Data Protection Policy

Review Date	Reviewer	Adopted	Implementation
May 2018	J Barker	April 2018	May 2018
September 2019	J Barker	August 2019	September 2019
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1. Aims

1.1 The North East Learning Trust aims to ensure that all personal data collected about staff, pupils, parents, members, trustees, governors, visitors and other individuals is collected, stored and processed in accordance with the General Data Protection Regulation (GDPR) (EU) 2016/679 and the Data Protection Act 2018 (DPA 2018).

1.2 This policy applies to all personal data, regardless of whether it is in paper or electronic format.

2. Legislation and guidance

2.1 This policy meets the requirements of the GDPR and the provisions of the DPA 2018. It is based on guidance published by the Information Commissioner's Office (ICO) on the GDPR.

2.2 It meets the requirements of the Protection of Freedoms Act 2012 when referring to our use of biometric data.

2.3 It also reflects the ICO's code of practice for the use of surveillance cameras and personal information.

2.4 This policy complies with regulation 5 of the Education (Pupil Information) (England) Regulations 2005, which gives parents the right of access to their child's educational record. In addition, this policy complies with our funding agreement and articles of association.

3. Definitions

Term	Definition
Personal data	Any information relating to an identified, or identifiable, living individual. This may include the individual's: • Name (including initials) • Identification number • Location data • Online identifier, such as a username It may also include factors specific to the individual's physical, physiological, genetic, mental, economic, cultural or social identity.

Special categories of personal data	Personal data which is more sensitive and so needs more protection, including information about an individual's: • Racial or ethnic origin • Political opinions • Religious or philosophical beliefs • Trade union membership • Genetics • Biometrics (such as fingerprints, retina and iris patterns), where used for identification purposes • Health – physical or mental • Sex life or sexual orientation
Processing	Anything done to personal data, such as collecting, recording, organising, structuring, storing, adapting, altering, retrieving, using, disseminating, erasing or destroying. Processing can be automated or manual.
Data subject	The identified or identifiable individual whose personal data is held or processed.
Data controller	A person or organisation that determines the purposes and the means of processing of personal data.
Data processor	A person or other body, other than an employee of the data controller, who processes personal data on behalf of the data controller.
Personal data breach	A breach of security leading to the accidental or unlawful destruction, loss,

	alteration, unauthorised disclosure of, or access to personal data.

4. The data controller

4.1 The Trust processes personal data relating to parents/carers, pupils, staff, trustees, members, governors, visitors and others and therefore is a data controller.
The Trust has paid the data protection fee.

5. Roles and responsibilities

5.1 This policy applies to **all staff** employed by the Trust and to external organisations or individuals working on our behalf. Staff who do not comply with this policy may face disciplinary action.

5.2 The Trust

The Trust has overall responsibility for ensuring that all Academies comply with all relevant data protection obligations.

5.3 Data protection officer

The data protection officer (DPO) is responsible for overseeing the implementation of this policy, monitoring our compliance with data protection law and developing related policies and guidelines where applicable.

The DPO will provide an annual report of their activities directly to the Trustees and, where relevant, report to the board their advice and recommendations on Academy data protection issues.

The DPO is also the first point of contact for individuals whose data the school processes, and for the ICO.

Full details of the DPO's responsibilities are set out in their job description.

Our DPO is Joanne Barker and is contactable via email: joanne.barker@nelt.co.uk.

5.4 Data Controller

The headteacher acts as the representative of the data controller on a day-to-day basis. Each Academy has a Data Protection Lead.

5.5 All staff

Staff are responsible for:

- Collecting, storing and processing any personal data in accordance with this policy
- Informing the school of any changes to their personal data, such as a change of address

- Contacting the DPO in the following circumstances:
    - With any questions about the operation of this policy, data protection law, retaining personal data or keeping personal data secure
    - If they have any concerns that this policy is not being followed
    - If they are unsure whether they have a lawful basis to use personal data in a particular way
    - If they need to rely on or capture consent, draft a privacy notice, deal with data protection rights invoked by an individual, or transfer personal data outside the European Economic Area
    - If there has been a data breach
    - Whenever they are engaging in a new activity that may affect the privacy rights of individuals
    - If they need help with any contracts or sharing personal data with third parties

6. Data protection principles

6.1 The GDPR is based on data protection principles that the Trust must comply with.

6.2 The principles say that personal data must be:

6.2.1 Processed lawfully, fairly and in a transparent manner;

6.2.2 Collected for specified, explicit and legitimate purposes;

6.2.3 Adequate, relevant and limited to what is necessary to fulfil the purposes for which it is processed;

6.2.4 Accurate and, where necessary, kept up to date;

6.2.5 Kept for no longer than is necessary for the purposes for which it is processed;

6.2.6 Processed in a way that ensures it is appropriately secure.

6.3 This policy sets out how the Trust aims to comply with these principles.

7. Collecting personal data

7.1 Lawfulness, fairness and transparency

We will only process personal data where we have one of 6 'lawful bases' (legal reasons) to do so under data protection law:

- The data needs to be processed so that the Trust and its Academies can **fulfil a contract** with the individual, or the individual has asked the Trust to take specific steps before entering into a contract.

- The data needs to be processed so that the Trust and its Academies can **comply with a legal obligation**.
- The data needs to be processed to ensure the **vital interests** of the individual or another person e.g. to protect someone's life.
- The data needs to be processed so that the Trust and its Academies, as a public authority, can perform a task **in the public interest** or exercise its official authority.
- The data needs to be processed for the **legitimate interests** of the Trust and its Academies (where the processing is not for any tasks the Trust performs as a public authority) or a third party, provided the individual's rights and freedoms are not overridden.
- The individual (or their parent/carer when appropriate in the case of a pupil) has freely given clear **consent.**

For special categories of personal data, we will also meet one of the special category conditions for processing which are set out in the GDPR and Data Protection Act 2018:

- The individual (or their parent/carer when appropriate in the case of a pupil) has given **explicit consent**.
- The data needs to be processed to perform or exercise obligations or rights in relation to **employment, social security or social protection law**.
- The data needs to be processed in the vital interests of the individual or another person, where the individual is physically or legally incapable of giving consent.
- The data has already been made **manifestly public** by the individual.
- The data needs to be processed for the establishment, exercise or defence of **legal claims**.
- The data needs to be processed for reasons of **substantial public interest** as defined in legislation.
- The data needs to be processed for **health or social care purposes**, and the processing is done by, or under the direction of, health or social care purposes, or by any other person obliged by confidentiality under law.
- The data needs to be processed for **public health reasons,** and the processing is done by, or under the direction of, a health professional or by any other person obliged to confidentiality under law.
- The data needs to be processed for **archiving purposes**, scientific or historical research purposes, or statistical purposes, and the processing is in the public interest.

For criminal offence data, we will meet both a lawful basis and a condition set out under data protection law. Conditions include:

- The individual (or their parent/carer) when appropriate in the case of a pupil) has given **consent**.

- The data needs to be processed to ensure the **vital interests** of the individual or another person, where the individual is physically or legally incapable of giving consent.
- The data has already been made **manifestly public** by the individual.
- The data needs to be processed for or in connection with legal proceedings, to obtain legal advice, or for the establishment, exercise or defence of **legal rights**.
- The data needs to be processed for reasons of **substantial public interest** as defined in legislation.

Whenever we first collect data directly from individuals, we will provide them with the relevant information required by data protection law.

We will always consider the fairness of our data processing. We will ensure we do not handle personal data in ways that individuals would not reasonably expect, or use personal data in ways which have unjustified adverse effects on them.

7.2 Limitation, minimisation and accuracy

We will only collect personal data for specified, explicit and legitimate reasons. We will explain these reasons to the individuals when we first collect their data.

If we want to use personal data for reasons other than those given when we first obtained it, we will inform the individuals concerned before we do so and seek consent where necessary.

Staff must only process personal data where it is necessary to do their jobs.

We will keep data accurate and, where necessary, up-to-date. Inaccurate data will be rectified or erased when appropriate.

In addition, when staff no longer need the personal data they hold, they must ensure it is deleted or anonymised. This will be done in accordance with the Trust's Data Retention Policy.

8. Sharing personal data

We will not normally share personal data with anyone else without consent, but there are certain circumstances where we may be required to do so. These include, but are not limited to, situations where:

- There is an issue with a pupil or parent/carer that puts the safety of our staff at risk.
- We need to liaise with other agencies – we will seek consent as necessary before doing this.
- Our suppliers or contractors need data to enable us to provide services to our staff and pupils – for example, IT companies. When doing this, we will:

- Only appoint suppliers or contractors which can provide sufficient guarantees that they comply with data protection law;
- Establish a contract with the supplier or contractor to ensure the fair and lawful processing of any personal data we share;
- Only share data that the supplier or contractor needs to carry out their service.

We will also share personal data with law enforcement and government bodies where we are legally required to do so.

We may also share personal data with emergency services and local authorities to help them to respond to an emergency that affects any of our pupils or staff.

Where we transfer personal data internationally, we will do so in accordance with data protection law.

9. Subject access requests and other rights of individuals

9.1 Subject access requests

Individuals have a right to make a 'subject access request' to gain access to personal information that the Trust holds about them. This includes:

- Confirmation that their personal data is being processed;
- Access to a copy of the data;
- The purposes of the data processing;
- The categories of personal data concerned;
- Who the data has been, or will be, shared with;
- How long the data will be stored for, or if this isn't possible, the criteria used to determine this period;
- Where relevant, the existence of the right to request rectification, erasure or restriction, or to object to such processing;
- The right to lodge a complaint with the ICO or another supervisory authority;
- The source of the data, if not the individual;
- Whether any automated decision-making is being applied to their data, and what the significance and consequences of this might be for the individual;
- The safeguards provided if the data is being transferred internationally.

Subject access requests can be submitted in any form, but we may be able to respond to requests more quickly if they are made in writing and include:

- Name of individual
- Correspondence address
- Contact number and email address
- Details of the information requested

If staff receive a subject access request, they must immediately forward it to the DPO.

9.2 Children and subject access requests
Personal data about a child belongs to that child and not the child's parents or carers. For a parent or carer to make a subject access request with respect to their child, the child must either be unable to understand their rights and the implications of a subject access request or have given their consent.

Children below the age of 12 are generally not regarded to be mature enough to understand their rights and the implications of a subject access request. Therefore, most subject access requests from parents or carers of pupils at our school may be granted without the express permission of the pupil. This is not a rule and a pupil's ability to understand their rights will always be judged on a case-by-case basis.

Children aged 12 and above are generally regarded to be mature enough to understand their rights and the implications of a subject access request. Therefore, most subject access requests from parents or carers of pupils in our secondary Academies may not be granted without the express permission of the pupil. This is not a rule and a pupil's ability to understand their rights will always be judged on a case-by-case basis.

9.3 Responding to subject access requests
When responding to requests, we:

- May ask the individual to provide 2 forms of identification;
- May contact the individual via phone to confirm the request was made;
- Will respond without delay and within 1 month of receipt of the request (or receipt of the additional information needed to confirm identity, where relevant);
- Will provide the information free of charge;
- May tell the individual we will comply within 3 months of receipt of the request, where a request is complex or numerous. We will inform the individual of this within 1 month and explain why the extension is necessary.

We will not disclose information if it:

- Might cause serious harm to the physical or mental health of the pupil or another individual;
- Would reveal that the child is being or has been abused, or is at risk of abuse, where the disclosure of that information would not be in the child's best interests;
- Would include another person's personal data that we cannot reasonably anonymise, and we do not have the other person's consent and it would be unreasonable to proceed without it;
- Is part of certain sensitive documents, such as those related to crime, immigration, legal proceedings or legal professional privilege, management forecasts, negotiations, confidential references, or exam scripts.

If the request is unfounded or excessive, we may refuse to act on it, or charge a reasonable fee which considers administrative costs. We will consider whether the request is repetitive in nature when making this decision.
When we refuse a request, we will tell the individual why, and tell them they have the right to complain to the ICO or they can seek to enforce their subject access rights through the courts.

9.4 Other data protection rights of the individual

In addition to the right to make a subject access request (see above) and to receive information when we are collecting their data about how we use and process it (see section 7), individuals also have the right to:

- Withdraw their consent to processing at any time;
- Ask us to rectify, erase or restrict processing of their personal data or object to the processing of it (in certain circumstances);
- Prevent use of their personal data for direct marketing;
- Challenge processing which has been justified based on public interest, official authority or legitimate interests;
- Challenge decisions based solely on automated decision making or profiling (i.e. making decisions or evaluating certain things about an individual based on their personal data with no human involvement);
- Be notified of a data breach (in certain circumstances);
- Make a complaint to the ICO;
- Ask for their personal data to be transferred to a third party in a structured, commonly used and machine-readable format (in certain circumstances)

Individuals should submit any request to exercise these rights to the DPO. If staff receive such a request, they must immediately forward it to the DPO.

10. Parental requests to see the educational record

There is no automatic parental right to access educational records in an Academy. The Trust has agreed to allow parents/carers to access their child's educational record. To request access please contact the Academy your child attends.

11. Biometric recognition systems

Where we use pupils' biometric data as part of an automated biometric recognition system (for example, pupils use finger prints to receive school dinners instead of paying with cash), we will comply with the requirements of the Protection of Freedoms Act 2012. In the context of the Protection of Freedoms Act 2012, a 'child' means a person under the age of 18.

Parents/carers will be notified before any biometric recognition system is put in place or before their child first takes part in it. The Academy will get written consent from at least one parent or carer before we take any biometric data from their child and first process it.

Parents/carers and pupils have the right to choose not to use the school's biometric system(s). We will provide alternative means of accessing the relevant services for those pupils.

Parents/carers and pupils can withdraw consent, at any time, and we will make sure that any relevant data already captured is deleted.

As required by law, if a pupil refuses to participate in, or continue to participate in, the processing of their biometric data, we will not process that data irrespective of any consent given by the pupil's parent(s)/carer(s).

Where staff members or other adults use the school's biometric system(s), we will also obtain their consent before they first take part in it and provide alternative means of accessing the relevant service if they object. Staff and other adults can also withdraw consent at any time and the school will delete any relevant data already captured.

12. CCTV

We use CCTV in various locations around the Academy sites to ensure they remain safe. We will adhere to the ICO's code of practice for the use of CCTV.

We do not need to ask individuals' permission to use CCTV, but we make it clear where individuals are being recorded. Security cameras are clearly visible and accompanied by prominent signs explaining that CCTV is in use.

Any enquiries about the CCTV system should be directed to the Facilities/Site Manager.

13. Photographs and videos

As part of our school activities, we may take photographs and record images of individuals within our school.

In our primary Academies we will obtain written consent from parents/carers for photographs and videos to be taken of their child for communication, marketing and promotional materials. We will clearly explain how the photograph and/or video will be used to both the parent/carer and pupil.

In our secondary Academies we will obtain written consent from parents/carers, or pupils aged 18 and over, for photographs and videos to be taken of pupils for communication, marketing and promotional materials.

Where we need parental consent, we will clearly explain how the photograph and/or video will be used to both the parent/carer and pupil. Where we do not need parental consent, we will clearly explain to the pupil how the photograph and/or video will be used.

Uses may include:

- Within school on notice boards and in school magazines, brochures, newsletters, etc.
- Outside of school by external agencies such as the school photographer, newspapers, campaigns
- Online on both the Trust and Academy websites or social media pages

Consent can be refused or withdrawn at any time. If consent is withdrawn, we will delete the photograph or video and not distribute it further.

When using photographs and videos in this way we will not accompany them with any other personal information about the child, to ensure they cannot be identified.

Any photographs/videos taken by parents/carers at school events for their own personal use are not covered by data protection legislation. However, we will ask that photos/videos with other pupils are not shared publicly on social media for safeguarding reasons, unless all the relevant parents/carers have agreed to this.

More information on our use of photographs and videos is available in our Safeguarding with Child Protection Policy, E-Safety Policy and Use of Photographic and Video Images of Pupils' Policy.

14. Data protection by design and default

We will put measures in place to show that we have integrated data protection into all our data processing activities, including:

- Appointing a suitably qualified DPO and ensuring they have the necessary resources to fulfil their duties and maintain their expert knowledge;
- Only processing personal data that is necessary for each specific purpose of processing and always in line with the data protection principles set out in relevant data protection law (see section 6);

- Completing privacy impact assessments where the Trust and the Academy's processing of personal data presents a substantial risk to rights and freedoms of individuals and when introducing new technologies (the DPO will advise on this process);
- Integrating data protection into internal documents including this policy, any related policies and privacy notices
- Regularly training members of staff on data protection law, this policy, any related policies and any other data protection matters; we will also keep a record of attendance;
- Regularly conducting reviews and audits to test our privacy measures and make sure we are compliant;
- Appropriate safeguards being put in place if we transfer any data outside of the EEA, where different data protection laws apply;
- Maintaining records of our processing activities, including:
    - For the benefit of data subjects, making available the name and contact details of our Academies and DPO and all information we are required to share about how we use and process their personal data (via our privacy notices);
    - For all personal data that we hold, maintaining an internal record of the type of data, data subject, how and why we are using the data, any third-party recipients, any transfers outside of the EEA and the safeguards for those retention periods and how we are keeping the data secure.

15. Data security and storage of records

We will protect personal data and keep it safe from unauthorised or unlawful access, alteration, processing or disclosure, and against accidental or unlawful loss, destruction or damage.

In particular:

- Paper-based records and portable electronic devices, such as laptops and hard drives that contain personal data are kept under lock and key when not in use
- Papers containing confidential personal data must not be left on office and classroom desks, on staffroom tables, pinned to notice/display boards or left anywhere else where there is general access
- Where personal information needs to be taken off site, staff must sign it in and out from the school office
- Passwords that are at least 8 characters long containing letters and numbers are used to access school computers, laptops and other electronic devices. Staff and pupils are reminded to change their passwords at regular intervals

- Encryption software is used to protect all portable devices and removable media, such as laptops and USB devices
- Staff, pupils, trustees, members and governors who store personal information on their personal devices are expected to follow the same security procedures as for Trust and Academy owned equipment. Further information is available in the Trust's E-Safety Policy and Acceptable Use Policy.
- Where we need to share personal data with a third party, we carry out due diligence and take reasonable steps to ensure it is stored securely and adequately protected (see section 8)

16. Disposal of records

Personal data that is no longer needed will be disposed of securely. Personal data that has become inaccurate or out of date will also be disposed of securely, where we cannot or do not need to rectify or update it.

For example, we will shred or incinerate paper-based records and overwrite or delete electronic files. We may also use a third party to safely dispose of records on the Trust and the Academies behalf. If we do so, we will require the third party to provide sufficient guarantees that it complies with data protection law.

17. Personal data breaches

The Trust and our Academies will make all reasonable endeavours to ensure that there are no personal data breaches.

In the unlikely event of a suspected data breach, we will follow the Trust's Personal Data Breach Procedure.

When appropriate, we will report the data breach to the ICO within 72 hours. Such breaches in a school context may include, but are not limited to:

- A non-anonymised dataset being published on the school website which shows the exam results of pupils eligible for the pupil premium;
- Safeguarding information being made available to an unauthorised person;
- The theft of a school laptop containing non-encrypted personal data about pupils.

18. Training

All staff, members, trustees and governors are provided with data protection training as part of their induction process.

Data protection will also form part of continuing professional development where changes to legislation, guidance or the school's processes make it necessary.

19. Monitoring arrangements

The DPO is responsible for monitoring and reviewing this policy.

This policy will be reviewed and updated every 2 years and approved by Trustees.

20. Links with other policies

This data protection policy is linked to our:

- Freedom of information publication scheme
- Safeguarding with Child Protection Policy
- Personal Data Breach Procedure
- Data Retention Policy
- E-Safety Policy
- Acceptable Use Policy
- Use of Photographic and Video Images of Pupils Policy
- CCTV Policy