



GDPR and Pupil Records Data Privacy Policy

Originator: I G Gomersall
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1. **Compliance**

1.1. This policy meets the requirements of the General Data Protection Regulation ("GDPR"), the Data Protection Act 2018, and is based on guidance published by the Information Commissioner's Office and model privacy notices published by the Department for Education.

2. **About this policy**

2.1. The Bay Learning Trust (**Trust**) processes personal information relating to pupils, staff and visitors, and, therefore, is a Controller

2.2. The Trust is registered as a Controller with the Information Commissioner's Office and renews this registration annually. The Trust's registration number is ZA474474.

2.3. This policy sets out the duties of The Bay Learning Trust ("the Trust") under each of the legislation provisions referred to in paragraph 1 of this policy, the responsible bodies/person for compliance and the procedures that will be applied.

2.4. During the course of its activities the Trust will process personal data (which may be held on paper, electronically, or otherwise) about the Trust's staff (including temporary staff), agency workers, volunteers, pupils, their parents, guardians or carers, and other individuals (including suppliers, governors, directors and members).

2.5. The purpose of this policy is to make individuals (referred to as 'data subjects' under data protection law) aware of how the Trust will handle personal data of pupils, parents, guardians, and other individuals (including suppliers, governors, directors and members). Staff should refer to our separate Staff Data Privacy Policy and Privacy Notice for School Workforce regarding how we process Staff personal data.

2.6. The Trust also uses this policy to outline the rights of pupils, parents, guardians and carers in relation to educational records under the Education (Pupil Information) (England) Regulations 2005.

2.7. The Trust Board also complies with ICO and DfE Guidance applicable from time to time.

3. Who is responsible for this policy

3.1. The Trust Board has overall responsibility for the effective operation of this policy and for ensuring compliance with the relevant statutory framework for data protection and freedom of information.

3.2. The Trust Board has delegated day-to-day responsibility for operating the policy and ensuring its maintenance and review to the Trust's Data Protection Officer.

4. Definitions

4.1. The definitions in this paragraph apply in this policy.

Term	Definition
Personal data	Data from which a person can be identified, including data that, when combined with other readily available information, leads to a person being identifiable
Special categories of personal data (formerly sensitive)	Data such as: <ul style="list-style-type: none">• Racial or ethnic origin• Political opinions• Religious beliefs, or beliefs of a similar nature• Where a person is a member of a trade union• Physical and mental health• Sexual orientation and sex life• Biometric or genetic data
Criminal conviction data	Data relating to criminal convictions and offences.
Processing	This has a very wide definition and includes the following operations with personal data: Collection, Recording, Organisation, Structuring, Storage, Adaption, Retrieval, Consultation, Use, Disclosure by transmission, Dissemination or otherwise making available, Alignment

	or combination, Restriction, Erasure and/or Destruction.
Data subject	The living individual whose personal data is held or processed
Controller	A person or organisation that determines the purposes for which, and the manner in which, personal data is processed
Processor	A person or organisation that processes personal data on behalf of a Controller.

5. Data protection and educational records

5.1. Data protection principles

5.1.1. The Trust will comply with the six data protection principles in the GDPR, which require that personal data must be:

- 5.1.1.1. processed lawfully, fairly and in a transparent manner;
- 5.1.1.2. collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes;
- 5.1.1.3. adequate, relevant and limited to what is necessary in relation to the purpose for which it is maintained;
- 5.1.1.4. accurate and, where necessary, kept up to date ;
- 5.1.1.5. not be kept in a form which permits identification for longer than is necessary for the purpose(s) for which it is processed; and
- 5.1.1.6. processed in a manner that ensures appropriate security of the data.

6. Fair, lawful and transparent processing

6.1. The Trust will only process personal data where it is based on one or more of the conditions specified in the GDPR. The most common conditions we rely on to process personal data are:

Conditions for Processing which we commonly rely on	
Personal Data	Special Category Personal Data & Criminal Convictions Data
<ul style="list-style-type: none"> • The data subject has given consent to the processing for one or more specific purposes; • Processing is necessary for entering or performing a contract with the data subject; • Processing is necessary for compliance with a legal obligation to which the controller is subject; • Processing is necessary to protect the vital interests of the data subject; • Processing is necessary in order for the controller to perform a task in the public interest or for the controller's official functions, and the task or function has a clear basis in law; or • Processing is necessary for the purposes of legitimate interests pursued by the data controller or by a third party where this does not relate to our "core function" of providing education. 	<ul style="list-style-type: none"> • The data subject has given explicit consent to the processing for one or more specific purposes; • Processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller or of the data subject in the field of employment and social security and social protection law so far as it is authorised by Union or Member State law or a collective agreement pursuant to Member State law providing for appropriate safeguards for the fundamental rights and the interests of the data subject; • Processing is necessary to protect the vital interests of the data subject or of another natural person, where the data subject is physically or legally incapable of giving consent; • Processing relates to personal data which are manifestly made public by the data subject; • Processing is necessary for reasons of substantial public interest; • Processing is necessary for the establishment, exercise or defence of legal claims; or • Processing is necessary for the purposes of preventive or occupational medicine, for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services (however this condition is limited in its use to certain authorised professions as explained at Article 9(3) GDPR).

6.2. The full list of conditions is set out in Articles 6 and 9 of the GDPR and the Trust may in some circumstances rely on other conditions set out in the GDPR or Data Protection Act 2018 to justify the processing of personal data or special category personal data.

The ICO's website also has further information about the lawful conditions for processing.

7. How the Trust is likely to use personal data

7.1.1. The Trust will process data about pupils for the following (non-exhaustive) purposes:

- 7.1.1.1. for legal and administrative purposes;
- 7.1.1.2. to provide education and discharge the Trust's duty of care as an education provider;
- 7.1.1.3. to provide pupils with a safe and secure environment and pastoral care;
- 7.1.1.4. to provide activities including school trips, activity and after-school clubs;
- 7.1.1.5. to support pupil learning;
- 7.1.1.6. to monitor and report on pupil progress
- 7.1.1.7. to provide academic and examination references;
- 7.1.1.8. to enable the Trust to meet its legal obligations under relevant legislation and Department for Education (DfE) Guidance in force from time to time;
- 7.1.1.9. to maintain educational records;
- 7.1.1.10. to monitor attendance;
- 7.1.1.11. to maintain health and safety records;
- 7.1.1.12. to collect opinions about ability and achievements;
- 7.1.1.13. to obtain and retain details about personal / home life where this is relevant to provision of education to a data subject; and,
- 7.1.1.14. to share information with other agencies when required.

7.1.2. The Trust may process special category personal data relating to pupils including, as appropriate:

- 7.1.2.1. information about pupil's physical or mental health or condition (including but not limited to allergies and regular medications) in order

to discharge the Trust's duty of care, provide non-emergency and emergency medical assistance and for special educational needs provision;

7.1.2.2. provide applicable provision under an Education Health and Care Plan/Statement of Special Educational Needs;

7.1.2.3. the pupil's racial or ethnic origin or religious or similar information in order to monitor compliance with equal opportunities legislation or to ensure that religious or similar beliefs are respected; and/or,

7.1.2.4. in order to comply with other legal requirements and obligations to third parties.

7.2. Parents, guardians, carers and other individuals (including suppliers, governors, directors and members)

7.2.1. The Trust may process data about parents, guardians, carers and other individuals (including suppliers, governors, directors and members) for the purpose of:

7.2.1.1. providing education to pupils;

7.2.1.2. reporting on pupil progress;

7.2.1.3. maintaining emergency contact details in order to discharge the Trust's duty of care as an education provider;

7.2.1.4. organise training courses;

7.2.1.5. obtain and retain details about personal / home life where this is relevant to provision of education to pupils; and

7.2.1.6. discharge obligations under safeguarding and other relevant legislation.

7.2.2. It is very unlikely that the Trust will process sensitive personal data relating to parents, guardians, carers and other individuals (including suppliers, governors, directors and members). However, where this may be necessary, it may include, as appropriate:

7.2.2.1. the parent, guardian, carer or other individual's racial or ethnic origin or religious or similar information in order to monitor compliance with equal opportunities legislation;

7.2.2.2. when there is relevant medical information needed for health and safety purposes including allergy information; and/or,

7.2.2.3. in order to comply with other legal requirements and obligations to third parties.

8. Processing for specified, explicit and legitimate purposes

8.1. The Trust will only process personal data for the specific, explicit and legitimate purpose or purposes notified to data subjects and will not be further processed in any manner incompatible with that purpose or purposes.

9. Adequate, relevant and limited to what is necessary

9.1. Personal data will only be processed to the extent that it is relevant and necessary for the specific purposes notified to the data subject.

10. Accurate and when necessary, kept up to date

10.1. The Trust will keep the personal data the Trust stores about a data subject accurate and when necessary, kept up to date. Data that is inaccurate or out of date will be corrected or deleted without delay. Data subjects should notify the Trust if any personal details change or if the data subject becomes aware of any inaccuracies in the personal data the Trust hold about him/her.

11. Data retention

11.1. The Trust will not keep personal data for longer than is necessary for the purpose for which it is processed. Sometimes we are required by law to retain information for a specified period. After the retention period has lapsed, and there is no other legitimate reason to retain the information, the Trust will take steps to destroy it so that it is no longer processing it.

11.2. The Trust's Data Retention Policy (Data Protection and Freedom of Information Annex 1 - Records Retention and Deletion Policy) is designed to ensure personal data is deleted after a reasonable time, unless a law requires such personal data to be kept for a minimum time. The Data Protection and Freedom of Information Annex 1 - Records Retention and Deletion is available in the Policies section of the Trust website or is available in hard copy format upon request.

12. **Data security**

12.1. The Trust will ensure that appropriate measures are taken against unlawful or unauthorised processing of personal data, and against the accidental loss of, or damage to, personal data. Appropriate measures include:

12.1.1. Appropriate levels of authority being given to staff members where access to personal data is required;

12.1.2. Personal data is stored on the Trust's central computer system instead of individual PCs, laptops, tablet devices, mobile telephones etc.;

12.1.3. Computers and laptops are not left unattended without locking their screens via password controls to prevent unauthorised access;

12.1.4. USB Pen drives/ "Sticks" are not permitted – unless specially encrypted and password protected external devices authorised for use by CEO, MAT Data Protection Officer or Academy Principal.

12.1.5. Network policies have been amended to prevent the use of USB Pen Drives (unless device is authorised as above)

12.1.6. Personal Data is not carried off-site, save with the permission of their Principal or the CEO on permitted storage devices which are encrypted and password protected or when it is legally necessary to do so. Where Personal Data needs to be carried off-site in paper form, staff should seek the permission from their Principal or the CEO in advance.

12.1.7. Ensuring our security procedures are followed, for example:

12.1.7.1. Keeping the data in a locked filing cabinet, drawer or safe;

12.1.7.2. Ensuring that computerised data is coded, encrypted or password protected, both on the local hard drive of laptops;

12.1.7.3. Network drives are regularly backed up off site;

12.1.7.4. Where data is saved on removable storage, holding the storage device in a locked filing cabinet, drawer or safe.

13. **Sharing information with third parties**

13.1. The Trust has in place procedures and technologies to maintain the security of all personal data from the point of collection to the point of destruction. The Trust will

only transfer personal data to a third party the third party agrees to comply with those procedures and policies, or if he puts in place adequate measures himself.

13.2. Where the Trust uses a third party processor to process personal data on its behalf, it will have in place a written agreement with each processor which meets the requirements of Article 28 GDPR.

13.3. The Trust routinely shares pupil information with:

13.3.1. schools that the pupil attends after leaving us;

13.3.2. our local authority;

13.3.3. the Department for Education (DfE);

13.3.4. our Multi Academy Trust and other Academies within the Trust

13.3.5. School nurse and other NHS institutions

13.3.6. Organisations which provide email and other administrative tools (such as Microsoft Office 365, Google etc)

13.3.7. Organisations which provide cloud storage solutions (such as Microsoft, Google or DropBox)

13.3.8. Organisations which provide learning tools (such as GL Assessment, Boardworks, 3 Edmodo, Kerboodle, Doodle, Kahoot, MyMaths, NinjaMaths, IXL, Accelerated Reader Programme)

13.3.9. Organisations which provide registration tools (such as Capita SIMS or VeriCool)

13.3.10. Organisations which provide Library Registration tools (such as Oliver)

13.3.11. Organisations which provide Information Management Services (such as Captia SIMS)

13.3.12. Organisations which provide data collection, monitoring and reporting services (such as software from Cooke & Cree Solutions, SISRA, MyALPS)

13.3.13. Organisations which provide ICT support services (such as Sophos. Microsoft, Capita or Google)

13.3.14. Organisations which support our Pastoral Care systems (such as Medical Tracker, software from Cooke & Cree Solutions)

- 13.3.15. Organisations which provide Virtual Learning Environments (such as Firefly)
- 13.3.16. Organisations which provide financial services (such as ParentPay, Schools Cash Office, HCSS, Sage Accounting and Sage50Cloud Payroll)
- 13.3.17. Organisations which support our internal maintenance systems (such as Every Maintenance Helpdesk)
- 13.3.18. Organisations which provide communication services (such as Microsoft, Teacher2Parents, Google)
- 13.3.19. Organisations which support staff education and training (such as BlueSky)
- 13.3.20. Organisations which provide tools to survey stakeholders (such as QDP, Leadership Matters and Survey Monkey)
- 13.3.21. Learner Record Service

13.2 The Trust does not share information about pupils with anyone without consent unless the law and our policies allow us to do so.

13.2.1 The Trust will share information with multiple agencies which are formed as a team around a child or young person. These agencies will be controllers and be subject to the same obligations under data protection law as the Trust is. The Trust will be under a legal obligation to share most of the information that is relevant to the multi-agency team or will be required to do so in the performance of the school's public task.

13.3 The Trust is also legally required to pass certain information about pupils to specified external bodies, such as our local authority and the Department for Education (DfE), so that they are able to meet their statutory obligations. This data sharing underpins school funding and educational attainment policy and monitoring.

13.4 The Trust is required to share information about our pupils with the (DfE) under regulation 5 of The Education (Information About Individual Pupils) (England) Regulations 2013.

13.5 Once pupils reach the age of 13, the Trust also passes pupil information to our local authority and / or provider of youth support services as they have responsibilities in relation to the education or training of 13-19 year olds under section 14 Education and Skills Act 2008 (to enable the local authority to meet the requirements of section 507B of the Education Act 1996). This enables them to provide services as follows:

- youth support services
- careers advisers

13.5.2A parent or guardian can request that certain information is not passed to their local authority or provider of youth support services by informing the Trust of their instruction. This right is transferred to the child / pupil once he/she reaches the age 16.

13.6 The Trust will also share certain information about pupils aged 16+ with our local authority and / or provider of youth support services as they have responsibilities in relation to the education or training of 13-19 year olds under section 507B of the Education Act 1996.

This enables them to provide services as follows:

- post-16 education and training providers
- youth support services
- careers advisers

For more information about services for young people and how personal information will be used for these, please visit our local authority website.

13.7 The Trust will only transfer any personal data we hold to a country outside the European Economic Area ("EEA"), provided that one of the following conditions applies:

- The country ensures an adequate level of protection for the individuals' rights and freedoms;
- The individual has given consent;
- The transfer is necessary for one of the conditions set out in the GDPR (e.g. for the performance of a contract between us and the individual, or to protect the vital interests of the individual);
- The transfer is legally required on important public interest grounds or for the establishment, exercise or defence of legal claims; or
- The transfer is authorised by the Information Commissioner where we have adduced adequate safeguards with respect to the protection of the

data subjects' privacy, their fundamental rights and freedoms, and the exercise of their rights

14. Processing in line with subject access rights

14.1. Individuals have the following rights:

Right	What it is for?
To be informed	This policy and any accompanying privacy notice sets out the information about how the Trust processes personal data about pupils and parents. It will be reviewed annually to ensure we are as transparent as possible about the personal data that we process.
Rectification	If the Trust is processing an inaccurate record about an individual they have the right to request that we review it and rectify it so as to make it accurate. This only extends to factual information being processed about an individual.
Erasure	If the Trust has no compelling reason to process data about an individual, there is a right for the data to be erased and processed no further. This is not an absolute right and the Trust will consider requests on a case by case basis.
Restrict processing	This right complements the right to rectification. Processing of personal data can be restricted whilst the Trust considers if any records are inaccurate or an objection has been raised about the personal data that it is processing.
Data portability	This enables individuals to seek (in certain circumstances) for information which they have provided to the Trust and which is being processed through automated means based on their consent or for the performance of a contract to have it transmitted in machine readable form to the individual or a third party. It is unlikely that this right will apply to the information which the Trust processes about parents and pupils. It could extend to images processed by the Trust when the lawful condition relied upon is consent.
To object	When the Trust is processing personal data about pupil's and parents for the

	<p>performance of a task in the public interest those individuals have the right to object to processing.</p> <p>The Trust will consider any objection but may be able to demonstrate a legitimate ground to continue to process the personal data concerned.</p>
To know about any automated decision making and profiling	<p>The Trust will inform individuals when it uses any automated decision making processes. Individuals are entitled to request that automated decisions involving them are reviewed by human intervention.</p> <p>The Trust does not currently make use of automated decision making systems.</p> <p>We profile pupils' performance to ensure that the school can meet their educational needs.</p>

15. Subject access requests

- 15.1 Under the data protection law, pupils have a right to request access to information the Trust holds about them. This is known as a subject access request.

At **Secondary school level**, for a parent to make a subject access request on behalf of a pupil, the pupil must either be unable to understand their rights and the implications of a subject access request, or have given their consent.

In a **Primary or Early Years' setting**, parents can exercise a pupils rights of access on their behalf due to their age and lack of understanding of the rights afforded over their personal information.

- 15.2 Subject access requests must be submitted verbally or in writing, either by letter, or email to the Trust's Data Protection Officer ("DPO"). The e-mail address of the DPO is given in section 16.3. Requests should include:
- The pupil's name
 - A correspondence address
 - A contact number and email address
 - Details about the information requested to assist the school to confirm if the personal data is being processed and to provide a copy within the time period afforded
- 15.3 The Trust will not reveal the following information in response to subject access requests:
- Information that might cause serious harm to the physical or mental health of the pupil or another individual

- Information that would reveal that the child is at risk of abuse, where disclosure of that information would not be in the child's best interests
 - Information contained in adoption and parental order records
 - Certain information given to a court in proceedings concerning the child
 - Third party personal data where there is no consent to disclose this in response to a subject access request and it would not be reasonable in the circumstances to do so.
- 15.4 If the request is complex or numerous the Trust has the right to determine that up to a further 2 months is required to respond to a subject access request. The DPO will write to the data subject within a month of their written request to set out the reasons why the time is being extended.
- 15.5 If the request is determined to be manifestly unfounded or excessive, the Trust has the right to either charge a fee to reflect the administrative costs of providing the response or to refuse to provide a response. In the event that such a determination is made, the DPO will write to set out the Trust's reasons within a month of the written request being made.
16. **Data Protection Officer ("DPO")**
- 16.1. The Trust has appointed a Data Protection Officer who has overall responsibility for the Trust policies and procedures relating to data privacy. The Data Protection Officer should be the first point of contact for individuals in the following situations:
- 16.1.1. Where individuals have any concerns, or require clarification, about the Trust's obligations regarding data privacy and how we hand data;
 - 16.1.2. To report a data breach or potential data breach;
 - 16.1.3. Where an individuals has any feedback or suggestions about how the Trust can improve its data privacy and/or security procedures;
 - 16.1.4. Where an individual wishes to make a subject access request or exercise one of their other data privacy rights.
- 16.2. The Data Protection Officer is: Gavin Gomersall. Where individuals have any concerns, or require clarification, about the Trust's obligations regarding data privacy and how we hand data;
- 16.3. His contact details are:
- Data Protection Officer
 - The Bay Learning Trust
 - The Lodge
 - Ripley St Thomas
 - Ashton Road
 - LA1 4RR

Email: gomersallg@baylearningtrust.com

Phone: 01524 581865

17. Breaches of data protection and complaints

17.1. If an individual considers that this policy has not been followed in respect of personal data about a data subject he/she should raise the matter with the Trust Data Protection Officer in the first instance.

17.2. Compliance with data protection law is regulated by the Information Commissioner. In the event that you are not satisfied with the way in which the Trust is processing your personal data and you are not content with the response from our DPO, you have the right to refer your concerns to the Information Commissioner's Office ("ICO"). You can contact the ICO at <https://ico.org.uk/concerns/> or via its helpline number which is available on its website.