



**THE BAY  
LEARNING TRUST**

## **Protection of Pupils Biometric Data Policy**

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# Document Control

<b>This document has been approved for operation within:</b>	<b>All Trust Establishments</b>
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<b>Owner</b>	<b>The Bay Learning Trust</b>
<b>Version</b>	<b>v1.0</b>

## 1. Compliance

- 1.1. This policy has been prepared to ensure that the Bay Learning Trust complies with and has due regard to the following:
  - 1.1.1. General Data Protection Regulation;
  - 1.1.2. Data Protection Act 2018;
  - 1.1.3. Protection of Freedoms Act 2012;
  - 1.1.4. Department for Education's non-statutory advice, "Protection of biometric information of children in schools and colleges" July 2022 (the **Non-Statutory Guidance**); and
  - 1.1.5. Guidance published on processing special categories of data by the Information Commissioner's Office.

## 2. About this policy

- 2.1. This policy sets out what biometric information is and when we may collect and use it for our pupils.
- 2.2. When we process biometric data we are required to have the consent of parents (those with parental responsibility) and to notify pupils.
- 2.3. The applicable law is set out above. The relevant provision of the Protection of Freedoms Act 2012 apply to children and not those who have reached the age of 18. This is relevant for our pupils in sixth form who turn 18 whilst on roll.
- 2.4. Regardless of age, data protection law applies if our processing of information amounts to personal data. Biometric data that identifies a living individual is personal data.
- 2.5. We will ensure that we comply with the data protection principles when processing biometric data, including principle one which requires our processing to be lawful, fair and transparent.

## 3. Biometric data

- 3.1. Biometric data is defined in the Non-Statutory Guidance as '*personal information resulting from specific technical processing relating to the individual's physical, psychological or behavioural characteristics which allow or confirm the unique identification of that person, such as facial images, voice recognition or fingerprints*'.
- 3.2. Generally, we do not use biometric data in the operation of the **Trust**.
- 3.3. However, we do operate a **cashless catering service/security access system etc** which requires the use of an individual's **fingerprints/retina/handprint etc** to identify them.

## 4. Protection of Freedoms Act 2012

- 4.1. When using the biometric data of children through an automated biometric recognition system ('Recognition System')<sup>1</sup> the law requires that we take specific steps to be able to proceed with processing this information.
- 4.2. We will notify both parents when we propose to use their child's biometric data and how it is that we will use it and why we wish to use it. Notification will be sent to the address we hold for each parent (if living separately) as held on our school information management files. It is therefore important to ensure that we are informed of any changes to your address so that our records are accurate.
- 4.3. There are occasions when we can proceed to process biometric data when we have been unable to notify a particular parent of our proposed use of their child's biometric data. These are as follows:
  - 4.3.1. the parent cannot be found, for example, his or her whereabouts or identity is not known;
  - 4.3.2. the parent lacks the mental capacity to object or to consent;
  - 4.3.3. the welfare of the pupil requires that a particular parent is not contacted, for example where a child has been separated from an abusive parent who is not to be informed of the child's whereabouts; or
  - 4.3.4. where it is otherwise not reasonably practicable for a particular parent to be notified or for his or her consent to be obtained.
- 4.4. In the event that consent cannot be obtained from either parent, the section 27 of the Protection of Freedoms Act 2012 prescribes who should be notified and who can provide the consent needed. We will notify and seek consent from the prescribed alternative.
- 4.5. We require the written consent of one of the pupil's parents in order to proceed. For the avoidance of doubt, we do not need written consent from both parents.
- 4.6. In the event that one of the parents objects in writing to the use of the pupil's biometric data following notification of its proposed use or at any time thereafter, we will cease to use the information. To be clear, we cannot accept a verbal objection from a parent. The law requires that it is to be put in writing. Written objections must be sent to Executive Headteacher/Headteacher of the Trust school the pupil attends.
- 4.7. The pupil may object to the use of their biometric data despite their parent(s) providing written consent for its use. If that is the case, and we determine that the pupil is competent to understand the matter, we will not use the biometric data. A pupil's objection does not need to be in writing and can be made verbally. However, in order to ensure the pupil's objection is properly considered and processed, it must be made to their Executive Headteacher/Headteacher.

## 5. Data Protection

- 5.1. Biometric data is a special category of personal data. In addition to the requirements set out in the Protection of Freedoms Act 2012, the **Trust** must demonstrate compliance with the data protection principles in order to process the biometric data of children and young people.
- 5.2. Our lawful condition for processing biometric data is consent.<sup>2</sup> We will ensure that we have obtained this consent from the pupil before we obtain and process their biometric data. Consent can be withdrawn at any time by contacting the Executive Headteacher/Headteacher.

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<sup>1</sup> A system that uses technology which measures an individual's physical or behavioural characteristics by using equipment that operates 'automatically' (i.e. electronically). The information stored is used to match against an individual's fingerprint when it is read by the automated recognition system.

<sup>2</sup> Article 6 (1) (a) and Article 9(2)(a) General Data Protection Regulation

5.3. The Trust's privacy notice for pupils explains when we will use biometric data and the pupil's rights over their data generally.

5.4. We take our data protection obligations seriously and will ensure that the biometric data is kept secure and only used for the purpose that it was collected. When we engage a third party to process biometric data we will ensure that we incorporate into our contract the compulsory terms required to ensure we have control over the information stored and processed.

## **6. Alternative methods**

6.1. Should the Trust not be able to use a pupil's biometric data due to an objection or refusal to provide consent we will identify an alternative method.

6.2. We consider possible alternatives on a case by case basis to find a reasonable solution. The Executive Headteacher/Headteacher will work with the pupil and parent to identify a way forward.

## **7. Reviewing this policy**

7.1. This policy shall be reviewed and approved by the Directors.

7.2. A review of this policy shall be undertaken annually.