

The Auriga Academy Trust

Special Category Data Policy

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1 Introduction

As part of the Trust's statutory and corporate functions, it processes special category data and criminal offence data in accordance with the requirements of Article 9 and 10 of the General Data Protection Regulation ('UK GDPR') and Schedule 1 of the Data Protection Act 2018 ('DPA 2018').

Special category data is defined at Article 9 of the UK GDPR as personal data revealing:

- Racial or ethnic origin
- Political opinions
- Religious or philosophical beliefs
- Trade union membership
- Genetic data
- Biometric data (where used for identification purposes)
- Data concerning physical or mental health, or
- Data concerning a natural person's sex life or sexual orientation.

In addition, the Trust and its constituent schools treat Pupil Premium/Free School Meal Status as if it is Special Category data as recommended by the Department of Education as the Trust recognises that data subjects expect this information to be particularly private.

Article 10 of the UK GDPR covers processing in relation to criminal convictions and offences. This includes personal data relating to the alleged commission of offences or proceedings for an offence committed or alleged to have been committed, including sentencing. This is collectively referred to as 'criminal offence data'.

Some of the legal conditions for processing special category and criminal offence data requires the Trust / school to have an Appropriate Policy Document ('APD') in place, setting out and explaining Trust / school procedures for securing compliance with the data protection principles and to have policies regarding the retention and erasure of such personal data.

This document satisfies that requirements—of Schedule 1, Part 4 of the DPA 2018 and explains the Trust's processing of special category and criminal offence data.

In addition, it provides some further information about the Trust / school processing of special category and criminal offence data where a policy document isn't a specific requirement. The information supplements the Trust's privacy notices (which are available on the Trust website).

2 Conditions for processing special category and criminal offence data

2.1 Processing special categories of personal data

The Trust / school processes special categories of personal data under the following UK GDPR Articles:

- Article 9(2)(a) – the data subject has given explicit consent to the processing (when none of the other lawful basis apply.)

When the Trust / school seeks consent, the Trust / school makes sure that the consent is unambiguous and for one or more specified purposes, is given by an affirmative action and is recorded as the condition for processing. Examples of Trust / school processing that require consent include pupil and staff dietary requirements or consent for pupil pastoral support.

- Article 9(2)(b) – processing is necessary in the field of employment law.

An example of this processing includes staff sickness absences.

- Article 9(2)(c) - processing is necessary to protect the vital interests of the data subject or of another natural person.

An example of this would be using health information about a member of staff in a medical emergency.

- Article 9(2)(f) – for the establishment, exercise or defence of legal claims.

Examples of Trust / school processing include processing relating to any employment tribunal or other litigation.

- Article 9(2)(g) - reasons of substantial public interest.

The Trust / school is a public authority. The Trust's role includes the education and safeguarding of pupils. The processing of personal data in this context is necessary for the carrying out of the Trust / school role. An example of processing includes processing pupil health information in order to ensure pupils receive appropriate education taking into account any additional health needs they have.

- Article 9(2)(h)- necessary to assess the working capacity of the employee.

An example of this would be the provision of occupational health services to Trust employees.

- Article 9(2)(j) – for archiving purposes in the public interest.

An example of this is that Trust / schools maintain a school archive of photos and significant school events for historical purposes.

2.2 Processing criminal offence data

The Trust process criminal offence data under Article 10 of the GDPR. Examples of the processing of criminal offence data include pre-employment checks and declarations by an employee in line with contractual obligations or being informed about a parent's criminal convictions where that may affect the safeguarding or wellbeing of relevant pupils. Schools also process CCTV data which may include footage of alleged criminal offence data. Schools process this under the Data Protection Act 2018 Schedule 1, Part 2 subsection 10 and Part 3 subsection 36 (substantial public interest in relation to any criminal category data).

3 Processing which requires an Appropriate Policy Document (“APD”)

Almost all processing of special categories of data for purposes of the substantial public interest, plus processing of special categories of data for purposes of employment law, social security law and social protection law, require an APD.

This document is the APD for the Trust and its constituent schools. It demonstrates that the processing of special category and criminal offence data based on these specific conditions is compliant with the requirements of the UK GDPR data protection principles. It also outlines the Trust's retention policies with respect to this data.

3.1 Description of data processed

The Trust / schools process the special category data about pupils that is necessary to fulfil the Trust / schools obligations as a school. This includes information about their health and wellbeing status and ethnicity. Further information about this processing can be found in the Trust pupil and parent privacy notice.

The Trust processes the special category data about its employees, trustees, governors and volunteers that is necessary to fulfil its obligations as an employer. This includes information about their health and wellbeing, ethnicity, sexual orientation and their membership of any trade union. Further information about this processing can be found in the Trust's workforce and governor privacy notices.

The Trust also maintains a record of its processing activities in accordance with Article 30 of the GDPR.

3.2 Schedule 1 conditions for processing

The Trust/school processes Special Category data for the following purposes as outlined in DPA 2018 Schedule 1:

- Paragraph 1 employment law, social security law and social protection law
- Paragraph 2 health or social care purposes
- Paragraph 3 public health

- Paragraph 4 archiving purposes in the public interest
- Paragraph 6 statutory purposes
- Paragraph 8 equality of opportunity or treatment
- Paragraph 10 preventing or detecting unlawful acts
- Paragraph 12 regulatory requirements relating to unlawful acts
- Paragraph 17 counselling
- Paragraph 18 safeguarding of children and of individuals at risk.

The Trust processes criminal offence data for the following purposes in Schedule 1:

- Paragraph 11 employment law, social security law and social protection law
- Paragraph 6 statutory purposes
- Paragraph 18 safeguarding of children and individuals at risk
- Paragraph 10 and paragraph 36 where criminal offences are captured by CCTV footage.

3.3 Procedures for ensuring compliance with the principles

The Trust has put in place appropriate technical and organisational measures to meet the requirements of accountability. These include:

- The appointment of a Data Protection Officer who reports directly to the Trust's highest management level.
- Taking a 'data protection by design and default' approach to Trust / school activities.
- Maintaining documentation of data processing activities.
- Adopting and implementing data protection policies and ensuring the Trust and schools have appropriate written contracts in place with their data processors.
- Implementing appropriate security measures in relation to the personal data processed.
- Carrying out data protection impact assessments for Trust and school high-risk processing.

The Trust regularly reviews its accountability measures and updates or amends them when required.

Principle (a): lawfulness, fairness and transparency

Processing personal data must be lawful, fair and transparent. It is only lawful if and to the extent it is based on law and either the data subject has given their consent for the processing, or the processing meets at least one of the conditions in Schedule 1 of the DPA 2018.

The Trust / school provide clear and transparent information about why it processes personal data including its lawful basis for processing in Trust privacy notices, in the Trust Data Protection Policy and this policy document.

Trust / school processing for purposes of substantial public interest is necessary for the exercise of the functions conferred on the Trust / school by the legislation referred to in the Trust's main Data Protection Policy document.

The Trust processing for the purposes of employment relates to its obligations as an employer.

Principle (b): purpose limitation

The Trust / schools are authorised by law to process personal data for these purposes. The Trust / school may process personal data collected for any one of these purposes (whether by the Trust / school or another controller), for any of the other purposes here, providing the processing is necessary and proportionate to that purpose.

If the Trust / school is sharing data with another controller, the Trust / school will document that they are authorised by law to process the data for their purpose.

The Trust / school will not process personal data for purposes incompatible with the original purpose it was collected for.

Principle (c): data minimisation

The Trust / school collects personal data necessary for the relevant purposes and ensures it is not excessive. The information processed is necessary for and proportionate to Trust / school purposes. Where personal data is provided to the Trust / school or obtained by the Trust / school, but is not relevant to its stated purposes, it will be erased.

Principle (d): accuracy

Where the Trust / school becomes aware that personal data is inaccurate or out of date, having regard to the purpose for which it is being processed, the Trust / school will take every reasonable step to ensure that data is erased or rectified without delay. If the Trust / school decides not to either erase or rectify it, for example because the lawful basis relied on to process the data means these rights don't apply, the Trust / school will document its decision.

Principle (e): storage limitation

All special category data processed by the Trust / school for the purpose of employment or substantial public interest is, unless retained longer for archiving purposes, retained for the periods set out in the Trust's Retention Schedule. The Trust determines the retention period for this data based on its legal obligations and the necessity of its retention for business needs. The Trust's retention schedule is reviewed regularly and updated when necessary.

Principle (f): integrity and confidentiality (security)

Electronic information is processed within the Trust's and each school's secure network. Hard copy information is processed in line with Trust security procedures. Electronic systems and physical storage have appropriate access controls applied. The systems used to process personal data allow the Trust / school to erase or update personal data at any point in time where appropriate.

11.4 APD review date

This policy will be retained for the duration of the Trust's processing and for a minimum of 6 months after processing ceases. This policy will be reviewed in line with the Trust's Data Protection Policy or as necessary.