e.g. to perform a contract with staff or parents, or the engagement of contractors;
- a narrower set of grounds for processing special categories of personal data (such as health information), which includes explicit consent, emergencies, and specific public interest grounds.

HEADLINE RESPONSIBILITIES OF ALL STAFF

Record-keeping

It is important that personal data held by the School is accurate, fair and adequate. Staff are required to inform the School if they believe that *any* personal data is inaccurate or untrue or if they are dissatisfied with how it is recorded. This applies to how staff record their own data, the personal data of others – in particular colleagues, pupils and their parents – in a way that is accurate, professional and appropriate.

Staff should be aware of the rights set out below, whereby any individuals about whom they record information on School business (notably in emails and notes) digitally or in hard copy files may have the right to see that information. This absolutely must not discourage staff from recording necessary and sometimes difficult records of incidents or conversations involving colleagues or pupils, in accordance with the School's other policies, and grounds may sometimes exist to withhold these from such requests. However, the starting position for staff is to record every



document or email in a form they would be able to stand by should the person about whom it was recorded ask to see it.

Data handling

All staff have a responsibility to handle the personal data which they come into contact with fairly, lawfully, responsibly and securely and in accordance with the Staff Code of Conduct and all relevant School policies and procedures (to the extent applicable to them).

In particular, there are data protection implications across a number of areas of the School's wider responsibilities such as safeguarding and IT security, so all staff should read and comply with the following policies:

- Internet Safety Policy
- Safeguarding Children Policy
- Staff ICT Acceptable Use Policy (AUP)
- Taking, Storing and Using Images of Children Policy

Responsible processing also extends to the creation and generation of new personal data / records, as above, which should always be done fairly, lawfully, responsibly and securely.

Avoiding, mitigating and reporting data breaches

One of the key new obligations contained in the GDPR is on reporting personal data breaches. Data controllers must report certain types of personal data breach (those which risk an impact to individuals) to the ICO within 72 hours.

In addition, data controllers must notify individuals affected if the breach is likely to result in a "high risk" to their rights and freedoms. In any event, the School must keep a record of any personal data breaches, regardless of whether we need to notify the ICO. If staff become aware of a personal data breach they must notify the Bursar. If staff are in any doubt as to whether or not you should report something, it is always best to do so. A personal data breach may be serious, or it may be minor, and it may involve fault or not, but the School always needs to know about them to make a decision.

As stated above, the School may not need to treat the incident itself as a disciplinary matter – but a failure to report could result in significant exposure for the School, and for those affected, and could be a serious disciplinary matter whether under this policy or the applicable staff member's contract.



Care and data security

More generally, we require all School staff (and expect all our contractors) to remain mindful of the data protection principles above and to use their best efforts to comply with those principles whenever they process personal information. Data security is not simply an online or digital issue but one that affects daily processes: filing and sending correspondence, notably hard copy documents. Data handlers should always consider what the most assured and secure means of delivery is, and what the consequences would be of loss or unauthorised access.

The School expects all those with management / leadership responsibilities to be particular champions of these principles and to oversee the swift reporting of any concerns about how personal information is used by the School to the Bursar and to identify the need for (and implement) regular staff training. Staff must attend any training that the School requires them to.

Data retention, archiving and the destruction/erasure of records

The School will keep information about pupils (whether past, current or prospective), parents, staff and other third parties in accordance with the table of suggested retention periods set out in the Annex.

RIGHTS OF INDIVIDUALS

In addition to the School's responsibilities when processing personal data, individuals have certain specific rights, perhaps most significantly that of access to their personal data held by a data controller (i.e. the School). This is known as the 'subject access right' (or the right to make 'subject access requests'). Such a request must be dealt with promptly and does not need any formality, nor to refer to the correct legislation. If a staff member becomes aware of a subject access request (or indeed any communication from an individual about their personal data), they must tell the Bursar as soon as possible.

Individuals also have legal rights to:

- require us to correct the personal data we hold about them if it is inaccurate;
- request that we erase their personal data (in certain circumstances);
- request that we restrict our data processing activities (in certain circumstances);
- receive from us the personal data we hold about them for the purpose of transmitting it in a commonly used format to another data controller; and
- object, on grounds relating to their particular situation, to any of our particular processing activities where the individual feels this has a disproportionate impact on them; and



None of the above rights for individuals are unqualified and exceptions may well apply. However, certain rights are absolute and must be respected, specifically the right to:

- object to automated individual decision-making, including profiling (where a significant decision is made about the individual without human intervention);
- object to direct marketing; and
- withdraw one's consent where the School is relying on it for processing their personal data (without affecting the lawfulness of processing carried out prior to that point in reliance on consent, or of any processing carried out on some other legal basis other than consent).

In any event if a staff member receives a request from an individual who is purporting to exercise one or more of their data protection rights, they must tell the Bursar as soon as possible.

DATA SECURITY: ONLINE AND DIGITAL

The School must ensure that appropriate security measures are taken against unlawful or unauthorised processing of personal data, and against the accidental loss of, or damage to, personal data. As such, no member of staff is permitted to remove personal data from School premises, whether in paper or electronic form and wherever stored, without prior consent of the Head or Bursar. No member of staff should provide personal data of pupils or parents to third parties, including a volunteer or contractor, unless there is a lawful reason to do so. Where a worker is permitted to take data offsite on memory sticks or personal devices it will need to be encrypted. Use of personal email accounts or unencrypted personal devices for official School business is not permitted.

PROCESSING OF CREDIT CARD DATA

The School complies with the requirements of the PCI Data Security Standard (PCI DSS). Staff who are required to process credit card data must ensure that they are aware of and comply with the most up to date PCI DSS requirements. If you are unsure in this regard please seek further guidance from the Bursar.

SUMMARY

It is in everyone's interests to get data protection right and to think carefully about data protection issues: this means handling all personal information with which you come into contact fairly, lawfully, securely and responsibly.



A good rule of thumb here is to ask yourself questions such as:

- Would I be happy if my own personal information were being used (for example, shared with a third party) in the way I am proposing? Would I expect it?
- Would I wish to stand by how I have recorded this information in an email or official record if the person concerned was able to see it?
- What would be the consequences of my losing or misdirecting this personal data?

Data protection law is therefore best seen not as oppressive red tape, or a reason not to do something necessary or important, but a code of useful and sensible checks and balances to improve how to handle and record personal information and manage our relationships with people. This is an important part of the School's culture and all its staff and representatives need to be mindful of it.

ANNEX - TABLE OF SUGGESTED RETENTION PERIODS

Type of Record/Document	<u>Suggested</u> ¹ Retention Period
<u>SCHOOL-SPECIFIC RECORDS</u>	
Registration documents of School	Permanent (or until closure of the school)
Attendance Register	6 years from last date of entry, then archive
Minutes of Governors' meetings	6 years from date of meeting
Annual curriculum	From end of year: 3 years (or 1 year for other class records: eg marks/ timetables/ assignments)
<u>INDIVIDUAL PUPIL RECORDS</u>	<i>NB – this will generally be personal data</i>
Admissions: application forms, assessments, records of decisions	25 years from date of birth (or, if pupil not admitted, up to 7 years from that decision).
Examination results (external or internal)	7 years from pupil leaving school
Pupil file including: <ul style="list-style-type: none"> • Pupil reports • Pupil performance records • Pupil medical records 	ALL: 25 years from date of birth (subject where relevant to safeguarding considerations). Any material which may be relevant to potential claims should be kept for the lifetime of the pupil.
Special educational needs records (<i>to be risk assessed individually</i>)	Date of birth plus up to 35 years (allowing for special extensions to statutory limitation period)
<u>SAFEGUARDING</u>	
Policies and procedures	Keep a permanent record of historic policies
DBS disclosure certificates (if held)	<u>No longer than 6 months</u> from decision on recruitment, unless police specifically consulted. A record of the checks being made must be kept on SCR/personnel file but not the certificate itself.
Accident / Incident reporting	Keep on record for as long as any living victim may bring a claim (NB civil claim limitation periods can be set aside in cases of abuse). Ideally, files to be reviewed from time to time if resources allow and a suitably qualified person is available. ²

Child Protection files	<p>If a referral has been made / social care have been involved or child has been subject of a multi-agency plan – indefinitely.</p> <p>If low level concerns, with no multi-agency act – apply applicable school low-level concerns policy rationale (this may be 25 years from date of birth OR indefinitely).</p>
<p><u>EMAILS ON SERVER</u></p> <p>Staff emails</p>	<p>Staff mailboxes are removed and archived within 6 months of leaving the school. Archived emails are kept for 2-3 years and then deleted.</p>
<p><u>CORPORATE RECORDS</u> (where applicable)</p> <p>Certificates of Incorporation</p> <p>Minutes, Notes and Resolutions of Boards or Management Meetings</p> <p>Shareholder resolutions</p> <p>Register of Members/Shareholders</p> <p>Annual reports</p>	<p><i>eg where schools have trading arms</i></p> <p>Permanent (or until dissolution of the company)</p> <p>Minimum – 10 years</p> <p>Minimum – 10 years</p> <p>Permanent (minimum 10 years for ex-members/shareholders)</p> <p>Minimum – 6 years</p>
<p><u>ACCOUNTING RECORDS</u> ³</p> <p>Accounting records (<i>normally taken to mean records which enable a company's accurate financial position to be ascertained & which give a true and fair view of the company's financial state</i>)</p> <p>[NB <u>specific ambit to be advised by an accountancy expert</u></p> <p>Tax returns</p> <p>VAT returns</p> <p>Budget and internal financial reports</p>	<p>Minimum – 3 years for private UK companies (except where still necessary for tax returns).</p> <p>Minimum – 6 years for UK charities (and public companies) from the end of the financial year in which the transaction took place.</p> <p>Internationally: can be up to 20 years depending on local legal/accountancy requirements.</p> <p>Minimum – 6 years</p> <p>Minimum – 6 years</p> <p>Minimum – 3 years</p>

<p><u>CONTRACTS AND AGREEMENTS</u></p> <p>Signed or final/concluded agreements (<i>plus any signed or final/concluded variations or amendments</i>)</p> <p>Deeds (or contracts under seal)</p>	<p>Minimum – 7 years from completion of contractual obligations or term of agreement, whichever is the later</p> <p>Minimum – 13 years from completion of contractual obligation or term of agreement</p>
<p><u>INTELLECTUAL PROPERTY RECORDS</u></p> <p>Formal documents of title (trade mark or registered design certificates; patent or utility model certificates)</p> <p>Assignments of intellectual property to or from the school</p> <p>IP / IT agreements (including software licences and ancillary agreements eg maintenance; storage; development; coexistence agreements; consents)</p>	<p>Permanent (in the case of any right which can be permanently extended, eg trade marks); otherwise expiry of right plus minimum of 7 years.</p> <p>As above in relation to contracts (7 years) or, where applicable, deeds (13 years).</p> <p>Minimum – 7 years from completion of contractual obligation concerned or term of agreement</p>
<p><u>EMPLOYEE / PERSONNEL RECORDS</u></p> <p>Single Central Record of employees</p> <p>Contracts of employment</p> <p>Employee appraisals or reviews</p> <p>Staff personnel file</p> <p>Payroll, salary, maternity pay records</p> <p>Pension or other benefit schedule records</p> <p>Job application and interview/rejection records (unsuccessful applicants)</p> <p>Staff immigration records (Right to Work etc)</p> <p>Health records relating to employees</p> <p>Low level concerns records about adults</p>	<p><i>NB this records will contain personal data</i></p> <p>Keep a permanent record of all mandatory checks that have been undertaken (but do not keep DBS certificate itself: 6 months as above)</p> <p>7 years from effective date of end of contract</p> <p>Duration of employment plus minimum of 7 years</p> <p>As above, but <u>do not delete any information which may be relevant to historic safeguarding claims.</u></p> <p>Minimum – 6 years</p> <p>Possibly permanent (ie lifetimes of those involved), depending on nature of scheme</p> <p>Minimum 3 months but no more than 1 year (as CVs will rapidly be out of date)</p> <p>Minimum – 2 years from end of employment</p> <p>7 years from end of contract of employment</p> <p>Regular review recommended in order to justify longer-term retention as part of safeguarding files.</p>

<p><u>INSURANCE RECORDS</u></p> <p>Insurance policies (will vary – private, public, professional indemnity)</p> <p>Correspondence related to claims/ renewals/ notification re: insurance</p>	<p>Duration of policy (or as required by policy) plus a period for any run-off arrangement and coverage of insured risks: ideally, until it is possible to calculate that no living person could make a claim.</p> <p>Minimum – 7 years</p>
<p><u>ENVIRONMENTAL & HEALTH RECORDS</u></p> <p>Maintenance logs</p> <p>Accidents to children ⁴</p> <p>Accident at work records (staff) ⁴</p> <p>Staff use of hazardous substances ⁴</p> <p>Risk assessments (carried out in respect of above)⁴</p> <p>Art 30 GDPR records of processing activity, data breach records, impact assessment</p>	<p>10 years from date of last entry</p> <p>25 years from birth (unless safeguarding incident)</p> <p>Minimum – 4 years from date of accident, but review case-by-case where possible</p> <p>Minimum – 7 years from end of date of use</p> <p>7 years from completion of relevant project, incident, event or activity.</p> <p>No limit (as long as no personal data held), but must be kept up-to-date, accurate and relevant.</p>

FOOTNOTES:

- General basis of suggestion:
Some of these periods will be mandatory legal requirements (eg under the Companies Act 2006 or the Charities Act 2011), but in the majority of cases these decisions are up to the institution concerned. The suggestions will therefore be based on practical considerations for retention such as limitation periods for legal claims, and guidance from Courts, weighed against whether there is a reasonable argument in respect of data protection.
- The High Court has found that a retention period of 35 years was within the bracket of legitimate approaches. It also found that it would be disproportionate for most organisations to conduct regular reviews, but at the time of writing the ICO (Information Commissioner's Office) still expects to see a responsible assessment policy (eg every 6 years) in place.
- Retention period for tax purposes should always be made by reference to specific legal or accountancy advice.
- Be aware that latent injuries can take years to manifest, and the limitation period for claims reflects this: so keep a note of all procedures as they were at the time, and keep a record that they were followed. Also keep the relevant insurance documents.