

# APPROPRIATE POLICY DOCUMENT FOR THE PROCESSING OF SPECIAL CATEGORY AND CRIMINAL OFFENCE DATA



## 1. SCOPE

- 1.1 The Data Protection Act 2018 outlines the requirement for an appropriate policy document to be in place when processing special category and criminal offence data under certain specified conditions.
- 1.2 The College needs to process personal data about its current and former staff, learners, governors, and customers to carry out its functions as a provider of further education. As part of its operations, it is also necessary for the College to process special category data.
- 1.3 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 College has put in place when processing special category data and criminal offence data.

## 2. SPECIAL CATEGORY DATA

- 2.1 Special category data (defined by Article 9 of the UK General Data Protection Regulation (UK 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
- 2.2 Article 10 of the UK GDPR covers processing in relation to criminal convictions and offences or related security measures.

2.3 Section 11(2) of the DPA 2018 specifically confirms that this includes personal data relating to the alleged commission of offences or proceedings for an offence committed or alleged to have been committed, including sentencing. This is collectively referred to as 'criminal offence data'.

### **3. DESCRIPTION OF DATA PROCESSED BY THE COLLEGE**

#### **3.1 Schedule 1 Part 1: Employment, Social Security and Social Protection**

- Processing personal data concerning health in connection with our rights under employment law.
- Processing data relating to criminal convictions under Article 10 UK GDPR in connection with our rights under employment law in connection with recruitment, discipline or dismissal.

#### **3.2 Schedule 1 Part 1: Health or Social Care Purposes**

- Processing personal data for the purpose of assessing the working capacity of our employees so that we can safeguard their welfare, provide any adjustments necessary and implement any changes advised by our occupational health provider.
- Process personal data concerning health within our rights of the legitimate interest of the individual student.

#### **3.3 Schedule 1, Part 2: Substantial Public Interest Conditions, Statutory and Government Purposes**

- Fulfilling the College's obligations under UK legislation for the provision of education to learners up to the age of 18.
- Complying with legal requirements related to the disclosure of information in connection with legal proceedings.
- Processing of criminal offence data which specifically relates to this condition.

#### 3.4 **Schedule 1 Part 2: Equality of Opportunity or Treatment**

- Ensuring compliance with the College's obligations under legislation such as the Equality Act 2010
- Processing certain categories of data for the purposes of monitoring, promoting and maintaining equality of opportunity and treatment of our staff and students.

#### 3.5 **Schedule 1 Part 2: Preventing or Detecting Unlawful Acts**

- Processing data concerning criminal records in connection with employment, in order to reduce the risk to the College and safeguard learners and the wider community.
- Processing data about criminal convictions and offences, for example, as part of the recruitment of staff or the admissions process for applicants to certain courses, such as social work, education, health and social care or childcare.

#### 3.6 **Schedule 1 Part 2: Protecting the Public Against Dishonesty**

- Processing data concerning dishonesty, malpractice or other improper conduct in order to safeguard and protect learners and the wider community.
- Carrying out investigations and disciplinary actions relating to our employees.
- Assisting other agencies in connection with their regulatory requirements

#### 3.7 **Schedule 1 Part 2: Counselling**

- Process data in order to provide confidential counselling, advice, occupational health or support to our staff and students.

#### 3.8 **Schedule 1 Part 2: Safeguarding of Children and of Individuals at Risk**

- Processing data in order to meet our safeguarding responsibilities, for example, to protect a children and individuals at risk from physical, mental or emotional harm.
- Protecting vulnerable children and young people from neglect, physical, mental or emotional harm.
- Obtaining further support for children and individuals at risk by sharing information with relevant agencies

### 3.9 **Schedule 1 Part 3: Criminal Convictions and Offences Data**

- Processing personal data relating to criminal convictions in connection with service obligations, or as part of recruitment and employment checks, to safeguard and protect learners and the wider community against dishonesty.
- Processing data with the consent of the individual or, for example, where it is necessary to protect the vital interests of a person, it is necessary for legal proceedings or advice, or it is necessary for reasons of substantial public interest (such as preventing or detecting unlawful acts or safeguarding individuals in relation to discipline proceedings).

### 3.10 **Schedule 1 Part 3: Legal Proceedings**

- Processing data where it is necessary for obtaining legal advice, or in connection with legal proceedings (including prospective proceedings) or for the purpose of establishing, exercising or defending legal rights.
- Processing personal data relating to criminal convictions in connection with its service obligations or as part of recruitment and employment checks to safeguard and protect learners and the wider community against dishonesty.

## **4. COMPLIANCE AND ACCOUNTABILITY WITH DATA PROTECTION PRINCIPLES**

4.1 Data Protection Principles Article 5 of UK GDPR requires that the data controller shall be responsible for, and able to demonstrate compliance with, these principles (the accountability principle).

4.2 Personal data shall be:

- Processed lawfully, fairly and transparently
- Collected for specific and legitimate purposes and processed in accordance with those purposes
- Adequate, relevant and limited to what is necessary for the stated purposes
- Accurate and, where necessary, kept up-to-date
- Retained for no longer than necessary, and erased or rectified immediately as required
- Kept secure

4.3 To demonstrate our compliance and accountability we will:

- Appoint a DPO (Data Protection Officer)
- Document our processing activities and keep these records up to date (Record Of Processing Activities / Data register)
- Monitor and audit our internal processes regarding data protection
- GDPR Compliance group will meet termly to review procedures, protocols, breaches/near misses and review good practice.
- Train our staff in data protection procedures
- Keep a record of personal data breaches
- Have appropriate contractual arrangements in place with organisations that process personal data on our behalf
- Complete a Data Protection Impact Assessment for any high risk personal data processing
- Implement processes to make sure that personal data is only collected, used or handled in a way that is compliant with data protection legislation.

4.4 More detailed information about our processing activities can be found in our Privacy Statements published on the College Website.

4.5 All staff are required to report data breaches, near misses or incidents to the College DPO immediately; who will advise on action to be taken. [Dataprotection@yeovil.ac.uk](mailto:Dataprotection@yeovil.ac.uk)

## **5. RELATED DOCUMENTATION**

Data Protection Policy

Retention of Records Policy