



## Policy D.3

### Data Protection and GDPR

(incorporating guidelines relating to General Data Protection Regulations)

Policy Number	D.3	Review Cycle	Twice yearly or as required	Author	
<b>Lead Governor</b>		<b>Review date(s)</b>	July 2019	CEO / Admin	
Signed: _____	Date: _____		July 2021	CEO / Admin	
Ratification at next Board meeting			July 2023		
<b>Proprietor / CEO</b>			July 2025		
Signed: _____	Date: _____		July 2027		

## **Introduction**

APTCOO collects and uses personal information about staff, learners, families and other individuals who come into contact with the school. This information is gathered in order to enable it to provide education and other associated functions. In addition, there may be a legal requirement to collect and use information to ensure that the school complies with its statutory obligations.

## **Purpose**

This policy is intended to ensure that personal information is dealt with correctly and securely and in accordance with the Data Protection Act 2018, and other related legislation. It will apply to information regardless of the way it is collected, used, recorded, stored and destroyed, and irrespective of whether it is held in paper files or electronically.

All staff involved with the collection, processing and disclosure of personal data will be aware of their duties and responsibilities by adhering to these guidelines. Regular training updates will be available to staff to inform them of changes to legislation and to serve as a reminder of the importance of adhering to the General Data Protection Regulations.

## **What is Personal Information?**

Personal information or data is defined as data which relates to a living individual who can be identified from that data, or other information held.

## **Consent**

The General Data Protection Regulations set a high standard for consent. Consent means offering people genuine choice and control over how you use their data. When consent is used properly it helps to build trust between an organization and its clients or service users. We obtain specific consent from our service users, parents & carers to retain contact information within our records, electronically and hard copy, for the duration of the time they access our services.

## **Data Protection Principles**

The Data Protection Act 2018 establishes eight enforceable principles that must be adhered to at all times:

1. Personal data shall be processed fairly and lawfully
2. Personal data shall be obtained only for one or more specified and lawful purposes
3. Personal data shall be adequate, relevant and not excessive
4. Personal data shall be accurate and where necessary, kept up to date
5. Personal data processed for any purpose shall not be kept for longer than is necessary for that purpose or those purposes
6. Personal data shall be processed in accordance with the rights of data subjects under the Data Protection Act 2018
7. Personal data shall be kept secure i.e. protected by an appropriate degree of security
8. Personal data shall not be transferred to a country or territory outside the European Economic Area, unless that country or territory ensures an adequate level of data protection

## **General Data Protection Regulations May 2018 (GDPR)**

In May 2018 the Data Protection Principles were replaced by the General Data Protection Regulations. Many of the GDPR's main concepts and principles are much the same as those in the current Data Protection Act (DPA). The GDPR places greater emphasis on the documentation that data controllers must keep to demonstrate their accountability.

GDPR will condense the Data Protection Principles into six areas, which are referred to as the Privacy Principles. They are:

1. You must have a lawful reason for collecting personal data and must do it in a fair and transparent way
2. You must only use the data for the reason it is initially obtained
3. You must not collect any more data than is necessary
4. It has to be accurate and there must be mechanisms in place to keep it up to date
5. You cannot keep it any longer than needed
6. You must protect the personal data

These privacy principles are supported by a further principle – accountability. This means that we must not only do the right thing with data but must also show that all the correct measures are in place to demonstrate how compliance is achieved.

### **General Statement**

APTCOO is committed to maintaining the above principles at all times. Therefore, we will:

- Inform individuals why the information is being collected when it is collected and seek consent to do so
- Inform individuals when their information is shared, and why and with whom it was shared
- Check the quality and the accuracy of the information it holds
- Ensure that information is not retained for longer than is necessary
- Ensure that when obsolete information is destroyed that it is done so appropriately and securely
- Ensure that clear and robust safeguards are in place to protect personal information from loss, theft and unauthorised disclosure.
- Share information with others only when it is legally appropriate to do so
- Set out procedures to ensure compliance with the duty to respond to requests for access to personal information, known as Subject Access Requests
- Ensure our staff are aware of and understand our policies and procedures
- Be transparent and honest with regards to breaches of Data Protection, reporting in a timely manner to the Information Commissioner's Office (ICO).

### **Complaints**

Complaints will be dealt with in accordance with the school's complaints policy. Complaints relating to information handling may be referred to the Information Commissioner (the statutory regulator).

### **Review**

This policy will be reviewed as it is deemed appropriate, but no less frequently than every 3 years. The policy review will be undertaken by the Chief Executive Officer, or nominated representative.

### **Contacts**

If you have any enquires in relation to this policy, please contact **Chief Executive Officer** who will also act as the contact point for any subject access requests.

Further advice and information is available from the Information Commissioner's Office, [www.ico.org.uk](http://www.ico.org.uk) or telephone 0303 123 1113.

## Appendix 1

### SUBJECT ACCESS REQUESTS

Procedures for responding to subject access requests made under the Data Protection Act 2018

#### Rights of access to information

There are two distinct rights of access to information held by schools about learners.

1. Under the Data Protection Act 2018 and now under General Data Protection Regulation an individual has the right to make a request to access the personal information held about them.
2. The right of those entitled to have access to curricular and educational records as defined within the Education Pupil Information (Wales) Regulations 2004.

These procedures relate to subject access requests made under the Data Protection Act 1998.

#### Actioning a subject access request

1. Requests for information must be made in writing; which includes email and be addressed to the Chief Executive Officer. If the initial request does not clearly identify the information required, then further enquiries will be made.
2. The identity of the requestor must be established before the disclosure of any information, and checks should also be carried out regarding proof of relationship to the child. Evidence of identity can be established by requesting production of:
  - passport
  - driving license
  - utility bills with the current address
  - Birth / Marriage certificate
  - P45/P60
  - Credit Card or Mortgage statement

*This list is not exhaustive*

3. Any individual has the right of access to information held about them. However, with children, this is dependent upon their capacity to understand (normally age 12 or above) and the nature of the request. The Chief Executive Officer should discuss the request with the child and take their views into account when making a decision. A child with competency to understand can refuse to consent to the request for their records. Where the child is not deemed to be competent an individual with parental responsibility or guardian shall make the decision on behalf of the child.

#### 4. GDPR changes to SAR requests

Whilst the ICO Code does not contain updates that reflect the changes coming into force through the General Data Protection Regulation next May, the right to make an SAR will be very similar, with the key changes including:

- Abolition of the £10 administration fee (although “reasonable” fees can be charged for manifestly unfounded or excessive request).

- Reducing of the timescale for responding to 30 calendar days rather than the current 40 days.
- Higher fines for failing to comply. The maximum fine that can be issued by the ICO is 4% of global turnover or 20 million euros, whichever is higher, and individuals also retain the right to pursue a claim in court.

## 5. The Dos and Don'ts

- Don't ignore. This can lead to financial penalties, enforcement action, legal proceedings and reputational damage.
- Don't delay. Dealing with an SAR is time consuming so engage the appropriate personnel and start locating the information as soon as you receive an SAR.
- Liaise with the individual if you need further information to verify their identity or to enable you to locate the requested information.
- Locate the personal data. Consider electronic systems and manual filing systems, back up data and any third-party data processors (e.g. payroll and benefit providers) who may also hold relevant personal data.
- Redact information relating to other individuals unless you have their consent, or it is reasonable in all the circumstances to provide that information.
- Consider whether an exemption applies where the data would be exempt from disclosure.
- Respond to the request within the timeframe, provide copies of the relevant data and explain if and why you are relying on any of the exemptions.

6. Third party information is that which has been provided by another, such as the Police, Local Authority, Health Care professional or another school. Before disclosing third party information consent should normally be obtained. The 30 day time frame must continue to be adhered to.

7. Any information which may cause serious harm to the physical or mental health or emotional condition of the child/young person or another should not be disclosed, nor should information that would reveal that the child/young person is at risk of abuse, or information relating to court proceedings.

8. If there are concerns over the disclosure of information then additional advice should be sought.

9. Where redaction (information blacked out/removed) has taken place then a full copy of the information provided should be retained to establish if a complaint is made what was redacted and why.

10. Information disclosed should be clear, thus any codes or technical terms will need to be clarified and explained. If information contained within the disclosure is difficult to read or illegible, then it should be retyped.

11. Information can be provided at APTCOO with a member of staff on hand to help and explain matters if requested or provided at face to face handover. The views of the applicant should be ascertained when considering the method of delivery. If postal systems are used mail must be either registered or recorded delivery.

## Complaints

Complaints about the above procedures should be made initially to the Chief Executive Officer who will decide, in consultation with the Chairperson of the Board of Trustees, whether it is appropriate for the complaint to be dealt with in accordance with APTCOO's complaint procedure.

Complaints which are not appropriate to be dealt with through the APTCOO's complaint procedure can be dealt with by the Information Commissioner.

**Contacts**

If you have any queries or concerns regarding this policy please contact The Chief Executive Officer.

Further advice and information can be obtained from the Information Commissioner's Office, [www.ico.gov.uk](http://www.ico.gov.uk), Tel: 0303 123 1113.

Policy/ procedure for: D.3 Data Protection and GDPR

**RECORD OF CHANGES**

DATE	AUTHOR	PROCEDURE	DETAILS OF CHANGE
August 2017	Michelle Godfrey	Amendment to information	Website address for ICO updated (Page 6)
August 2017	Michelle Godfrey	Amendment to information	Telephone number for ICO updated (Page 6)
May 2018	Michelle Godfrey	Additional information relating to GDPR	Additional guidance for GDPR principles and changes to SAR request timeframes