

# **TBAP Multi-Academy Trust**

The Data Protection Act 1998 (General Data Protection Regulation – GDPR) is the law that protects personal privacy and upholds individual's rights. It applies to anyone who handles or has access to people's personal data.

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

## **1. Scope of the Policy**

Personal information is any information that relates to a living individual who can be identified from the information. This includes any expression of opinion about an individual and intentions towards an individual. It also applies to personal data held visually in photographs or video clips (including CCTV) or as sound recordings.

TBAP collects a large amount of personal data every year including: staff records, names and addresses of those requesting prospectuses, examination marks, references as well as the many different types of research data used by the trust. In addition, it may be required by law to collect and use certain types of information to comply with statutory obligations of Local Authorities (LAs), government agencies and other bodies.

## **2. The Eight Principles**

The Act is based on eight data protection principles, or rules for 'good information handling'.

1. Data must be processed fairly and lawfully.
2. Personal data shall be obtained only for one or more specific and lawful purposes.
3. Personal data shall be adequate, relevant and not excessive in relation to the purpose(s) for which they are processed.
4. Personal data shall be accurate and where necessary kept up to date.

5. Personal data processed for any purpose(s) shall not be kept for longer than is necessary for that purpose.
6. Personal data shall be processed in accordance with the rights of data subjects under the 1998 Data Protection Act.
7. Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
8. Personal data shall not be transferred to a country outside the EEA, unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

### **3. Responsibilities**

#### 3.1 TBAP Trust must:

- Manage and process personal data properly
- Protect the individuals right to privacy
- Provide an individual with access to all personal data held on them.

3.2 TBAP has a legal responsibility to comply with the Act. TBAP Trust, as a corporate body, is named as the Data Controller under the Act.

Data Controllers are people or organisations who hold and use personal information. They decide how and why the information is used and have a responsibility to establish workplace practices and policies that are in line with the Act.

3.3 The school is required to 'notify' the Information Commissioner of the processing of personal data. This information will be included in a public register which is available on the Information Commissioner's website at the following link :

[http://www.ico.gov.uk/what\\_we\\_cover/promoting\\_data\\_privacy/keeping\\_the\\_register.aspx](http://www.ico.gov.uk/what_we_cover/promoting_data_privacy/keeping_the_register.aspx)

3.4 Every member of staff that holds personal information has to comply with the Act when managing that information.

3.5 The school is committed to maintaining the eight principles at all times. This means that the school will:

- inform Data Subjects why they need their personal information, how they will use it and with whom it may be shared. This is known as a Privacy Notice.
- check the quality and accuracy of the information held
- apply the records management policies and procedures to ensure that information is not held longer than is necessary
- ensure that when information is authorised for disposal it is done appropriately
- ensure appropriate security measures are in place to safeguard personal information whether that is held in paper files or on a computer system
- only share personal information with others when it is necessary and legally appropriate to do so
- set out clear procedures for responding to requests for access to personal information known as subject access in the Data Protection Act (**see appendix**)
- train all staff so that they are aware of their responsibilities and of the schools relevant policies and procedures

This policy will be updated as necessary to reflect best practice or amendments made to the Data Protection Act 1998.

Please follow this link to the ICO's website ([www.ico.gov.uk](http://www.ico.gov.uk)) which provides further detailed guidance on a range of topics including individuals' rights, exemptions from the Act, dealing with subject access requests, how to handle requests from third parties for personal data to be disclosed etc. In particular, you may find it helpful to read the Guide to Data Protection which is available from the website.

This policy was agreed June 2017 and will be reviewed annually by the TBAP Trust Board

Date of next review: March 2018

## Appendix 1 : Requests for Access to Personal Data

This section sets out the process that will be followed by TBAP Trust when responding to requests for access to personal data made by the pupil or their parent.

There are two distinct rights of access to information held by TBAP about pupils, parents and staff:

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) (England) Regulations 2005.

### Handling a subject access request for access to personal data:

Section 7 of the Data Protection Act gives individuals the right to access personal data relating to them, processed by a data controller. The right can be exercised by a person with parental responsibility on behalf of their child if the child is not able to understand the process.

For the purposes of a subject access request TBAP will apply the full legal definition of 'parental responsibility' when determining who can access a child's personal data.

Requests for information must be made in writing; which can include e-mail, and be addressed to the Executive Headteacher or the Chair of the TBAP Board. If the original request does not clearly identify the information required, then further enquiries should be made.

The identity of the requestor must be established before the disclosure of any information is made. Proof of the relationship with the child (if not known) must also be established as this will verify whether the individual making the request can lawfully exercise that right on behalf of the child. Below are some examples of documents which can be used to establish identity:

- Passport
- Driving licence
- Utility bill with current address
- Birth/marriage certificate
- P45/P60
- Credit card or mortgage statement.

It is widely accepted that children of primary school age do not have the maturity to understand and exercise their own rights and as such it is acceptable for those with Parental Responsibility to exercise these rights on their child's behalf. However, each request will be considered on its own merits and the circumstances surrounding the request and the child. A child with competency to understand can refuse to consent to a request for their personal

information made under the Data Protection Act. This position differs when the request is for access to the Education Record of the child (see below for more detail).

A charge of a maximum of £10 can be made for access to personal data that is not contained within an education record.

The response time for a subject access request is 40 calendar days (irrespective of school holiday periods). The 40 days will not commence until after receipt of fees, proof of identity and any necessary clarification of information is sought.

There are some exemptions available under the Data Protection Act which will mean that occasionally personal data will need to be redacted (information blacked out/removed) or withheld from the disclosure. All information will be reviewed prior to disclosure to ensure that the intended disclosure complies with the School's legal obligations.

Where the personal data also relates to another individual who can be identified from the information, the information will be redacted to remove the information that identifies the third party. If it is not possible to separate the information relating to the third party from the information relating to the subject of the request, consideration will be given to withholding the information from disclosure. These considerations can be complex and additional advice will be sought when necessary.

Any information which may cause serious harm to the physical or mental health or emotional condition of the pupil or another person will be withheld along with any information that would reveal that the child is at risk of abuse, or information relating to Court Proceedings.

Where redaction has taken place then a full copy of the information provided will be retained in order to maintain a record of what was redacted and why and a clear explanation of any redactions will be provided in the School's response to the request.

If there are concerns about the disclosure of information additional advice will be sought.

#### Handling a request for access to a curricular and educational record as defined within the Education (Pupil Information) (England) Regulations 2005.

A parent may make a request to access information contained within their child's education record, regardless of whether the child agrees to the disclosure of information to them. The right of access belongs to the parent in these cases. It is not a right being exercised by the parent on behalf of the child.

For the purpose of responding to an Educational Records request, the School will apply the definition of 'parent' contained within the Education Act 1996.

An "educational record" means<sup>1</sup> any record of information which-

Is processed by or on behalf of the governing body of, or a teacher at, any school maintained by a local education authority and any special school which is not so maintained.

Relates to any person who is or has been a pupil at any such school; and

Originated from or was supplied by or on behalf of the persons specified in paragraph (3)

Other than information which is processed by a teacher solely for the teacher's own use

The amount that can be charged for a copy of information contained in an education record will depend upon the number of pages provided. The charge made will be in accordance with the Schedule to the Data Protection (subject access) (Fees and Miscellaneous Provisions) Regulations 2000.

No charge will be made to view the education record.

The response time for requests made under the Education (Pupil Information) (England) Regulations 2005 is 15 school days (this does not include half terms or teacher training days).

An exemption from the obligation to comply with the request will be claimed where the disclosure of the information to the parent may cause serious harm to the physical or mental or emotional condition of the pupil or another person or if the disclosure of the information would reveal that the child is at risk of abuse.