



OAK MULTI ACADEMY TRUST

DATA PROTECTION POLICY

Version	1.0
Approved By	Trust Board
Issue Date	April 2018
Review Date	September 2020

REVIEW HISTORY

VERSION NO.	DATE OF CHANGE	CHANGE SUMMARY	PAGE NO.
1.0	Sep 2019	Converted to Trust template. John Walker named as DPO	8

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What is the GDPR?

General Data Protection Regulation (GDPR) is a European Directive that will be brought into UK law with an updated Data Protection Act (DPA) for May 2018. The current Data Protection Act 1998 will be repealed and replaced with the Data Protection Act 2018.

The GDPR and new DPA exist to look after individual's data. It is a series of safeguards for every individual to help ensure that information about individuals is treated with respect and is secure.

Who does it apply to?

GDPR applies to everyone, including academies. It is mandatory to comply with the GDPR and proposed provisions in the new DPA.

Oak Trust want to make sure information about pupils, parents, staff and volunteers is kept secure and within the law.

What is Data?

Data is any information that relates to a living person that identifies them. This can be by name, address or phone number for example. It also relates to details about that person, which can include opinions.

Some data is considered to be more sensitive and therefore more important to protect. This is information about racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, data concerning health or sex life and sexual orientation, genetic data, and biometric data where processed to uniquely identify a person.

Oak Trust often collect sensitive data for Department for Education and Local Authority requirements and pupil data may contain information about safeguarding, Special Education Needs or health needs. Information about other family members may also be on an academies file.

Every academy also has to publish a Privacy Notices on their website.

The key principles of the GDPR are lawfulness, transparency & fairness

Oak Trust must have a legitimate reason to hold the data, this is explained in the Privacy Notices on our websites. To comply with the law, personal data must be collected and used fairly, stored safely and not disclosed unlawfully.

Collect data for a specific purpose and use it for that purpose

Data cannot be used for a purpose that it was not originally collected for, or where notice has not been given about how data may be used after collection.

Limited collection

Data controllers should only collect the minimum amount of data needed for a particular task or reason.

Accuracy

Data collected should be accurate and steps should be taken to check and confirm accuracy. Oak trust does this when pupils join and checks are made on an annual basis.

If a Data Subject feels that the information held is inaccurate, should no longer be held by the Controller or should not be held by the Controller at all, a request can be made to change the information held.

Retention

Oak Trust uses the Information and Records Management Society: Retention Guidelines for Schools with regard to how long records are stored. This is available on request.

Security

Oak trust has processes in place to keep data safe including paper files, electronic records or other information detailed in a separate information security policy.

Who is a 'data subject'?

The data subject is someone whose personal details are kept on file. Some details are more sensitive than others.

Data subjects' rights

Individuals have a right:-

- to be informed
- of access to data stored about them or their children
- to rectification if there is an error on the data stored
- to erasure if there is no longer a need for academies to keep the data
- to restrict processing, i.e. to limit what is done with their data
- to object to data being shared or collected

There are other rights that relate to automated decision making and data portability that are not directly relevant in academies.

Data subjects' rights are also subject to child protection and safeguarding concerns, sharing information for the prevention and detection of crime. Academies also have legal and contractual obligations to share information with organizations' such as the Department for Education, Social Care, the Local Authority and HMRC amongst others. In some cases these obligations override individual rights.

Subject Access Requests (SARs)

The Data Subject can ask for copies of information that are held about them or about a pupil they have parental responsibility for. This is a SAR. It may be necessary to provide identification evidence to process a SAR.

SAR information has to be provided within a month of the request but this time can be extended if for example, the academy was closed for school holidays. The maximum extension is up to two months.

Clarification around the SAR may be requested to ensure only the information that is needed is provided as opposed to information that may not be relevant to your query.

In some cases, sharing of all the information requested may be prohibited if there are contractual, legal or regulatory reasons.

Information we hold that is provided by a third party cannot be shared without their consent.

Who is a 'data controller'?

The Oak Trust is the data controller. They have ultimate responsibility for how academies manage data. They delegate this to data processors to act on their behalf.

Who is a 'data processor'?

This is a person or organisation that uses, collects, accesses or amends the data that the controller has collected or authorised to be collected. It can be a member of staff, a third-party company, possibly a governor, a Trustee, a contractor or temporary employee. It can also be another organisation such as the police or the Local Authority.

Data controllers must make sure that data processors are as careful about the data as the controller themselves. The GDPR places additional obligations on organisations to make sure that Data Controllers require contractual agreements to ensure that this is the case.

Processing data

Oak Trust must have a reason to process the data about an individual. Our privacy notices set out how we use data. The GDPR has 6 conditions for lawful processing and any time we process data relating to an individual it is within one of those conditions.

The legal basis and authority for collecting and processing data in Oak Trust are:

- consent obtained from the data subject or their parent
- performance of a contract where the data subject is a party
- compliance with a legal obligation
- to protect the vital interests of the data subject or other associated person
- to carry out the processing that is in the public interest and/or official authority
- it is necessary for the legitimate interests of the data controller or third party
- in accordance with national law.

In addition, any special categories of personal data are processed on the grounds of:

- explicit consent from the data subject or about their child
- necessary to comply with employment rights or obligations
- protection of the vital interests of the data subject or associated person
- being necessary to comply with the legitimate activities of the academies
- existing personal data that has been made public by the data subject and is no longer confidential

- bringing or defending legal claims
- safeguarding
- national laws in terms of processing genetic, biometric or health data.

Data Sharing

Data sharing is done within the limits set by the GDPR. Guidance from the Department for Education, health, the police, local authorities and other specialist organisations may be used to determine whether data is shared.

Breaches & Non Compliance

If there is non-compliance with the policy or processes, or there is a data breach, Oak Trust has a separate policy and procedure to follow to take immediate action to remedy the situation as quickly as possible.

Consent

Consent is defined by the GDPR as “any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her”.

Oak Trust will seek consent from staff, volunteers, young people, parents and carers to collect and process their data. The reasons for requesting the data and how it will be used will be clear.

There are contractual, statutory and regulatory occasions when consent is not required. However, in most cases data will only be processed if explicit consent has been obtained.

Consent and Renewal

On the Oak Trust and individual academies websites are privacy notices that explain how data is collected and used.

Obtaining clear consent and ensuring that the consent remains in place is important as well as ensuring the accuracy of that information.

For Pupils and Parents/Carers

On arrival at an Oak Trust academy there is a request to complete a form giving next of kin details, emergency contact and other essential information. It will also ask for consent to use the information for other academy purposes, as set out on the data collection/consent form.

The contact and consent form is reviewed / updated on an annual basis or at the request of the data subject. It is important to keep all the data up to date.

Pupil Consent Procedure

Where processing relates to a child under 16 years old, Oak Trust will obtain the consent from a person who has parental responsibility for the child.

Pupil's may be asked to give consent or to be consulted about how their data is obtained, shared and used in certain situations.

Withdrawal of Consent

Consent can be withdrawn, subject to contractual, statutory or regulatory constraints. Where more than one person has the ability to provide or withdraw consent, Oak Trust will consider each situation on the merits and within the principles of GDPR and also child welfare, protection and safeguarding principles.

Associated Data Protection Policies

- CCTV
- Complaints
- Data Breaches
- Records Management Retention Guidelines

Data Protection Officer

The Data Protection Officer role is to:

- inform and advise the controller or the processor and the employees who carry out processing of their obligations under GDPR
- monitor compliance with the GDPR and DPA
- provide advice where requested about the data protection impact assessment and monitor its performance
- be the point of contact for Data Subjects if there are concerns about data protection
- cooperate with the supervisory authority and manage the breach procedure
- advise about training and CPD for the GDPR

Oak Trust DPO is Mr John Walker, Solicitor

Physical Security

In Oak Trust academies, every secure area has individuals who are responsible for ensuring that the space is securely maintained and controlled if unoccupied, i.e. locked. Offices and cupboards that contain personal data should be secured if the processor is not present.

Senior Leadership Team are responsible for authorising access to secure areas.

All Staff, contractors and third parties who have control over lockable areas must take due care to prevent data breaches.

Secure Disposal

When disposal of items is necessary a suitable process must be used. This is to secure the data, to provide a process that does not enable data to be shared in error, by malicious or criminal intent.

These processes, when undertaken by a third party are subject to contractual conditions to ensure GDPR and DPA compliance.

Complaints & the Information Commissioner Office (ICO)

Oak Trust Complaints Policy deals with complaints about Data protection issues.

There is a right to complain if you feel that data has been shared without consent or lawful authority.

We will always try to resolve issues on an informal basis, and then through our formal complaints procedure.

In the UK it is the ICO who has responsibility for safeguarding and enforcing the DPA obligations. Email:

casework@ico.org.uk Helpline: 0303 123 1113 web: www.ico.org.uk

Review

A review of the effectiveness of GDPR compliance and processes will be conducted by the Data Protection Officer every 12/24 months.