

Elmlea Schools' Trust

General Data Protection Regulations

Data Protection Policy

Document History Record of recent Policy changes

Date	Version	Author/Owner	Change	Origin of Change e.g. TU request, change in legislation
January 2020	1.0	Clare Sanders		Appointed of DPO iwest – recommended policy

Data protection Officer	iwest@bathnes.gov.uk Organisation : i-west, part of Bath and North East Somerset Council www.auditwest.co.uk
Trust Data Processing Lead	Executive Headteacher Director of Finance and Operations (on appointment)

Trustees 'Committee	Operations Committee
Policy Adopted	January 2020
Review cycle	Annually and when the following circumstances occur: Change of Data Protection Officer, Change of Legislation
Review date	Spring Term 2021

Data Protection Policy

1. Introduction

Elmlea Schools' Trust issues this policy to meet the requirements incumbent upon them under The Data Protection Act 2018 for the handling of personal data in the role of controller. If appropriate it can also be used for the control and release of data under the Freedom of Information Act 2000.

2. Scope

This policy applies to all employees of Elmlea Schools' Trust including contract, agency and temporary staff, volunteers and employees of partner organisations working for Elmlea Schools' Trust.

3. Legal Principles

In execution of this policy Elmlea Schools' Trust will comply with the data protection principles of the GDPR specified in Article 5. These are that personal data be:

- a) processed **lawfully, fairly and in a transparent manner** in relation to individuals;
- b) collected for **specified, explicit and legitimate purposes** and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes;
- c) **adequate, relevant and limited to what is necessary** in relation to the purposes for which they are processed;
- d) **accurate and, where necessary, kept up to date**; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay;
- e) kept in a form which permits **identification of data subjects for no longer than is necessary** for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes subject to implementation of the appropriate technical and organisational measures required by the law in order to safeguard the rights and freedoms of individuals;
- f) processed in a manner that **ensures appropriate security** of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

Elmlea Schools' Trust will adopt the appropriate technological and organisational measures to ensure compliance with the Data Protection Principles by carrying out the necessary procedures. The

concept of *data protection by design* will be a guiding principle in achieving the security of individual's data protection rights.

In all aspects of our work we will ensure that the rights of the data subject are protected by all practicable measures associated with the conduct of our work. The rights of the data subject as defined in law are;

- a) The Right to be informed in a clear, concise and transparent manner
- b) The Right of access
- c) The Right to rectification
- d) The Right to erasure
- e) The Right to restrict processing
- f) The Right to data portability
- g) The Right to object
- h) Rights related to automated decision making

4. Response Times in the Application of Legislation

In applying these regulations the Elmlea Schools' Trust is obliged to adhere to the following schedules. The procedures for subject access are detailed in [Appendix 1](#).

- a) Subject Access Requests (SARs) whereby an individual may request personal information held by Elmlea Schools' Trust about themselves or a nominated individual on their behalf must be responded to within 1 month,
- b) Where the above is found to be complex or numerous an extension may be granted allowing an additional 1 month however the subject must be informed within 1 month of their request,
- c) No fee shall be charged for the above except where it is found to be excessive, repetitive or manifestly unfounded in accordance with the law,

IF APPROPRIATE

- d) Freedom of Information Act Requests (FOIAs) whereby an individual may request information held by the school, but may not contain information relating to individuals, subject to certain exceptions, must be responded to as soon as possible within 20 working days,

e) No fee shall normally be charged for the above. However, in exceptional circumstances a fee may be charged,

f) Environmental Information Regulation requests (EIR) must be responded to as soon as possible but within 20 working days,

g) No fee shall be charged for the above.

5. Rights of the Data Subject

Where consent has been sought as the justification on processing, adequate measures must be in place to record consent and an appropriate method of removing the individual's personal data should consent be revoked must be adopted. In the vast majority of data processing activities a statutory power will be the reason for data processing.

Except where a statutory exemption applies or is in the public interest regarding health an individual who wishes to exercise their right to erasure shall have their personal data removed from all areas where applicable.

An individual when making a SAR is entitled to the following;

- a) confirmation that their data is being processed;
- b) access to their personal data;
- c) other supplementary information – this largely corresponds to the information that should be provided in a privacy notice.

6. Data Protection by Design

It is a statutory requirement that any activity involving a high risk to the data protection rights of the individual when processing personal data be assessed by the Data Protection Impact Assessment. Prior to the assumption of any such activity i-west must be consulted and an initial screening be conducted assessing risk.

Any activity involving the processing of personal data must be registered on the Register of Processing Activity and reviewed at the very least annually.

7. Data Retention

Except where a specified retention period has been defined in accordance with the purpose of the activity any period of retention is defined by Elmlea Schools' Trust record retention schedule. This is detailed in the Data Retention Policy and the subsequent schedule.

8. Complaints



Where an individual makes a complaint relating to the processing of their personal data or is unhappy with any response to an SAR, FOI or EIR (if appropriate) request they may request an internal review (IR) be conducted. Requests for an IR should be within 40 days of the original response. The responsibility for the conduct of an IR is with the school who will discuss with the appointed DPO (i-west). The trust can be contacted through the registered office:

Executive Headteacher, Elmlea Schools; Trust,
c/o Elmlea Junior School, The Dell, Westbury on Trym, Bristol BS9 3UF

If an individual is unhappy with the outcome of the IR they have the right to appeal to the Information Commissioner's Office (ICO) for assessment, the ICO is contactable at;

Wycliffe House, Water Lane, Wilmslow,
Cheshire, SK9 5AF.

9. Security Incidents

Wherever it is believed that a security incident has occurred or a 'near miss' has occurred, the school and the Data Protection Officer (i-west) must be informed immediately and the Security Incident Management (SIM) process must be carried out. The SIM is designed to manage, investigate, report and provide 'Learning from Experience' (LFE) to avoid future incidents occurring.

In any case an incident must be reported no later than 24 hours from identification, except where a malicious incident has occurred. The learning culture within the organisation seeks the avoidance of a blame culture and is key to allowing individuals the confidence to report genuine mistakes.

Further details on security incidents and data breaches can be found in the Data Breach Policy.

10. Monitoring and Discipline

Compliance with this policy shall be monitored through a review process. This will be agreed with the Data Protection Officer, and compliance will be reported to the board of governors.

Should it be found that this policy has not been complied with, or if an intentional breach of the policy has taken place, the organisation, in consultation with the Executive Headteacher and where appropriate the board of governors, shall have full authority to take the immediate steps considered necessary, including disciplinary action.

Appendix 1 – Subject Access Request Procedures

The organisation shall complete the following steps when processing a request for personal data (Subject Access Request or SAR) with advice from its Data Protection Officer (i-west).

1. Ascertain whether the requester has a right to access the information and capacity.
2. Obtain proof of identity (once this step has been completed the clock can start)
3. Engage with the requester if the request is too broad or needs clarifying
4. Make a judgement on whether the request is complex and therefore can be extended to a 2 month response time
5. Acknowledge the requester providing them with
 - a. the response time – 1 month (as standard), 2 months if complex; and
 - b. details of any costs – Free for standard requests, or you can charge if the request is manifestly unfounded or excessive, or further copies of the same information is required, the fee must be in line with the administrative cost
6. Use its Record of Processing Activities and/or data map to identify data sources and where they are held
7. Collect the data (the organisation may use its IT support to pull together data sources – for access to emails the organisation can do so as long as it has told staff it will do so in its policies)
8. If (6) identifies third parties who process it, then engage with them to release the data to Elmlea Schools' Trust.
9. Review the identified data for exemptions and redactions in line with the [ICO's Code of Practice on Subject Access](#) and in consultation with the organisation's Data Protection Officer (i-west).
10. Create the final bundle and check to ensure all redactions have been applied
11. Submit the final bundle to the requester in a secure manner and in the format they have requested.