

**EMLC
Academy
Trust**

**Data Protection
Policy
2015/17**

‘Every child deserves to be the best they can be’

Scope: EMLC Academy Trust & Academies within the Trust	
Version:	Filename: EMLC Academy Trust Data Protection Policy
Approval: This policy was ratified by the EMLC Academy Trust on 28 th April 2015.	Next Review: 27 th April 2017 <i>This policy will be reviewed every 2 years by the Strategic Board.</i>
Owner: EMLC Academy Trust Strategic Board	Union Status: Not applicable

Policy type:	
Statutory	Replaces Academy's current policy

Guidance:

The Guide to Data Protection (Information Commissioner's Office, 2015)

Cloud (Educational Apps) Software Services and the Data Protection Act - Departmental advice for local authorities, school leaders, school staff and governing bodies (DfE, 2014)

DATA PROTECTION POLICY

1. Introduction

EMLC Academy Trust collects and uses personal information about staff, pupils, parents and other individuals who come into contact with the school. This information is gathered in order to enable it to provide education and other associated functions. In addition, there may be a legal requirement to collect and use information to ensure that the school complies with its statutory obligations.

Schools 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. Schools also have 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.

2. Purpose

This policy is intended to ensure that personal information is dealt with correctly and securely and in accordance with the Data Protection Act (DPA) 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.

3. Responsibilities

The Governors have overall responsibility for compliance with the DPA.

The Principal is responsible for ensuring compliance with the DPA and this policy within the day to day activities of the academy. The Principal is responsible for ensuring that appropriate training is provided for all staff.

When considering data protection alongside potential take-up of cloud solutions, schools should be aware of the various challenges and responsibilities in respect of personal data that still remain (or indeed are created by this type of processing). Whilst school and childrens' data may be stored and controlled in the cloud by a supplier, responsibility for all areas of data protection compliance still rests with the particular school.

All members of staff or contractors who hold or collect personal data are responsible for their own compliance with the DPA and must ensure that personal information is kept and processed in-line with the DPA. This compliance will be documented within the written contract between the school and the contractor; self-certification will not be acceptable.

Suppliers will be required to confirm their policy on advertisement-related data mining and advertisement-related profiling activities.

4. 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. The DPA does not apply to access to information about deceased individuals.

5. Data Protection Principles

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

- Shall be processed fairly and lawfully and in particular, shall not be processed unless specific conditions are met;
- 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;
- Shall be adequate, relevant and not excessive in relation to the purpose or purposes for which it is processed;
- Shall be accurate and where necessary, kept up to date;
- Shall not be kept for longer than is necessary for that purpose or those purposes;
- Shall be processed in accordance with the rights of data subjects under the Act;
- Shall be kept secure i.e. protected by an appropriate degree of security;
- 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.

6. General Statement

The academy is committed to maintaining the above principles at all times. Therefore the academy 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 (Appendix 1);
- Ensure our staff are aware of and understand our policies and procedures.

7. Complaints

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

8. 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 EMLC Academy Trust.

9. Contacts

If you have any enquires in relation to this policy, please contact the Principal 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, www.ico.gov.uk or telephone 01625 545745.

APPENDIX 1 – PROCEDURES FOR RESPONDING TO SUBJECT ACCESS REQUESTS MADE UNDER THE DATA PROTECTION ACT 1998

Rights of access to information

There are two distinct rights of access to information held by schools about pupils.

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 Education Pupil Information (Wales) Regulations 2004.

These procedures relate 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 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 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 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 academy 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 dependent upon 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 Principal.
5. The response time for subject access requests, once officially received, is 40 days **(not working or academy days but calendar days, irrespective of academy 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 academy 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.

Complaints

Complaints about the above procedures should be made to the Chairperson of the Governing Body who will decide whether it is appropriate for the complaint to be dealt with in accordance with the academy's complaint procedure.



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Complaints which are not appropriate to be dealt with through the academy's complaint procedure can be dealt with by the Information Commissioner. Contact details of both will be provided with the disclosure information.

Contacts

If you have any queries or concerns regarding these policies / procedures then please contact the Principal.

Further advice and information can be obtained from the Information Commissioner's Office www.ico.gov.uk