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York College - Data Protection Policy

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York College - Data Protection Policy

Introduction

The College needs to keep certain information about its employees, students and other users to allow it to monitor performance, achievements, and health and safety, for example. It is also necessary to process information so that staff can be recruited and paid, courses organised and legal obligations to funding bodies and government complied with. To comply with the law, information must be collected and used fairly, stored safely and not disclosed to any other person unlawfully. To do this, the College must comply with the Data Protection Act (2018) and the Data Protection Principles which are set out in the General Data Protection Regulations [GDPR]. In summary these state that personal data shall:

- Be obtained and processed fairly and lawfully and shall not be processed unless certain conditions are met.
- Be obtained for a specified and lawful purpose and shall not be processed in any manner incompatible with that purpose.
- Be adequate, relevant and not excessive for those purposes.
- Be accurate and kept up to date.
- Not be kept for longer than is necessary for that purpose.
- Be processed in accordance with the data subject's rights,
- Be kept safe from unauthorised access, accidental loss or destruction.
- Not be transferred to a country outside the European Economic Area, unless that country has equivalent levels of protection for personal data.

The College and all staff or others who process or use any personal information must ensure that they follow these principles at all times. In order to ensure that this happens, the College has developed this Data Protection Policy.

Status of the Policy

The OPP does not form part of the formal contract of employment, but it is a condition of employment that employees will abide by the rules and policies made by the College from time to time. Any failure to follow the policy may therefore result in disciplinary proceedings.

Any member of staff, who considers that the policy has not been followed in respect of personal data about themselves, should raise the matter with the designated data controller initially. If the matter is not resolved it should be raised as a formal grievance.

Notification of Data Held and Processed

All staff, students and other users are entitled to know:

- What information the College holds and processes about them and why.
- How to gain access to it.
- How to keep it up to date.
- What the College is doing to comply with its obligations under the 2018 Act.

Responsibilities of Staff

All staff are responsible for:

- Checking that any information that they provide to the College in connection with their employment is accurate and up to date.
- Informing the College of any changes to information, which they have provided. i.e. changes of address
- Checking the information that the College will send out from time to time, giving details of information kept and processed about staff.
- Informing the College of any errors or changes.

The College cannot be held responsible for any errors unless the staff member has informed the College of them.

If and when, as part of their responsibilities, staff collect information about other people, (i.e. about students' course work, opinions about ability, references to other academic institutions, or details of personal circumstances), they must comply with the guidelines for staff in appendix 1.

Data Security

All staff are responsible for ensuring that:

- Any personal data which they hold is kept securely.
- Personal information is not disclosed to any unauthorised third party.

Staff should note that unauthorised disclosure will normally be a disciplinary matter.

Personal information should be:

- kept in a locked filing cabinet, or
- in a locked drawer, or
- if it is computerised, be password protected, or
- kept only on disk which is itself kept securely.

Student Obligations

Students must ensure that all personal data provided to the College is accurate and up to date. They must ensure that the College is notified of any changes of address, etc.

Students who use the College computer facilities to process personal data must comply with the General Data Protection Regulation. Any student who requires further clarification about this should contact their tutor or IT Helpdesk personnel.

Rights to Access Information

Staff, students, and other users of the College have the right to access any personal data that is being kept about them either on computer or in certain files. Any person who wishes to exercise this right should complete the college "Access to Information" form and hand it in to College reception clearly marked for the attention of The Information Officer. Please see the appendix 2 for further information.

The College aims to comply with requests for access to personal information as quickly as possible, but will ensure that it is provided within 30 days unless there is good reason for delay, e.g. examination results. In such cases, the reason for delay will be explained in writing to the data subject making the request.

Publication of College Information

Information that is already in the public domain is exempt from GDPR. It is College policy to make as much information public as possible, and in particular the following information will be available to the public for inspection:

Names and contacts of College governors
List of key staff and roles

Any individual who has good reason for wishing details in these lists or categories to remain confidential should contact a designated data controller.

Subject Consent

In many cases, the College can only process personal data with the consent of the individual. In some cases, if the data is sensitive, **express consent** must be obtained. Agreement to the College processing some specified classes of personal data is a condition of acceptance of a student onto any course, and a condition of employment for staff. This includes information about previous criminal convictions.

Some jobs or courses will bring the applicants into contact with children, including young people between the ages of 16 and 18. The College has a duty under the Children Act and other enactments to ensure that staff are suitable for the job, and students for the courses offered. The College also has a duty of care to all staff and students and must therefore make sure that employees and those who use the College facilities do not pose a threat or danger to other users.

The College will also ask for information about particular health needs, such as allergies to particular forms of medication, or any conditions such as asthma or diabetes. The College will only use the information in the protection of the health and safety of the individual, but will need consent to process in the event of a medical emergency, for example.

Therefore, all prospective staff, and students will be asked to sign a Consent to Process form, regarding particular types of information when an offer of employment or a course place is made. A refusal to sign such a form can result in the offer being withdrawn. (Staff- *(contained within contract of employment)* and Students *(contained within course application form)*).

Processing Sensitive Information

At College it is necessary to process information about a person's health, criminal convictions, race, gender and family details. This may be to ensure the College is a safe place for everyone, or to operate other College policies, such as the Sick Pay Policy or Equal Opportunities Policy. Because this information is considered sensitive, and it is recognised that the processing of it may cause particular concern or distress to individuals, staff and students will be asked to give express consent for the College to do this. Offers of employment or course places may be withdrawn if an individual refuses to consent to this, without good reason.

The College will process sensitive data confidentially and only where absolutely necessary.

More information about this is available from Human Resources (for staff) or Student Services (for students) in the first instance.

The Data Controller and the Designated Data Controller(s)

The College as a corporate body is the data controller under the Regulations, and the governing body is therefore ultimately responsible for implementation. However, the designated data controllers will deal with day to day matters.

This College has 2 designated data controllers. They are the Deputy CEO and Principal Partnerships and Development (for issues relating to non-curriculum activities and information systems) and the Vice Principal Finance and Professional (for issues relating to finance and audit).

Retention of Data

In general information about students will be kept for a maximum of seven years after they leave the College. Some information however will be kept for much longer to adhere to the funding agencies requirements under European Union Legislation or awarding body regulations. This will include:

- name, address and other non-sensitive data
- academic achievements
- copies of any reference written
- other matters relating to the student's time at College

In general, all information about staff will be kept for 7 years after a member of staff leaves the College. Some information however will be kept for much longer. This will include information necessary in respect of pensions, taxation, potential or current disputes or litigation regarding the employment, Occupational Health records, and information required for job references. Further information is available from the Human Resources Department.

Contact with students, their parents/carers and external agencies

The College's primary relationship is with the student and is mindful of its obligations under GDPR to direct correspondence to the individual student. However, the College is also aware of the support and encouragement many students need from their parents and carers to achieve a successful College education.

This section should be read in conjunction with the College's guidelines on confidentiality.

1.1 Students who are under the age of 18 or who are deemed to be a 'vulnerable adult' (see appendix 6 for a glossary of terms) will be made aware that, as a condition of their enrolment, the College will ordinarily communicate with parents regarding the following:

- absence from College (activities)
- academic progress
- any matters of concern

Signing the College enrolment form implies a student's consent to communicate with parents/carers unless they opt out in the Parental Contact Section.

The College will ensure that this policy does not discriminate against those students under 18 who are not under the care of their parents e.g. for safeguarding purposes or those who choose to live independently. However, the College will endeavour to communicate with another interested party in lieu of a parent/carer.

- 1.2 In accordance with GDPR, a student (16 - 18) will be able to withdraw his/her consent for the College to contact parents/carers by following the procedures laid out in this Policy. Information about these procedures will be made available to them through Student Services and the pastoral system or can be found
- 1.3 If a student reaches the age of 18 whilst completing his/her course, the College will continue to contact parents/carers until the student withdraws his/her consent using the College's procedures.
- 1.4 All students will be made aware of those circumstances which over-ride any withdrawal of consent or agreement to withhold information from a third party i.e. in a situation where the College considers the health and safety of the student or that of any other individual to be at risk; the disclosure of a specific offence committed against property or an individual.
- 1.5 Data Protection Legislation states that any child over the age of 16 reserves the right to withdraw their consent for the College to contact parents/carers. Should this happen, we are required to get express [written] permission from the student

to allow us to inform you that this consent has been withdrawn. In cases where we do not get this permission, we will strongly encourage the student to inform you that they have withdrawn this consent. Students who withdraw their consent to contact parents/carers must provide the College with an emergency contact; the individual named as the emergency contact should know that they have been named and confirm that they are happy to act in that capacity.

- 1.6 The student has a responsibility to keep the College updated with details of any change of address or other contact details
- 1.7 In accordance with this Policy, the College will store accurate contact details for all students in the College's central information system. Students who have withdrawn their consent to contact parents/carers will be flagged on the College's information system.
- 2. The day to day support of students may require, from time to time, the need to have contact with external agencies and organisations other than the College.
 - 2.1 Where the College initiates contact with an external agency regarding a student, it should only do so with the knowledge and consent of the student. Exceptions to this apply where the College considers the health and safety of the student or that of any other individual may be at risk or where there has been a disclosure of a specific offence committed against property or an individual.
 - 2.2 Where an external agency or other organisation contacts the college requesting information, in person, by phone or by email, no information should be disclosed in response to such an informal enquiry. Staff should explain that information cannot be released without a written request and that consent will be required from the student. The caller's name and contact details should be taken so that the request can be passed on to the student who may wish to respond directly to the request.
 - 2.3 Exceptions will apply as stated above or where an Information Sharing Agreement is in place.

Conclusion

Compliance with GDPR is the responsibility of all members of the College. Any deliberate breach of the Data Protection policy may lead to disciplinary action being taken or access to College facilities being withdrawn or even a criminal prosecution.

Any questions or concerns about the interpretation or operation of this policy should be taken up with one of the designated data controllers.

Staff will receive information relating to this policy and its operation as part of their induction to the College.

- 1 Many staff will process data about students on a regular basis, when marking registers, or College work, writing reports or references, or as part of a pastoral or academic supervisory role. The College will ensure through registration procedures, that all students give their consent to this sort of processing, and are notified of the categories of processing, as required by GDPR.

The information that staff deal with on a day-to-day basis will be 'standard' and will cover categories such as:

- General personal details such as name and address
 - Details about class attendance, course work marks and grades and associated comments
 - Notes of personal supervision, including matters about behaviour and discipline
2. Information about a person's religion or creed, gender, trade union membership, political beliefs, sex life or sexuality, health or criminal record is deemed sensitive data under GDPR. This can only be collected and processed with the person's consent.

e.g.: recording information about dietary needs, for religious or health reasons prior to taking students on a field trip; recording information that a student is pregnant, as part of pastoral duties.

Whilst the person has the right to withhold such consent this may restrict the opportunities for the individual concerned.

3. All staff have a duty to make sure that they comply with the data protection principles, which are set out in the Data Protection Policy. In particular, staff must ensure that records are:
 - accurate
 - up-to-date
 - fair
 - kept and disposed of safely, and in accordance with the College policy
4. The College will designate staff as 'authorised staff'. These staff are the only staff authorised to hold or process data that is:
 - not standard data or
 - sensitive data

The only exception to this will be if a non-authorised staff member is satisfied that the processing of the data is necessary:

- in the best interests of the student or staff member, or a third person, or the College; AND
- he or she has either informed the authorised person of this, or has been unable to do so and processing is urgent and necessary in all the circumstances.

This should only happen in very limited circumstances. e.g. A student is injured and unconscious, but in need of medical attention, and a staff tutor tells the hospital that the student is pregnant or a Jehovah's witness.

5. Authorised staff will be responsible for ensuring that all data is kept securely.
6. Staff must not disclose personal data to any third party within the College unless for business academic or pastoral purposes.
7. Staff shall not disclose personal data to any third party outside the College except with the authorisation or agreement of a designated data controller, or in line with College policy.
8. Before processing any personal data, all staff should consider the checklist below:

Staff Checklist for Recording Data

Do you really need to record the information?

Is the information 'standard' or is it 'sensitive'?

If it is sensitive, do you have the person's express consent?

Has the person been told that this type of data will be processed?

Are you authorised to collect / store / process the data?

Have you checked with the person concerned that the data is accurate?

Are you sure that the data is secure?

If you do not have the person's consent to process, are you satisfied that it is in the best interests of the student or the staff member to collect and retain the data?

Appendix 2

York College

Standard Request Form for Access to Data

(To be handed in to the College reception marked for the attention of The Data Protection Officer)

I (name _____) wish to have access to either
(delete as appropriate)

1. All the data that the College currently has about me, either as part of an automated system or part of a relevant filing system; or
2. Data that the College has about me in the following categories:
 - Academic marks or course work details
 - Academic or employment references
 - Disciplinary records
 - Health and medical matters
 - Any statements of opinion about my abilities or performance
 - Personal details including name, address, date of birth etc
 - Other information

(Please tick as appropriate)

By completing this form, I accept that I am making a request under the General Data Protection Regulations to receive a copy of specified personal data that the College holds about me. By signing below, I confirm that I am the data subject named above and that you may contact me to obtain further identifying information before agreeing to my request.

I understand that it may take up to 30 days from receipt of this form before a reply to my request is provided to me.

Signed: _____

Dated: _____

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York College's Arrangements for Students with Disabilities

Disclosure of confidential information and its processing by the College

- Under the Disability Discrimination Act 1995 the College owes a duty to its students to make reasonable adjustments on their behalf. A disabled student has a right to request that the existence or nature of his or her disability be treated as confidential.
- In performing its duty the College must have regard to the extent that making the adjustment is consistent with any such request for confidentiality. In some instances this may mean that reasonable adjustments will have to be provided in an alternative way in order to ensure confidentiality, or, in some cases, no adjustment can be provided.
- Data relating to a student's disability may need to be processed by the College. Given the sensitive nature of this information, and in order to comply with the Data Protection Act 1998, the College requests that the student concerned gives his or her consent to the processing of that data.

Please sign either one of the two forms attached to indicate how you wish the College to treat information relating to your disability and to provide your consent to the College processing such information:

***This section must remain attached to the signature forms at all times**

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York College's Arrangements for Students with Disabilities

Disclosure of confidential information and its processing by the College

Please sign one only

Student's Name: _____ Date of Birth: _____

I agree that all information relating to my disability, which I provide to the College, including any information about any additional support needs, is **not confidential** and can be used by College staff, as appropriate, and agents of examination bodies, in order to take reasonable account of my needs.

I also consent to the College processing any such data in accordance with its duties under the Data Protection Act 2018.

Student's Signature: _____ Dated: _____

Please sign one only

Student's Name: _____ Date of Birth: _____

I hereby request that all information relating to my disability, which I provide to the College, is to be treated as confidential. In some instances I understand that this may mean that reasonable adjustments will have to be provided in an alternative way in order to ensure confidentiality, or, in some cases, no adjustment will be provided.

However, I do consent to the college processing any such data in accordance with its duties under the Data Protection Act 2018.

Student's Signature: _____ Dated: _____

* **These signatures must remain attached to the previous information at all times**

Appendix 5 Procedures and documents for withdrawal of consent to contact parents/carers

The withdrawal procedure will operate as follows:

- The student informs the Progress Tutor / Head of Study that they wish to withdraw his/her consent for College to contact their parents.
- The Progress Tutor/Head of Study explains the implications of this to the student
- The student completes the 'Withdrawal of Consent' form (Appendix 5A) (available from TLAS) in the presence of the Progress Tutor/Head of Study, who also needs to sign it.
- The Progress Tutor will confirm with the student the appropriate contact details which are to be held centrally, for direct contact with the student and emergency contact details. The Progress Tutor will arrange (via TLAS) for the necessary updates to be made to the central information held on that student.

Appendix 5A Withdrawal of consent form

Student withdrawal of consent to contact parents / carers



I wish to exercise my right to receive directly, all information about my academic progress, together with any other matters relevant to me being a student at college.

Any requests for information from other family members should not be agreed to without my approval.

I understand that the exercising of this right also makes my actions my personal responsibility and I undertake to fully comply with the Student Charter and Code of Conduct.

I also understand that, if I also withdraw consent for my parents/carers to act as my emergency contact in the event of an emergency or ill health, I must provide an alternative. The individual named as the emergency contact should know that they have been named and confirm that they are happy to act in that capacity. Full details will need to be provided so that they can be added to our central information systems.

Name of Student:

(Please print full name)

DOB:

Student Ref :

Signature of Student:

Date:

Signature of Progress Tutor:

(Please print full name)

Date:

This form must be handed to your Progress Tutor. A letter will be issued to your parent/carer explaining that we will no longer be making contact with them. The process is not valid until this letter has been issued by the college.

Please note: If you are a Work Based Learner, the college will continue to pass relevant information to your employer.

Progress Tutor to return completed form to TLAS 2F125 within two days of signature.

Appendix 5C Change of contact details

Change of contact details

Student Name:
Student Reference Number:
Progress Tutor :
Home Address , phone number and name of contact:
Mobile Number:
Emergency contact details Name of contact, address and phone numbers:

This information should be taken by the Progress Tutor to the College Information Systems in order that records can be updated.

Glossary of Main Terms

These are the main terms that are used throughout the good practice guide. They are explained in greater detail in the definition section, but are included here for easy reference

Regulations – The General Data Protection Regulations

Data – Any information which will be processed or used on or by a computerised system. This can be written, taped, photographic or other information.

Personal Data – Information about a living person. This information is protected by the Regulations.

Data Subject – The person whom the data is about.

Data Controller – The person or organisation responsible for ensuring that the requirements of the Data Protection Act are complied with. These people will be responsible for ensuring that data is collected, stored and processed fairly.

Data Processor – Any person other than a person employed by the College, who processes any data on behalf of the organisation. An external payroll provider will be an example.

Processing – Accessing, altering, adding to, changing, disclosing or merging any data will be processing for the purpose of the regulations.

Sensitive Data – Information about a person's religion or creed, gender, trade union membership, political beliefs, sex life or sexuality, health or criminal record.

Relevant Filing System – Any paper filing systems or other manual filing system which is readily structured so that information about an individual is readily accessible.

The Information Commissioner – Person Appointed by the government to administer the provisions of the regulations including notification and to provide guidance and assistance to organisations and individuals.

Notification – The process of informing the Commissioner that an organisation or an individual will be processing personal data other than for private use. This replaces registration under the 1984 Act.

Subject Consent – Before processing personal data, the College must have the agreement of the individual to do so. In the case of sensitive data, this must be specific consent, but in other cases, it can be more general.

Vulnerable Adult defined within 'No Secrets'* guidance as a person:

"who is or may be in need of community care services by reason of mental or other disability, age or illness; and who is or may be unable to take care of him or herself, or unable to protect him or herself against significant harm or exploitation". *No Secrets '- Department of Health 2000

Ref : Safeguarding Adults: The role of health service managers and their boards DoH Social Care Policy, 14 Mar 2011