

# Bell Farm Primary School

## Processing of Special Category and Criminal Records Data Policy



### 1. Introduction and purpose of policy

Under the General Data Protection Regulation (GDPR), certain types of more sensitive data are given enhanced protection. These are 'special category data' and data about criminal convictions or offences. Under the Data Protection Act (DPA) 2018, employers must – where certain conditions apply – have in place an 'appropriate policy document' which explains its procedures for securing compliance with the data protection principles and the retention policy. The purpose of this is to provide further protections and accountability in respect of such data. This policy complements the school's data protection policy.

### 2. Definitions

'Personal data' is information relating to an identified or identifiable individual.

'Special category data' refers to information about:

- Racial or ethnic origin
- Political opinions
- Religious or philosophical beliefs or trade union membership
- Genetic or biometric data
- Health
- Sex life or sexual orientation

'Criminal records data' refers to information about criminal allegations, proceedings or convictions, or related security measures.

### 3. Scope of policy

This policy is relevant to the processing of special category and criminal records data in respect of employees and job applicants as well as some other individuals who work for, or on behalf of, the school. It also covers any individual about whom we gather data to inform our equal opportunities policies.

### 4. How we use sensitive category data and criminal records data

The school processes sensitive category and criminal records data for a range of purposes relating to employment. In addition to having a lawful basis for processing this data under the GDPR, we are required to satisfy an additional specific processing condition under data protection law. The purposes for which the school processes sensitive category and criminal records data are outlined below, alongside the relevant specific processing condition.

#### 4.1 Recruitment checks and policy

Under Schedule 1 paragraph 2 of the DPA 2018, we process data about health to assess the fitness of a worker or employee to undertake their role.

Under Schedule 1 paragraph 1 of the DPA 2018, we process data about a person's nationality in order to assess entitlement to work in the UK in accordance with current immigration rules.

We process data about criminal records as part of our 'safer recruitment' process to fulfil our statutory obligation to ensure that those who work for, or on behalf of, the school are suitable to work with children and young people. This includes sharing information with the Disclosure and Barring Service.

*We process data in this category in reliance on the condition that processing is necessary for the purposes of performing or exercising obligations or rights which are imposed or conferred by law in connection with employment.*

## **4.2 Day-to-day management**

Under Schedule 1 paragraph 2 of the DPA 2018, we process data about health to ascertain whether an individual is fit to remain in work and, if so, on what basis. This may involve sharing information with our occupational health provider, HR and/or legal professionals in order to obtain advice.

*We process data in this category that is necessary for health or social care purposes.*

Data about health is also processed under Schedule 1 paragraph 8 of the DPA 2018 so that the school can comply with its obligations under the Equality Act 2010 in respect of a person's disability and to process any sick pay entitlement or related benefits.

Under Schedule 1 paragraph 1 of the DPA 2018 we may process data about criminal records during a person's employment or engagement working for, or on behalf of, the school, to ensure their ongoing suitability to work with children and young people. This includes sharing information with the Disclosure and Barring Service.

Under Schedule 1 paragraph 1 of the DPA 2018 we process data about health to meet our general health and safety obligations in law.

*We process data in this category in reliance on the condition that processing is necessary for the purposes of performing or exercising obligations or rights which are imposed or conferred by law in connection with employment.*

## **4.3 Equal opportunities monitoring**

We process data about a person's gender, age, disability and ethnicity for the purposes of undertaking equal opportunities monitoring to inform our recruitment practices and other management policies.

*We process data in this category in reliance on the condition that processing is necessary for the purposes of identifying or keeping under review the existence or absence of equality of opportunity or treatment between groups of people specified in relation to that category with a view to enabling such equality to be promoted or maintained.*

## **5. Compliance with the data protection principles**

Our procedures for securing compliance with the data protection principles in respect of special category and criminal records data are as follows:

### **5.1 Principle 1: Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject**

The school will:

- Identify an appropriate lawful basis and an additional specific processing condition under Schedule 1 of the DPA 2018 for processing special category data and criminal records data;
- Inform the workforce that their data is collected and what it will be used for via its workforce privacy notice;
- Process special category and criminal records data in ways that people would reasonably expect and taking into account how it affects the interests of the people concerned.

### **5.2 Principle 2: Personal data shall be collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes.**

The school will:

- Record information about the purposes for which special category and criminal records data is processed in our documentation of processing activities and in the workforce privacy notice;
- Not use the data collected for a new purpose unless this is compatible with the original purpose, or the school has sought consent, or there is a clear basis in law for doing so.

### **5.3 Principle 3: Personal data shall be adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed.**

The school will:

- Ensure that special category and criminal records data is sufficient for the purposes for which it has been collected but that only the minimum amount of information required is collected and retained;
- Undertake, where possible, and bearing in mind the purposes for which data has been collected, to anonymise special category data (e.g. equality monitoring information);
- Ensure that checks on criminal records are only conducted on relevant roles in accordance with statutory guidance produced for education establishments by the Department for Education;
- Periodically review data processing to check that the personal data being held is still relevant and adequate and that data which is no longer needed is deleted.

### **5.4 Principle 4: Personal data shall be accurate and, where necessary, kept up to date**

The school will:

- Take reasonable steps to ensure the accuracy of any special category and criminal records data;
- Ensure that the source and status of such personal data is clear;
- Carefully consider any challenges to the accuracy of such personal data, responding in a consistent manner;

- Implement a consistent procedure to ensure compliance with the individual's right to rectification;
- Consider whether it is necessary to periodically update the information.

### **5.5 Principle 5: Personal data shall be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed**

The school will:

- Carefully consider, and be able to justify, how long special category and criminal records data will be retained and document this in its data protection retention schedule;
- Only retain special category and criminal records data for the period of time set in its data protection retention schedule;
- Review at regular intervals the data held and securely erase or anonymise information where it is no longer needed or the relevant retention period has ended.

### **5.6 Principle 6: Personal data shall be processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures**

The school will, as part of its consideration of appropriate technical and organisational measures, have due regard to the particular sensitivity of special category and criminal records data and the additional safeguards required. In particular, it will:

- Ensure that such data can only be accessed, altered, disclosed or deleted by those who have been granted the authority to do so;
- Ensure that the data held is accurate and complete in relation to the purposes of processing;
- Ensure that the data remains accessible and usable and can be recovered in the event of accidental loss, alteration or destruction.
- Regularly review the efficacy of the additional safeguards and technical or organisational measures implemented to ensure the security of special category or criminal records data.

### **5.7 The Accountability Principle: Being responsible for, and able to demonstrate compliance with, these data protection principles**

The Governing Body and the management of the school take their responsibility for complying with the GDPR and Data Protection Act 2018 seriously. The school has in place technical and organisational measures to meet the requirements of accountability in respect of all personal data, incorporating special category and criminal records data, including, but not limited to:

- Data protection policies;
- Documentation of our processing activities;
- The implementation of security measures;
- Recording and, where necessary, reporting personal data breaches;
- Carrying out data protection impact assessments for uses of personal data that are likely to result in high risk to individuals' interests;

- Appointing a data protection officer.

The school reviews and updates its accountability measures at appropriate intervals.

## 6. Status of Policy and Review

The content and operation of this policy is reviewed as and when deemed necessary by the Governing Body. The policy will be retained for as long as such special category and criminal records data is processed and for a period of 6 months thereafter. It will also be made available to the Information Commissioner at any time on request. The policy is intended to fulfil the requirement under the DPA 2018 that an 'appropriate policy document' is in place in certain circumstances where special category and criminal records data are being processed. The policy does not, however, confer any contractual rights.

Policy Source: Example Policy on the Processing of Special Category and Criminal Records Data, September 2021 (Strictly Education website)

<b>Status of Non-Statutory Policy</b>	<b>Date</b>
Authored by Jacky Chave	June 2019
Reviewed	Sept 2023
Agreed by Staff	Sept 2023
Agreed by Governors	N/A
Review	Every 2 years (Sept 2025)