

## Data Protection Policy

Date	Review Date	BoM	Co-Author
Sept 2019	May 2020	Peter Mepsted	Ellie Drake

### **Terms of Reference**

**Data:** Information that is stored electronically, on a computer, or in certain paper-based filing systems.

**Data Subjects:** For the purpose of this policy include all living individuals about whom we hold personal data. This includes pupils, staff, volunteers, contractors, donors and other individuals. A data subject need not be a UK national or resident. All data subjects have legal rights in relation to their personal information.

**Personal Data:** Any information relating to an identified or identifiable natural person (a data subject); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

**Data Controllers:** The people who or organisations that determine the purposes for which, and the manner in which, any personal data is processed. They are responsible for establishing practices and policies in line with Data Protection Legislation. We are the data controller of all personal data used in our business for our own charitable purposes.

**Data Users:** Those of our workforce (including Trustees and volunteers) whose work involved processing personal data. Data users must protect the data they handle in accordance with this data protection policy and any applicable data security procedures at all times.

**Data Processors:** Any person or organisation that is not a data user that processes personal data on our behalf and on our instructions.

**Processing:** Any activity that involves use of the data. It includes obtaining, recording or holding the data, or carrying out any operation or set of operations on the data such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction. Processing also includes transferring personal data to third parties.

**Special Category Personal Data:** Information about a person's racial or ethnic origin, political opinions, religious or philosophical beliefs, physical or mental health or condition or sexual life or genetic or biometric data.

**Workforce:** Includes any individual employed by The Quest School such as staff as well as those who volunteer in any capacity, including Trustees.

## **Our Commitment**

Quest School is committed to the protection of all personal and sensitive data it holds. The handling of such data is in line with the data protection principles and the General Data Protection Regulations (GDPR) 2018. We need to collect and use certain types of data in order to carry out our work and this data must be collected and dealt with appropriately.

Changes to data protection legislation shall be monitored and implemented in order to remain compliant with all requirements.

The school is committed to ensuring that its staff are aware of data protection policies and our legal requirements. Training will be provided to all new staff as part of the induction process and on-going training will be provided to all staff as and when necessary.

The requirements of this policy are mandatory for all staff employed by the school and any third party contracted to provide services within the school.

The purpose of this policy is to set out our commitment and procedures for protecting data. The School regards the lawful and correct treatment of personal information as very important to successful working, and to maintain the confidence of those with whom we deal.

## **Roles and Responsibilities**

As a school we are required to appoint a Data Protection Officer (DPO). Our DPO is Peter Mepsted, who can be contacted on [Peter.Mepsted@questschool.co.uk](mailto:Peter.Mepsted@questschool.co.uk).

The DPO is responsible for ensuring compliance with the Data Protection Legislation and with this policy. Any concerns about the operation of this policy or any concerns that the policy has not been followed should be referred in the first instances to the DPO.

The DPO is also the central point of contact for all data subjects and others in relation to matters of data protection.

## **Personal and Sensitive Data**

All data within the school's control shall be identified as personal, sensitive or both to ensure that it is handled in compliance with legal requirements and access to it does not breach the rights to the individuals to whom it relates. The definitions of personal and sensitive data shall be as those published by the Information Commissioner's Office (ICO).

Personal data means any information relating to an identified or identifiable natural person ('data subject'). An identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

Sensitive personal data means personal data consisting of information as to the racial or ethnic origin of the data subject; their political opinions; religious beliefs or other beliefs of a similar nature; whether they are a member of a trade union (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992); their physical or mental health or condition and their sexual life.

The following principles of the GDPR shall be applied to all processed data:

1. Processed fairly and lawfully.
2. Obtained only for lawful purposes and is not further used in any manner incompatible with those original purposes.
3. Accurate and kept up to date.
4. Adequate, relevant and not excessive in relation to the purposes for which it is processed.
5. Not kept for longer than is necessary for those purposes.
6. Processed in accordance with the rights of data subjects under the GDPR.
7. Processed in appropriate technical and organisational measures against unauthorised or unlawful processing and against accidental loss, destruction or damage.
8. Not transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection of the personal information.

## **Fair Processing / Privacy Notice**

We shall be transparent about the intended processing of data and communicate these intentions via notification to staff, parents and pupils, trustees and school visitors prior to the processing of individual's data.

The intention to share data relating to individuals to an organisation outside of our school shall be clearly defined within notifications and details of the basis for sharing given. Data will be shared with external parties in circumstances where it is a legal requirement to provide such information.

Any proposed change to the processing of individuals data shall first be notified to them.

Data Protection Legislation is not intended to prevent the processing of personal data, but to ensure that it is done fairly and without adversely affecting the rights of the data subject.

For personal data to be processed fairly, data subjects must be made aware:

- That the personal data is being processed
- Why the personal data is being processed
- What the lawful basis is for that processing (see below)
- Whether the personal data will be shared and if so with whom

- The person for which the personal data will be held
- The existence of the data subject's rights in relation to the processing of that personal data
- The right of the data subject to raise a complaint with the Information Commissioner's Office in relation to any processing

We will only obtain such personal data as is necessary and relevant to the purpose for which it was gathered, and will ensure that we have a lawful basis for any processing.

For personal data to be processed lawfully, it must be processed on the basis of one of the legal grounds set out in the Data Protection Legislation. We will normally process personal data under the following legal grounds:

- Where the processing is necessary for the performance of a contract between us and the data subject, such as an employment contract
- Where the processing is necessary to comply with a legal obligation that we are subject to (e.g. the Education Act 2011)
- Where the law otherwise allows us to process the personal data or we are carrying out a task in the public interest
- Where none of the above apply then we will seek the consent of the data subject to the processing of their personal data

When special category personal data is being processed then an additional legal ground must apply to that processing. We will normally only process special category personal data under the following legal grounds:

- Where the processing is necessary for employment law purposes, for example in relation to sickness absence
- Where the processing is necessary for reasons of substantial public interest, for example for the purposes of equality of opportunity and treatment
- Where the processing is necessary for health and social care purposes, for example in relation to pupils with medical conditions or disabilities
- Where none of the above apply then we will seek the consent of the data subject to the processing of their special category personal data

We will inform data subjects of the above matters by way of appropriate privacy notices which shall be provided to them when we collect the data or as soon as possible thereafter, unless we have already provided this information such as at the time when a pupil joins us.

If any data user is in doubt as to whether they can use any personal data for any purpose then they must contact the DPO before doing so.

## **Vital Interests**

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There may be circumstances where it is considered necessary to process personal data or special category data in order to protect the vital interests of a data subject. This might include medical emergencies where the data subject is not in a position to give consent to the processing. We believe that this will only occur in very specific and limited circumstances. In such circumstances we would usually seek to consult with the DPO in advance, although there may be emergency situations where this does not occur.

## **Consent**

Where none of the other bases for processing set out above apply then the school must seek the consent of the data subject before processing any personal data for any purpose.

There are strict legal requirements in relation to the form of consent that must be obtained from data subjects.

When pupils and our workforce join Quest School a consent form will be required to be completed in relation to them. The consent form deals with the taking and use of photographs and videos of them, among other things. Where appropriate third parties may also be required to complete a consent form.

In relation to our pupils we will seek consent from an individual with parental responsibility for that pupil.

If consent is required for any other processing of personal data of any data subject then the form of this consent must:

- Inform the data subject of exactly what we intend to do with their personal data
- Require them to positively confirm that they consent – we cannot ask them to opt-out rather than opt in
- Inform the data subject of how they can withdraw their consent

Any consent must be freely given, which means that we cannot make the provision of any goods or services or other matter conditional on a data subject giving their consent.

The DPO must always be consulted in relation to any consent form before consent is obtained.

A record must always be kept of any consent, including how it was obtained and when.

## **Notifying data subjects**

If we collect personal data directly from data subjects, we will inform them about:

- Our identity and contact details as Data Controller and those of the DPO
- The purpose or purposes and legal basis for which we intend to process that personal data

- The types of third parties, if any, with which we will share or to which we will disclose that personal data
- Whether the personal data will be transferred outside the European Economic Area (EEA) and if so the safeguards in place
- The period for which their personal data will be stored, by reference to our Retention and Destruction Policy
- The existence of any automated decision making in the processing of the personal data along with the significance and envisaged consequences of the processing and the right to object to such decision making
- The rights of the data subject to object to or limit processing, request information, request deletion of information or lodge a complaint with the ICO

Unless we have already informed data subjects that we will be obtaining information about them from third parties (for example in our privacy notices) then if we receive personal data about a data subject from other sources, we will provide the data subject with the above information as soon as possible thereafter, informing them of where the personal data was obtained from.

The School will be provided with information relating to third parties in the form of emergency contact details. These individuals must be provided with the information above. Practically we suggest that parents / employees are required to obtain the consent of any third party whose details they provide to the School for these purposes.

### **Adequate, relevant and non-excessive processing**

We will only collect personal data to the extent that it is required for the specific purpose notified to the data subject, unless otherwise permitted by Data Protection Legislation.

### **Timely Processing**

We will not keep personal data longer than is necessary for the purpose or purposes for which they were collected. We will take all reasonable steps to destroy, or erase from our systems, or anonymise, all personal data that is no longer required, in accordance with our Data Retention Guidelines.

### **Processing in line with data subject's rights**

We will process all personal data in line with data subjects' rights, in particular their right to:

- Request access to any personal data we hold about them
- Object to the processing of their personal data, including the right to object to direct marketing
- Have inaccurate or incomplete personal data about them rectified
- Restrict processing of their personal data
- Have personal data we hold about them erased

- Have their personal data transferred
- Object to the making of decisions about them by automated means

## **The Right of Access to Personal Data**

Data subjects may request access to all personal data we hold about them. Such requests will be considered in line with the school's Subject Access Request Procedure. Reasonable charges may be made for excessive requests.

## **The Right to Object**

In certain circumstances data subjects may object to us processing their personal data. This right may be exercised in relation to processing that we are undertaking on the basis of a legitimate interest or in pursuit of a statutory function or task carried out in the public interest.

An objection to processing does not have to be complied with where the school can demonstrate compelling legitimate grounds that override the rights of the data subject.

Such considerations must always be referred to the DPO upon receipt of the request to exercise this right.

The School is not however obliged to comply with a request where the personal data is required in relation to any claim or legal proceedings.

## **The Right to Rectification**

We will ensure that personal data we hold is accurate and kept up to date. We will take reasonable steps to destroy, anonymise or amend inaccurate or out-of-date data.

If a data subject informs the School that personal data held about them by the School is inaccurate or incomplete then we will consider that request and provide a response within one month.

If we consider the issue too complex to resolve within that period then we may extend the response period by a further two months. If this is necessary then we will inform the data subject within one month of their request that this is the case.

We may determine that any changes proposed by the data subject should not be made. If this is the case then we will explain to the data subject why this is the case. In those circumstances we will inform the data subject of their right to complain to the Information Commissioner's Officer at the time that we inform them of our decision in relation to their request.

## **The Right to be Forgotten**

Data subjects have a right to have personal data about them held by the School erased only in the following circumstances:

- Where the personal data is no longer necessary for the purpose for which it was originally collected.
- When a data subject withdraws consent – which will apply only where the School is relying on the individuals consent to the processing in the first place.
- When a data subject objects to the processing and there is no overriding legitimate interest to continue that processing – see above in relation to the right to object.
- Where the processing of the personal data is otherwise unlawful.
- When it is necessary to erase the personal data to comply with a legal obligation.
- If possible the School may anonymise the data to allowed it to be retained for use.

The School is not required to comply with a request by a data subject to erase their personal data if the processing is taking place:

- To exercise the right of freedom of expression or information
- To comply with a legal obligation for the performance of a task in the public interest or in accordance with the law.
- For public health purposes in the public interest.
- In relation to a legal claim.

If the School has shared the relevant personal data with any other organisation then we will contact those organisations to inform them of any erasure, unless this proves impossible or involves a disproportionate effort.

The DPO must be consulted in relation to requests under this right.

### **Right to Data Portability**

In limited circumstances a data subject has a right to receive their personal data in a machine readable format and to have this transferred to other organisations.

If such a request is made then the DPO must be consulted.

### **Data Security**

In order to assure the protection of all data being processed and make informed decisions on processing activities, we shall undertake an assessment of the associated risks of proposed processing and equally the impact on an individual's privacy in holding data related to them.

Risk and impact assessments shall be conducted in accordance with guidance given by the ICO.



Security of data shall be achieved through the implementation of proportionate physical and technical measures. Nominated staff shall be responsible for the effectiveness of the controls implemented and reporting of their performance.

The security arrangements of any organisation with which data is shared is also considered and these organisations shall provide evidence of the competence in the security of shared data.

The Schools security procedures are detailed within associated policies (Operation Guidance Procedures, Acceptable Use Policy) and include the following:

- Secure lockable desks and cupboards that enable paper records are to be kept under lock and key
- Secure methods of disposal of data
- Document printing
- Password protection procedures including document classification
- Computer access being only available via password protected log on and IDs. Access Passwords are never to be shared. If they do become known then they are to be changed.
- Personal data being securely disposed of in line with the Data Retention Guidelines when it is no longer required by the school for legitimate purposes in connection with the services provided by Quest School.
- 'Clear desk policy' at the end of each working day
- Permissions being sought for use of personal photographs etc. in promotional materials
- Policy adherence attestation

Any member of staff found to be in breach of the above security measures may be subject to disciplinary action.

## **Data Protection Impact Assessments**

The School takes data protection very seriously, and will consider and comply with the requirements of Data Protection Legislation in relation to all of its activities whenever these involve the use of personal data, in accordance with the principles of data protection by design and default.

In certain circumstances the law requires us to carry out detailed assessments of proposed processing. This includes where we intend to use new technologies which might pose a high risk to the rights of data subjects because of the types of data we will be processing or the way that we intend to do so.

The School will complete an assessment of any such proposed processing via a template document which ensures that all relevant matters are considered.

The DPO should always be consulted as to whether a data protection impact assessment is required and if so how to undertake that assessment.

## **Disclosure and sharing of personal information**

We may share personal data that we hold about data subjects and without their consent, with other organisations. Such organisations include the Department for Education, Ofsted, health authorities and professionals, the Local Authority, examination bodies, other schools and other organisations where we have a lawful basis for doing so.

The School will inform data subjects of any sharing of their personal data unless we are not legally required to do so, for example where personal data is shared with the police in the investigation of a criminal offence.

In some circumstances we will not share safeguarding information. Please refer to our Child Protection Policy.

## **Data Access Requests (Subject Access Requests)**

All individuals whose data is held by us, has a legal right to request access to such data or information about what is held. We shall respond to such requests within 40 days and they should be made in writing to Peter Mepsted, Data Protection Officer.

## **Photographs and Videos**

Images of staff and pupils may be captured at appropriate times and as part of educational activities for use in school only.

Unless prior consent from parents/pupils/staff has been given, the school shall not utilise such images for publication or communication to external sources.

It is the school's policy that external parties (including parents) may not capture images of staff or pupils during such activities without prior consent.

## **Data Disposal**

The school recognises that the secure disposal of redundant data is an integral element to compliance with legal requirements and an area of increased risk.

All data held in any form of media (paper, electronic) shall be disposed of, or anonymised, in an appropriate method. The Schools retention and disposal of data is detailed within the associated Data Retention Guidelines.

## **Associated Procedures**

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The following procedures are associated with this policy:

- Operational Guidance (including working environment, password protection guidelines, remote access, use of personal devices)
- Subject Access Request Procedure
- Personal Data Breach Procedure
- Data Retention Guidelines
- Acceptable Use Policy