

# APPROPRIATE POLICY DOCUMENT

(Processing of Special Category Data and Criminal Offence Data)



**Chisenhale**  
Primary School

Confidence • Curiosity • Kindness

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# CHISENHALE PRIMARY SCHOOL APPROPRIATE POLICY DOCUMENT

## 1. Introduction

1.1 The school needs to process personal data about its current and former staff, pupils, and governors, to carry out its functions as a provider of education. As part of its operations, it is also necessary for the School to process special category data.

1.2 Special category data (*defined by Article 9 of the UK General Data Protection Regulation (GDPR)*) and sensitive data (*defined by section 35 of the Data Protection Act 2018 (DPA)*) is personal data which reveals:

- racial or ethnic origin
- political opinions
- religious or philosophical beliefs
- trade union membership
- genetic data
- biometric data for the purpose of uniquely identifying a natural person
- data concerning health
- data concerning a natural person's sex life or sexual orientation

1.3 Article 10 UK GDPR applies to the processing of personal data relating to criminal convictions and offences or related security measures.

1.4 Section 11(2) of the DPA 2018 provides that criminal offence data includes data which relates to the alleged commission of offences and related proceedings and sentencing. Information about victims and witnesses of crime is also included in the scope of data relating to criminal convictions and offences.

1.5 This policy meets the requirement in the DPA 2018 for an appropriate policy document which details the lawful basis and conditions for processing and safeguards the School has put in place when processing special category data and criminal offence data.

## 2. Description of Data Processed

2.1 The School's Privacy Statement, (<https://chisenhale.towerhamlets.sch.uk/policies>) has more information about the information processed by the School, the legal basis for processing and what the information is used for.

### 2.2 Special Category Data

2.2.1 The School processes special category personal data under the following legal basis:

- Article 9(2)(a) – explicit consent. An example of which would include health information we receive from learners who require additional support.

- Article 9(2)(b) – where processing is necessary for the purposes of performing or exercising obligations or rights which are imposed or conferred by law on the School or the data subject in connection with employment, social security, or social protection. For examples where the School processes staff sickness and absences information.
- Article 9(2)(c) – where processing is necessary to protect vital interests. An example of this processing would be using health information about a member of staff or learner in a medical emergency.
- Article 9(2)(f) – for the establishment, exercise, or defence of legal claims. Examples of this processing include processing relating to any employment tribunal or other litigation.
- Article 9(2)(g) – reasons of substantial public interest. For example, to comply with other obligations imposed on the School in its capacity as a public authority e.g., the Equality Act.
- Article 9(2)(i) – where processing is necessary for public health. For example, in relation to the School's processing of data in response to the Covid-19 pandemic.

2.2.2 Section 10(3) of the DPA 2018 sets out that for processing of special categories of personal data and criminal offence data to be necessary for reasons of substantial public interest under Article 9(2)(g) of the UK GDPR, that processing must meet one of the conditions set out in Part 2 of Schedule 1.

2.2.3 The School processes special category and criminal offence data in the performance of its statutory and corporate functions when the following conditions set out in the following paragraphs of Part 2 of Schedule 1 to the DPA 2018 are met:

- paragraph 6 Statutory etc and government purposes
- paragraph 8 Equality of opportunity or treatment
- paragraph 10 Preventing or detecting unlawful acts
- paragraph 12 Regulatory requirements relating to unlawful acts and dishonesty etc.
- paragraph 18 Safeguarding of children and individuals at risk
- paragraph 19 Safeguarding of economic well-being of certain individuals

## 2.3 Criminal Offence Data

2.3.1 The School processes criminal offence data under Article 10 of the GDPR.

2.3.2 Examples of our processing of criminal offence data include pre-employment checks and declarations by an employee in line with contractual obligations.

2.3.3 All processing might also be for others dependent on the context. The School

may also process special category personal data in other instances where it is not a requirement to keep an appropriate policy document. The processing of such data respects the rights and interests of the data subjects.

### **3.Compliance with the Data Protection Principles**

3.1 In accordance with the accountability principle, the School maintains records of processing activities under Article 30 of the UK GDPR and section 61 of the DPA 2018. The School will carry out data protection impact assessments (*where appropriate*) in accordance with Articles 35 and 36 of the UK GDPR and section 64 of the DPA 2018 to ensure data protection by design and default.

3.2 The School follows the data protection principles set out in Article 5 of the UK GDPR, and Part 3, Chapter 2 of the DPA 2018 for processing, as follows:

#### 3.2.1 Accountability Principle

3.2.1.1 The School has put in place appropriate technical and organisational measures to meet the requirements of accountability. These include:

- The appointment of a data protection officer who reports directly to the highest management level.
- Taking a 'data protection by design and default' approach.
- Maintaining documentation of processing activities.
- Adopting and implementing data protection policies.
- Implementing contracts with data processors.
- Implementing appropriate security measures in relation to the personal data.
- Carrying out data protection impact assessments (*where required*).
- Regular review of accountability measures.

#### 3.2.2 Principle (a): Lawfulness, Fairness, and Transparency

3.2.2.1 The School provides clear and transparent information about the processing of personal data including the lawful basis for that processing in the School's Records of Processing Activities (ROPA), Privacy Statement, (<https://chisenhale.towerhamlets.sch.uk/policies>) and this policy document.

#### 3.2.3 Principle (b): Purpose Limitation

3.2.3.1 The School processes personal data for purposes of substantial public interest as explained above when the processing is necessary to fulfil statutory and corporate functions. The School is authorised by law to process personal data for these purposes.

3.2.3.2 Where the School shares data with another organisation, the School

shall document that sharing and implement a data sharing agreement (*where required*).

3.2.3.3 The School shall not process personal data for purposes incompatible with the original purpose it was collected for.

#### 3.2.4 Principle (c): Data Minimisation

3.2.4.1 The School shall collect personal data necessary for the relevant purposes and ensure it is not excessive. The information processed is necessary for and proportionate.

3.2.4.2 Where personal data is provided to the School or obtained but is not relevant to our stated purposes, it will be erased.

#### 3.2.5 Principle (d): Accuracy

3.2.5.1 The School shall ensure that where personal data is identified as inaccurate or out of date, having regard to the purpose for which it is being processed, and the School will take every reasonable step to ensure that data is erased or rectified without delay. If the School decides not to either erase or rectify it, for example because the lawful basis means those rights don't apply, the decision will be documented.

#### 3.2.6 Principle (e): Storage Limitation

3.2.6.1 All special category data processed by the School for the purpose of employment or substantial public interest is, unless retained longer for archiving purposes, retained for the periods set out in the Retention Procedure. This retention procedure is reviewed regularly and updated when necessary.

#### 3.2.7 Principle (f): Integrity and Confidentiality (Security)

3.2.7.1 The School ensures that electronic information is processed within our secure networks and the School has obtained the Cyber Essentials certification. Hard copy information is processed in line with our security procedures. The systems used to process personal data allow data to be erase or updated as required. Electronic systems and physical storage have appropriate access controls applied.

## 4. References

This Policy document was developed using the ICO APD template 20191104 V1.0 and the HMRC appropriate Policy document updated 7 June 2019 in line with the terms of the [Open Government Licence \(nationalarchives.gov.uk\)](https://nationalarchives.gov.uk).