

Data Breach Policy

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Document Control Table

Document History			
Version	Date	Author	Note of Revisions
V1	Dec 2023	K Thomlinson	First Trust-wide Data Breach policy. Replacing the short-form version that was included within the Data Protection Policy.
V1.1	Oct 2024	K Thomlinson	Addition of Data Retention Policy under Related Policies. Judicium contact details updated.
V1.2	Oct 25	K Thomlinson	Revision period extended from 1 year to 2 years. Addition of St Marks. DPO address updated. Change to responsibilities so that the Trust GDPR Lead is the first point of contact for concerns regarding the policy, previously DPO. Data breach procedures section expanded. Addition of data breach form.

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Introduction

The UK General Data Protection Regulation (UK GDPR) aims to protect the rights of individuals about whom data is obtained, stored, processed or supplied and requires that organisations take appropriate security measures against unauthorised access, alteration, disclosure or destruction of personal data.

The UK GDPR places obligations on staff to report actual or suspected data breaches and our procedure for dealing with breaches is set out below. All members of staff are required to familiarise themselves with its content and comply with the provisions contained in it. Training will be provided to all staff to enable them to carry out their obligations within this policy.

Data Processors will be provided with a copy of this policy and will be required to notify the GDPR Leads within the Prospect Trust (the Trust) of any data breach without undue delay after becoming aware of the data breach. Failure to do so may result in a breach to the terms of the processing agreement. In this policy the term 'Trust' includes the Trust and its constituent academies.

The GDPR Leads are;

- St Mark's CofE Aided Primary School; Rachel Jones, Deputy Headteacher: adminoffice@st-marks.hants.sch.uk
- Frimley CofE Junior School: Clare Wright, Headteacher: info@frimley.surrey.sch.uk
- Tomlinscote School: Rob Major, Principal: rmajor@tomlinscoteschool.com
- Sixth Form College Farnborough: Nicola Mullan, Executive Office Manager: nmullan@farnborough.ac.uk
- Trust Central Team: Kate Thomlinson, Project Support Officer: kate.thomlinson@theprospecttrust.org.uk

This policy does not form part of any individual's terms and conditions of employment with the Trust and is not intended to have contractual effect. Changes to data protection legislation will be monitored and further amendments may be required to this policy in order to remain compliant with legal obligations.

Definitions

Personal Data - Personal data is any information relating to an individual where the individual can be identified (directly or indirectly) from that data alone or in combination with other identifiers we possess or can reasonably access. This includes special category data and pseudonymised personal data but excludes anonymous data or data that has had the identity of an individual permanently removed.

Personal data can be factual (for example, a name, email address, location or date of birth) or an opinion about that person's actions or behaviour.

Personal data will be stored either electronically or as part of a structured manual filing system in such a way that it can be retrieved automatically by reference to the individual or criteria relating to that individual.

Special Category Data - Previously termed "Sensitive Personal Data", Special Category Data is similar by definition and refers to data concerning an individual's racial or ethnic origin, political or religious beliefs, trade union membership, physical and mental health, sexuality, biometric or genetic data and personal data relating to criminal offences and convictions.

Personal Data Breach - A personal data breach is a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of or access to personal data or special category data transmitted, stored or otherwise processed.

Data Subject - Person to whom the personal data relates.

ICO – The ICO is the Information Commissioner's Office, the UK's independent regulator for data protection and information.

Responsibility

The Heads and Principals have overall responsibility for breach notification within their Academy. The COO has overall responsibility for breach notification within the Trust Central Team. They are responsible for ensuring breach notification processes are adhered to by all staff. The designated point of contact for personal data breaches are the GDPR Leads, as listed above.

The Data Protection Officer (DPO) is responsible for overseeing this policy and developing data-related policies and guidelines.

Please contact the Trust GDPR Lead with any questions about the operation of this policy or the UK GDPR or if you have any concerns that this policy is not being or has not been followed. Should the matter remain unresolved, or requires further escalation, please contact the Trust's DPO.

The DPO's contact details are set out below: -

Data Protection Officer: Judicium Consulting Limited
Address: 5th Floor, 98 Theobalds Road, London, WC1X 8WB
Email: dataservices@judicium.com
Web: www.judiciumeducation.co.uk
Telephone: 0345 548 7000 option 1 then option 1 again

Security and Data Related Policies

Staff should refer to the following policies that are related to this Data Breach Policy: -

- *Data Protection Policy* which sets out the Trust's obligations under UK GDPR about how personal data is processed.
- *Data Retention Policy* which includes a retention schedule
- *Online Safety and Use of Technology Policy* which sets out electronic data security procedure.

These policies can be found on the [Trust website](#).

Data Breach Procedure

What is a personal data breach?

A personal data breach is a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data or special category data transmitted, stored or otherwise processed.

Examples of a data breach could include the following (but are not exhaustive): -

- Loss or theft of data or equipment on which data is stored for example, loss of a laptop or a paper file (this includes accidental loss);
- Inappropriate access controls allowing unauthorised use;
- Equipment failure;
- Human error (for example, sending an email or SMS to the wrong recipient);
- Unforeseen circumstances such as a fire or flood;
- Hacking, phishing and other "blagging" attacks where information is obtained by deceiving whoever holds it;
- Alteration of personal data without permission;
- Loss of availability of personal data.

When does it need to be reported?

The Trust must notify the ICO of a data breach where it is likely to result in a risk to the rights and freedoms of individuals. This means that the breach needs to be more than just losing personal data and if unaddressed, the breach is likely to have a significant detrimental effect on individuals.

Examples of where the breach may have a significant effect includes: -

- Potential or actual discrimination;
- Potential or actual financial loss;
- Potential or actual loss of confidentiality;
- Risk to physical safety or reputation;
- Exposure to identity theft (for example, through the release of non-public identifiers such as passport details); and

- The exposure of the private aspect of a person's life becoming known by others.

If the breach is likely to result in a high risk to the rights and freedoms of individuals, then the individuals must also be notified directly.

Reporting a Data Breach

If you know or suspect a personal data breach has occurred or may occur which meets the criteria above, you should complete a data breach form (Appendix 1); inform the appropriate GDPR Lead; and contact the DPO.

Breach reporting is encouraged throughout the Trust and staff are expected to seek advice if they are unsure as to whether the breach should be reported and/or could result in a risk to the rights and freedom of individuals. They can seek advice from their line manager, GDPR Lead or the DPO.

Once reported, you should not take any further action in relation to the breach. In particular you must not notify any affected individuals or regulators or investigate further. The DPO will advise on the appropriate steps to deal with the breach.

Managing and Recording the Breach

On being notified of a suspected personal data breach, the GDPR Lead will inform the appropriate Head or Principal as well as the COO. The GDPR Lead will also inform the DPO (if they have not already been informed) and log the breach on the database held by the DPO, Jedu. The DPO will take immediate steps to establish whether a personal data breach has in fact occurred. If so, they will:-

- Advise on how to contain the data breach (if possible);
- Work with staff to, recover, rectify or delete the data that has been lost, damaged or disclosed wherever possible;
- Contact the ICO where required;
- Advise on the requirement to notify data subjects affected by the breach;
- Advise on the requirement to notify other appropriate parties to the breach; and
- Advise on steps to prevent future breaches.

Notifying the ICO

The DPO will notify the ICO when a personal data breach has occurred which is likely to result in a risk to the rights and freedoms of individuals.

This will be done without undue delay and where possible, within 72 hours of becoming aware of the breach. The 72 hours deadline is applicable regardless of holiday periods (i.e., it is not 72 working hours).

Where the notification is not made within 72 hours of becoming aware of the breach, written reasons will be recorded as to why there was a delay in referring the matter to the ICO.

Notifying Data Subjects

Where the data breach is likely to result in a high risk to the rights and freedoms of data subjects, the affected individuals will be notified without undue delay by the appropriate Academy Head/Principal or the COO, if the breach relates to the Trust Central Team.

The affected individuals will be informed of the name and contact details for the DPO and the ICO, the likely consequences of the data breach and the measures the Trust have taken, or intend to take, to address the breach.

When determining whether it is necessary to notify individuals directly of the breach, those responsible for contacting the affected individuals will co-operate with and seek guidance from the DPO, the ICO and any other relevant authorities (such as the police).

If it would involve disproportionate effort to notify the data subjects directly (for example, by not having contact details of the affected individual) then the Trust will consider alternative means to make those affected aware (for example, by making a statement on the Academy or Trust website).

Notifying the Police

The Trust will already have considered whether to contact the police for the purpose of containment and recovery. Regardless of this, if it subsequently transpires that the breach arose from a criminal act, the Trust will notify the police and/or relevant law enforcement authorities.

Notifying Other Authorities

The Trust will need to consider whether other parties need to be notified of the breach. For example:

- Insurers;
- Parents;
- Third parties (for example, when they are also affected by the breach);
- Local authority;

This list is non-exhaustive.

Assessing the Breach

Once initial reporting procedures have been carried out, the Trust will carry out all necessary investigations into the breach.

The Trust will identify how the breach occurred and take immediate steps to stop or minimise further loss, destruction or unauthorised disclosure of personal data. The Trust will identify ways to recover, correct or delete data (for example, notifying our insurers or the police if the breach involves stolen hardware or data).

Having dealt with containing the breach, the Trust will consider the risks associated with the breach. These factors will help determine whether further steps need to be taken (for example notifying the ICO and/or data subjects as set out above). These factors include:

- What type of data is involved and how sensitive it is;
- The volume of data affected;
- Who is affected by the breach (i.e., the categories and number of people involved);
- The likely consequences of the breach on affected data subjects following containment and whether further issues are likely to materialise;
- Are there any protections in place to secure the data (for example, encryption, password protection, pseudonymisation);
- What has happened to the data;
- What could the data tell a third party about the data subject;
- What are the likely consequences of the personal data breach on the Trust; and
- Any other wider consequences which may be applicable.

Containment and Recovery

The appropriate GDPR Lead, with the support of our DPO will identify how the breach occurred and take immediate steps to stop or minimise further loss, destruction or unauthorised disclosure of personal data.

The appropriate GDPR Lead, with the support of our DPO will identify ways to recover, correct or delete data. This may include contacting the police, e.g., where the breach involves stolen hardware or data.

Depending on the nature of the breach, the appropriate GDPR Lead, with the support of our DPO, will notify the insurance provider if necessary, so that the insurer can provide access to data breach management experts.

Preventing Future Breaches

Once the data breach has been dealt with, the Trust will consider its security processes with the aim of preventing further breaches. In order to do this, the Trust will:

- Establish what security measures were in place when the breach occurred;
- Assess whether the breach was a result of human error or a systematic issue;
- Assess whether technical or organisational measures can be implemented to prevent the breach happening again;
- Consider whether there is adequate staff awareness of security issues and look to fill any gaps through training or tailored advice;
- Consider whether it is necessary to conduct a privacy or data protection impact assessment;
- Consider whether further audits or data protection steps need to be taken;
- To update the data breach register;
- To debrief Trustees and Senior Management following the investigation.

Reporting Data Protection Concerns

Prevention is always better than dealing with data protection as an after-thought. Data security concerns may arise at any time and we would encourage you to report any concerns (even if they do not meet the criteria of a data breach) that you may have to GDPR Leads or the DPO. This can help capture risks as they emerge, protect the Trust from data breaches and keep our processes up to date and effective.

Training

The Trust will ensure that staff are trained and aware on the need to report data breaches to ensure that they know to detect a data breach and the procedures of reporting them. This policy will be shared with staff.

Monitoring

The Trust will monitor the effectiveness of this and all of our policies and procedures and conduct a full review and update as appropriate.

Our monitoring and review will include looking at how our policies and procedures are working in practice to reduce the risks posed to the Trust.

Appendix 1 – Data Breach Report Form

If you know or suspect a personal data breach has occurred, please:

- Complete this form; and
- Email or deliver it to [NAME] and the DPO, ensuring that you mark your email as urgent, with the subject 'Data Breach'

Time is of the essence with data breaches. You must submit this report as soon as you know or suspect there has been a data breach. Do not delay to satisfy yourself whether a data breach has definitely happened and do not contact any individuals who may be affected by the data breach. The Academy GDPR Lead or Trust GDPR Lead along with DPO, will investigate the potential breach and take necessary actions.

Name and contact details of person notifying the actual or suspected breach	<i>If you wish to submit an anonymous report, leave this section blank</i>
Department/manager	
Date of actual or suspected breach	
Date of discovery of actual or suspected breach	
Date of this report	
Summary of the facts	
Cause of the actual or suspected breach	
Is the actual or suspected breach ongoing?	Yes <input type="checkbox"/> No <input type="checkbox"/> Not known <input type="checkbox"/>
Who is or could be affected by the actual or suspected breach?	
Are you aware of any related or other data breaches?	Yes <input type="checkbox"/> No <input type="checkbox"/>

