



Ark Byron Primary Academy

DATA PROTECTION POLICY

(including system and information management security)



Date of last review:	April 2012	Review period:	2 years
Date of next review:	April 2014	Owner:	Governance Manager
Type of policy:	Statutory/Network	LGB or Board approval:	Board

Data Protection Policy

Introduction

ARK academies collect and use certain types of personal information about staff, pupils, parents and other individuals who come into contact with the academy in order provide education and associated functions. The academies may be required by law to collect and use certain types of information to comply with statutory obligations.

This policy is intended to ensure that personal information is dealt with properly 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 used, recorded and stored and whether it is held in paper files or electronically.

The eight data protection principles as laid down in the 1998 Data Protection Act are followed at all times:

- (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

ARK Schools is committed to maintaining those principles at all times. This means that each academy will:

- (1) Inform parents as to the purpose of collecting the information, as and when we ask for it
- (2) Check the quality and accuracy of the information we hold
- (3) Regularly review the records we hold to ensure that information is not held longer than is necessary
- (4) Ensure that when information is authorised for disposal it is done appropriately
- (5) Ensure appropriate security measures to safeguard personal information whether that is held in paper files or on our computer system

- (6) Share personal information with others only when it is necessary and legally appropriate to do so, ensuring that pupil names are replaced with unique pupil numbers in the records before the data is transferred
- (7) Set out clear procedures for responding to requests for access to personal information known as subject access in the Data Protection Act.

Personal Data

'Personal data' is information that relates to an individual. A sub-set of personal data is known as 'sensitive personal data'. Sensitive personal data is information relating to race or ethnic origin, political opinions, religious beliefs or other beliefs of a similar nature, trade union membership, physical or mental health, sexual life or the commission of any offence. Sensitive personal data is given special protection.

The academy does not intend to seek or hold sensitive personal data about staff or students except where the academy has been notified of the information, or it comes to the academy's attention via legitimate means (e.g. a grievance) or needs to be sought and held in compliance with a legal obligation or as a matter of good practice. Staff or students are under no obligation to disclose to the academy their race or ethnic origin, political or religious beliefs, whether or not they are a trade union member or details of their sexual life (save to the extent that details of marital status and/or parenthood needed for other purposes, e.g. pension entitlements, may be indicative of some aspects of sexual life).

The Data Protection Act applies to all computerised data and manual files if they come within the definition of a relevant filing system. Broadly speaking, this means that they are readily searchable and it is easy to locate personal data within them. A typical example is a personnel file structured by subject.

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

Use of Personal Data by ARK Schools

It is required under the DPA that the personal data held about pupils must only be used for specific purposes allowed by law. The academy holds personal data on pupils. The personal data includes contact details, assessment/examination results, attendance information, characteristics such as ethnic group, special educational needs, any relevant medical information, and photographs.

The data is used in order to support the education of the pupils, to monitor and report on their progress, to provide appropriate pastoral care, and to assess how well the academy as a whole is doing, together with any other uses normally associated with this provision in an independent school environment.

The academy may make use of limited personal data (such as contact details) relating to pupils, their parents or guardians for fundraising, marketing or promotional purposes and to maintain relationships with pupils of the academy.

In particular, the academy may:

- (a) transfer information to any association society or club set up for the purpose of maintaining contact with pupils or for fundraising, marketing or promotional purposes relating to the academy;
- (b) make use of photographs of pupils in academy publications and on the academy website;
- (c) disclose photographs and names of pupils to the media (or allow the media to take photographs of pupils) for promotional and congratulatory purposes where a pupil may be identified by name when the photograph is published e.g. where a pupil has won an award or has otherwise excelled;
- (d) make personal data, including sensitive personal data, available to staff for planning curricular or extra curricular activities;
- (e) keep the pupil's previous school informed of his/her academic progress and achievements e.g. sending a copy of the school reports for the pupil's first year at the academy to their previous school.

Photographs with names identifying pupils will not be published on the academy website without the express permission of the appropriate individual.

Any wish to limit or object to any use of personal data should be notified to the principal of the relevant academy in writing, which notice will be acknowledged by the academy in writing. Parents who do not want their child's photograph or image to appear in any of the academy's promotional material, or be otherwise published, must also make sure their child knows this.

Pupils, parents and guardians should be aware that where photographs or other image recordings are taken by family members or friends for personal use the DPA will not apply e.g. where a parent takes a photograph of their child and some friends taking part in the School sports day.

Dealing with a data protection request

Anybody who makes a request to see their file or their child's file or other personal data held on them is making a request under the Data Protection Act 1998. All information relating to the child including that held in day books, diaries and on electronic systems and email should be considered for disclosure.

A child or young person may appoint a person with parental responsibility for him or her to request access to their records. In such circumstances the academy must have written evidence that the child or young person has authorised the person with parental responsibility to make the application and the principal must be confident of the identity of the individual making the request and of the relationship with the child.

Access to records will be refused in instances where, for example, information sharing may place a child at risk of significant harm or jeopardise police investigations into any alleged offence(s).

Where a child or young person does not have sufficient understanding to make his or her own request, a person with parental responsibility can make a request on their behalf. The principal must, however, be satisfied that:

- (1) the child or young person lacks sufficient understanding; and
- (2) the request made on behalf of the child or young person is in their interests.

The academy will only grant pupils' access to their personal data if, in the relevant academy's reasonable belief, the pupil understands the nature of the request. It is generally accepted that, by the age of 12, a child can be expected to have sufficient maturity to understand the nature of the request.

Where a pupil seeks to raise concerns confidentially with a member of staff and expressly withholds their agreement to their personal data being disclosed to their parents or guardian, the academy will maintain confidentiality unless it has reasonable grounds to believe that the pupil does not fully understand the consequences of withholding their consent, or where the academy believes disclosure will be in the best interests of the pupil or other pupils.

A request under the Data Protection Act must be made in writing and the academy must respond within 40 days. The academy may ask for any further information reasonably required to locate the information.

An individual only has the automatic right to access information about themselves. The principal will have responsibility for ensuring the child's welfare is appropriately considered in deciding whether to comply with a request and will make use of exemptions under the Act as appropriate.

All files must be reviewed before any disclosure takes place. Access will not be granted before this review has taken place.

Where all the data in a document cannot be disclosed a permanent copy should be made and the data obscured retyped if this is more sensible. A copy of the full document and the altered document should be retained, with the reason why the document was altered.

If an individual discovers that information which the academy holds in relation to them is inaccurate or out of date, they should write to the principal setting out the inaccuracy, and the accurate position. The principal will arrange for information to be corrected where the academy is in agreement that the previous information was inaccurate. If the academy disagrees that the information is inaccurate, it will discuss the matter with the individual, but the academy has the right to maintain the original information. If the individual is unhappy with this outcome they have the right to instigate the grievance procedure.

Education records

Parents have a legal right to request their child's educational record under the Education (Pupil Information) (England) Regulations 2005.

The educational record consists of information that comes from a teacher or other employee, the pupil or their parents, including information about SEN and any individual education plan.

Information kept by a teacher solely for their own use does not form part of the official educational record.

Requests to see the educational record should be dealt with within 15 days and dealt with by the school Board of Governors.

Exemptions to Access by Data Subjects

Confidential references given, or to be given by the academy, are exempt from access. The academy will therefore treat as exempt any reference given by them for the purpose of the education, training or employment, or prospective education, training or employment of any pupil.

It should be noted that confidential references received from other parties may also be exempt from disclosure, under the common law of confidence. However, such a reference can be disclosed if such disclosure will not identify the source of the reference or where, notwithstanding this, the referee has given their consent, or where disclosure is reasonable in all the circumstances.

Examination scripts, i.e. information recorded by pupils during an examination, are exempt from disclosure. However, any comments recorded by the examiner in the margins of the script are not exempt even though they may not seem of much value without the script itself.

Examination marks do not fall within an exemption as such. However, the 40 day compliance period for responding to a request is extended in relation to examination marks to either five months from the day on which the academy received the request (if all the necessary conditions set out in paragraph 34 are fulfilled), or 40 days from the announcement of the examination results, whichever is the earlier.

Where a claim to legal professional privilege could be maintained in legal proceedings, the information is exempt from disclosure unless the privilege is waived.

Repeated Requests for Access to Records

Unless a reasonable period of time has lapsed between the compliance with one request and receipt of the next, the DPA allows for access to be refused when the applicant has made repeated requests for information already provided.

Security of Personal Data

ARK Schools will take reasonable steps to ensure that members of staff will only have access to personal data relating to pupils, their parents or guardians where it is necessary for them to do so. All staff will be made aware of this Policy and their duties under the DPA. ARK Schools will take all reasonable steps to ensure that all personal information is held securely and is not accessible to unauthorised persons.

Exemptions that Allow Disclosure of Personal Data to Third Parties

There are a number of exemptions in the DPA that allow disclosure of personal data to third parties, and the processing of personal data by the academy and its employees, which would otherwise be prohibited under the DPA. The majority of these exemptions only allow disclosure and processing of personal data where specific conditions are met, namely:

- (1) the data subjects have given their consent;
- (2) for the prevention or detection of crime;
- (3) for the assessment of any tax or duty;
- (4) where it is necessary to exercise a right or obligation conferred or imposed by law upon ARK Schools (other than an obligation imposed by contract);
- (5) for the purpose of, or in connection with, legal proceedings (including prospective legal proceedings);
- (6) for the purpose of obtaining legal advice; and
- (7) for research, historical and statistical purposes (so long as this neither supports decisions in relation to individuals, nor causes substantial damage or distress).

Disclosure of Personal Data to Third Parties

The academy may receive requests from third parties (i.e. those other than the data subject, the academy, and employees of the academy) to disclose personal data it holds about pupils, their parents or guardians. This information will not generally be disclosed unless one of the specific exemptions under the DPA which allow disclosure applies; or where necessary for the legitimate interests of the individual concerned or the academy.

The following are the most usual reasons that the academy may have for passing personal data to third parties:

- (1) to give a confidential reference relating to a pupil;
- (2) to publish the results of public examinations or other achievements of pupils of the academy;
- (3) to disclose details of a pupil's medical condition where it is in the pupil's interests to do so, for example for medical advice, insurance purposes or to organisers of school trips;
- (4) to provide information to another educational establishment to which a pupil is transferring;
- (5) to provide information to the Examination Authority as part of the examinations process; and
- (6) to provide the relevant Government Department concerned with national education. At the time of the writing of this Policy, the government Department concerned with national education is the Department for Education (DfE). The Examination Authority may also pass information to the DfE.

The DfE uses information about pupils for statistical purposes, to evaluate and develop education policy and to monitor the performance of the nation's education service as a whole. The statistics are used in such a way that individual pupils cannot be identified from them. On occasion the DfE may share the personal data with other Government departments or agencies strictly for statistical or research purposes.

Any wish to limit or object to any use of personal data by third parties, except as stated above, should be notified to the principal of the relevant academy in writing, or to the relevant authority (the contact details for which can be supplied by the academy).

Where the academy receives a disclosure request from a third party it will take reasonable steps to verify the identity of that third party before making any disclosure.

Charging

It is free for a parent or pupil to view their educational record

If a pupil or parent requests information which does not form part of the educational record, the maximum fee which can be charged is £10 and must not exceed the cost of supplying the information. This also applies to a staff member requesting to see their personnel or other relevant records.

Contacts

If anyone has any concerns or questions in relation to this policy they should contact foi@arkonline.org who will also act as the contact point for any requests under the Data Protection Act.

Further advice and information, including a full list of exempt information, is available from the Information Commission, www.informationcommissioner.gov.uk or 01625 545 700.

Freedom of information

From January 2011 academies became subject to the Freedom of Information Act. See the Freedom of Information Policy and ARK Schools Publication Scheme for further details.