

Data Protection & Freedom of Information Policy

Staff Member with Responsibility:	Rebecca Harris – Business Manager
Reviewed by:	Board of Trustees
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Next Review Due:	Spring 2019

Introduction

ElmWey Learning Trust collects and uses personal information about its current, past or prospective employees, applicants, students, parents and other individuals who come into contact with the trust and its academies. This information is gathered in order to enable the trust to provide education and other associated functions such as administering the admissions process, recording payroll information, recording academic progress, monitoring attendance and enabling references to be provided. In addition, there may be a legal requirement to collect and use information to ensure that the trust complies with its statutory obligations.

Multi Academy Trusts have a duty to be registered, as Data Controllers, with the Information Commissioner's Office (ICO) detailing the information held and its use. These details are then available on the ICO's website. Each Academy has a duty to issue a Fair Processing Notice to all pupils/parents; this summarises the information held on pupils, why it is held and the other parties to whom it may be passed on.

Purpose

This policy is intended to ensure that personal information is dealt with correctly and securely and in accordance with the Data Protection Act 1998, and other related legislation. It will apply to information regardless of the way it is collected, used, recorded, stored and destroyed, and irrespective of whether it is held in paper files or electronically.

All staff involved with the collection, processing and disclosure of personal data will be aware of their duties and responsibilities by adhering to these guidelines.

What is Personal Information?

Personal information or data is defined as data which relates to a living individual who can be identified from that data, or other information held.

Data Protection Principles

The Data Protection Act 1998 establishes eight enforceable principles that must be adhered to at all times:

1. Personal data shall be processed fairly and lawfully;
2. Personal data shall be obtained only for one or more specified and lawful purposes;
3. Personal data shall be adequate, relevant and not excessive;
4. Personal data shall be accurate and where necessary, kept up to date;
5. Personal data processed for any purpose shall not be kept for longer than is necessary for that purpose or those purposes;
6. Personal data shall be processed in accordance with the rights of data subjects under the Data Protection Act 1998;
7. Personal data shall be kept secure i.e. protected by an appropriate degree of security;
8. Personal data shall not be transferred to a country or territory outside the European Economic Area, unless that country or territory ensures an adequate level of data protection.

General Statement

The trust is committed to maintaining the above principles at all times. Therefore the school will:

- Inform individuals why the information is being collected when it is collected
- Inform individuals when their information is shared, and why and with whom it was shared
- Check the quality and the accuracy of the information it holds
- Ensure that information is not retained for longer than is necessary
- Ensure that when obsolete information is destroyed that it is done so appropriately and securely
- 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
- Share information with others only when it is legally appropriate to do so
- Set out procedures to ensure compliance with the duty to respond to requests for access to personal information, known as Subject Access Requests
- Ensure our staff are aware of and understand our policies and procedures

Complaints

Complaints will be dealt with in accordance with the trust's complaints policy. Complaints relating to information handling may be referred to the Information Commissioner (the statutory regulator).

Review

This policy will be reviewed as it is deemed appropriate, but no less frequently than every 2 years. The policy review will be undertaken by the Executive Principal, or nominated representative.

Contacts

If you have any enquires in relation to this policy, please contact the Business Manager who will also act as the contact point for any subject access requests.

Further advice and information is available from the Information Commissioner's Office, <https://ico.org.uk/> or telephone 0303 123 1113.

Appendix 1

ElmWey Learning Trust Procedures for requesting information from the Trust

Rights of access to information

There are three distinct rights of access to information held by the trust and its academies.

1. Under the Data Protection Act 1998 any individual has the right to make a request to access the personal information held about them.
2. The right of those entitled to have access to curricular and educational records as defined within the The Education (Pupil Information) (England) Regulations 2005.
3. The Freedom of Information Act 2000 provides public access to information held by public authorities

The procedures below relate to subject access requests made under the Data Protection Act 1998.

Procedures for responding to subject access requests made under the Data Protection Act 1998 Actioning a subject access request

1. Requests for information must be made in writing; which includes email, and be addressed to the Executive Principal. If the initial request does not clearly identify the information required, then further enquiries will be made.
2. The identity of the requestor must be established before the disclosure of any information, and where the request relates to a student checks should also be carried out regarding proof of relationship to the child. Evidence of identity can be established by requesting production of:
 - passport
 - driving licence
 - utility bills with the current address
 - Birth / Marriage certificate
 - P45/P60
 - Credit Card or Mortgage statement

This list is not exhaustive.
3. Any individual has the right of access to information held about them. However with children, this is dependent upon their capacity to understand (normally age 12 or above) and the nature of the request. The Executive Principal should discuss the request with the child and take their views into account when making a decision. A child with competency to understand can refuse to consent to the request for their records. Where the child is not deemed to be competent an individual with parental responsibility or guardian shall make the decision on behalf of the child.
4. The school may make a charge for the provision of information, dependent upon the following:
 - Should the information requested contain the educational record then the amount charged will be determined by the number of pages provided.
 - Should the information requested be personal information that does not include any information contained within educational records schools can charge up to £10 to provide it.
 - If the information requested is only the educational record viewing will be free, but a charge not exceeding the cost of copying the information can be made by the Executive Principal.
5. The response time for subject access requests, once officially received, is 40 days (**not working or school days but calendar days, irrespective of school holiday periods**). However the 40 days will not commence until after receipt of fees or clarification of information sought.

6. The Data Protection Act 1998 allows exemptions as to the provision of some information; **therefore all information will be reviewed prior to disclosure.**
7. Third party information is that which has been provided by another, such as the Police, Local Authority, Health Care professional or another school. Before disclosing third party information consent should normally be obtained. There is still a need to adhere to the 40 day statutory timescale.
8. Any information which may cause serious harm to the physical or mental health or emotional condition of the pupil or another should not be disclosed, nor should information that would reveal that the child is at risk of abuse, or information relating to court proceedings.
9. If there are concerns over the disclosure of information then additional advice should be sought.
10. Where redaction (information blacked out/removed) has taken place then a full copy of the information provided should be retained in order to establish, if a complaint is made, what was redacted and why.
11. Information disclosed should be clear, thus any codes or technical terms will need to be clarified and explained. If information contained within the disclosure is difficult to read or illegible, then it should be retyped.
12. Information can be provided at the school with a member of staff on hand to help and explain matters if requested, or provided at face to face handover. The views of the applicant should be taken into account when considering the method of delivery. If postal systems have to be used then registered/recorded mail must be used.

Appendix 2

Education (Student Information) (England) Regulations 2005

The Regulations

Under these regulations, Board of Trustee's must make a student's educational record available for the parent to see, free of charge, within 15 school days of the parent's written request for access to that record. The trust must also provide a copy of the record if requested to do so in writing within 15 academy days. The trust may charge a fee not exceeding the cost of supply. This fee will be set by the Executive Principal.

The meaning of parent is wider than the definition of who has parental responsibility. Parent means a person with parental responsibility or who has care of the child. Therefore, where a child is living with grandparents, the grandparents have a right to see the child's educational record even though they may not have parental responsibility which would allow them, for example, to change the child's name.

The difference between the Data Protection Act and the Student Information Regulations is that under the Student Information Regulations, parents have a right to access their child's data and the child cannot prevent this. These Regulations only cover information in the official student record.

Exemptions

The trust must not communicate anything to the parent which it could not communicate to the student themselves under the Data Protection Act. The trust will therefore consider other individuals' rights under the Data Protection Act which should not be infringed. For example, where a student's parents have divorced and the record consists of letters from the student's mother, these will be removed from the record before it is shared with/ copied for the father. The following information must not be disclosed:

- Information, the disclosure of which would be likely to cause serious harm to the physical or mental health or condition of the child or someone else
- Information as to whether the child is or has been subject to or may be at risk of child abuse, where the disclosure of that information would not be in the best interests of the child
- References supplied to potential employers of the child, any national body concerned with student admissions, another school, an institution of further or higher education, or any other place of education and training
- Information supplied by the school in a report to any juvenile court, where the rules of that court provide that the information or part of it may be withheld from the child
- Information concerning the child which also relates to another person who can be identified from that information or which identifies another person as the source of that information. Unless the person has consented to the disclosure, or it is reasonable in all the circumstances to disclose the information without his/her consent or the person is an employee of the LA or of the school. (This exemption does not apply where it is possible to edit the information requested so as to omit the name or any other identifying particulars of that other person)
- Information recorded by the pupil during an examination

Appendix 2

Freedom of Information Procedures

The Regulations

The Freedom of Information Act 2000 (FOIA) came fully into force on the 1st January 2005. The FOIA gives a right of public access to information held by public authorities. It is a legal right for any person(s) to ask for access to information held by the Trust and its Academies.

Although the FOIA presumes openness it recognises the need to protect sensitive information in certain circumstances and provides for exemptions. The FOIA is overseen by the Information Commissioner. The FOIA seeks to promote a culture of openness and accountability amongst public sector bodies, and therefore improve public understanding of how public bodies (which includes boards of trusts, academies and schools) carry out their duties, why they make the decisions they do, and how they spend public money.

ElmWey Learning Trust welcomes this culture of openness and accountability and is committed to providing freedom of information. The Trust has produced a publication scheme which sets out:

- The classes of information which we publish or intend to publish
- The manner in which the information will be published
- Whether the information is available free of charge or on payment

The scheme covers information already published and information which is to be published in the future.

Some information which we hold may not be made public, for example personal information. This publication scheme conforms to the model scheme for schools, colleges and academies approved by the Information Commissioner.

Requests for Information

Any request for information beyond that which is already provided by the Trust or its Academies (for example, through the Prospectus, or information about children to which parents already have access) should be made in writing (this includes email) to the Business Manager or Executive Principal.

Requests should state the applicants name and address for correspondence and describe details of the information being requested. If a request is very general, the enquirer maybe contacted for clarification of the request. The person making the request for information can also indicate how they would like to receive the information and where possible these wishes will be complied with. If it is not possible to do so an alternative will be offered.

The Business Manager or Executive Principal will respond to the request within 20 school days*. If a request is delayed for any reason (if further information is required/in order to identify and locate the information requested), the relevant person will keep the enquirer informed of the progress and where possible provide an expected date for a response. Should a request be refused under Section 36 of the FOIA 2000 the response will state the relevant exemption which has been applied or that the school does not hold the information, and will explain what public interest test has made if this applies. If the enquirer is still not satisfied with the outcome they can commence the complaints process to the ICO. Contact details for the ICO will be provided in the response.

*School days exclude weekends, training days and school holidays.