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Appropriate Policy Document (APD) for Special Category and Criminal Offence Data

Information Governance (IG) Services.

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Rationale

The Data Protection Act 2018 outlines the requirement for an Appropriate Policy Document (APD) to be in place when processing special category and criminal offence data.

To ensure that Bromley Hills Primary School has a lawful basis for processing it must meet public interest conditions as set out in Schedule 1 of the Data Protection Act 2018. Bromley Hills Primary School must also satisfy a condition under Article 6 (1) and Article 9 (2) of the UK General Data Protection Regulation (UK GDPR).

This policy also shows how Bromley Hills Primary School processing of Special Category and Criminal Offence Data meets the requirements of the UK GDPR Article 5 principles.

This policy is written to ensure that personal data relating to the data subject has sufficient information to understand how Bromley Hills Primary School is processing their Special Category and Criminal Offence Data and how long it is retained for.

The purpose of this policy is to ensure that the school complies with the provisions of UK GDPR and the Data Protection Act 2018 to protect the rights and privacies of individuals.

Definition of information covered by this policy

Special category data includes information relating to: Race, ethnic origin, politics, religion, trade union membership, genetics, biometrics (where used for ID purposes), health, sex life, and sexual orientation.

Criminal Convictions/offences data is a separate sensitive category under Data Protection Law.

Scope of the Policy

This policy applies to employees and pupils of Bromley Hills Primary School. It also applies to temporary staff, volunteers and Governors working on behalf of the school.

Description of data processed

Personal data processed by Bromley Hills Primary School falls into three broad categories:

Pupil data – relates to personal identifiers and contacts (such as name, unique pupil number, contact details and address). Characteristics (such as ethnicity, language, gender, religion, data of birth, free school meal eligibility). Special education needs, safeguarding information, medical and administration (doctor's information, child health, dental health, allergies, medication and dietary requirements). Attendance information, assessment, attainment and behavioral information. The school obtains data on parents, guardians, carers including their name, address, telephone number and e-mail address.

Workforce data – relates to personal information (such as name, address and contact details, employee or teacher number, bank details, national insurance number, marital status, next of kin, dependents and emergency contacts). Special categories of data (such as gender, age, ethnic group). Contract information (such as start dates, terms and conditions of employment, hours worked, post, roles and salary information, pensions, nationality and entitlement to work in the UK). Qualifications (such as skills and experience, where relevant). Work absence information, information about criminal records, details of any disciplinary or grievance procedures. Assessments of performance (such as appraisals, performance reviews, ratings, performance improvement plans and related correspondence). Information about medical or health conditions (such as whether or not a member of staff has a disability for which the organisation needs to make reasonable adjustments).

Governor and Volunteer data – personal information (such as name, address and contact details, where appropriate details of bank, national insurance number, information on marital status, next of kin, dependants and emergency contacts). Special categories of data including characteristics information (such as gender, age, ethnic group). Information about engagement with the school (such as start dates, terms and conditions of engagement, role as a Governor or volunteer, hours engaged, activities engaged with). Qualifications (such as skills and experience, where relevant). Information about any criminal record. Details of any disciplinary or grievance procedures (such as any warnings issued and related correspondence). Information about medical or health conditions (such as whether or not a Governor and Volunteer has a disability for which the organisation needs to make reasonable adjustments).

Schedule 1 condition for processing

The school's Privacy Notice (Pupil, Workforce and Governors/Volunteers) records the lawful basis for processing personal data. The Privacy Notices highlight the following:

- Bromley Hills Primary School as the data controller for the purposes of Data Protection Law
- The name of the data protection officer
- The purposes of the processing
- The categories of personal data collected, held and shared

Additionally in accordance with the requirements under Article 30 of the UK GDPR Bromley Hills Primary School maintains a Record of Processing Activities (RoPA) also known as an Information Asset Register (IAR).

The IAR identifies the name of the information asset. Recorded against each information asset is the following:

- What does it do; Location of the information asset; Information asset owner;
- Volume; Personal data held; Processing purposes; Personal data source;
- Access and Security; Shared recipients; Format;
- Data retention periods applied to the information assets;
- How personal data is destroyed; Risks/impact;
- Whether a Data Protection Impact Assessment has been undertaken;
- Privacy Notice in place; Whether a code of practice exists;
- Data Processor Contracts in Place; Whether consent is used as a lawful basis;
- Recording of data breaches if applicable

Article 6 Lawful basis for processing

Special category data is the most sensitive personal data a controller can process.

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The misuse of this data is likely to interfere with an individual's fundamental rights and freedoms and could cause real harm and damage.

Due to the possible risks, the ICO expects controllers to take all necessary precautions to protect this data.

Therefore the school must have a lawful basis to process this type of data which satisfies a condition under Article 6 (1) and Article 9 (2). The lawful basis under Article 6 (1) is as follows:

- (a) the data subject has given consent to the processing of his or her personal data for one or more specific purposes;
- (b) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;
- (c) processing is necessary for compliance with a legal obligation to which the controller is subject;
- (d) processing is necessary in order to protect the vital interest of the data subject or of another natural person;
- (e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;
- (f) processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.

Article 9 Processing of special categories of personal data

Processing of Special category personal data will be lawful only if it meets one of the conditions from Article 9 (2) UK GDPR below:

- (a) an individual has given explicit consent to the processing of personal data for one or more specified purposes, except where limited by law;
- (b) processing is necessary for the purposes of carrying out the obligations and

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exercising specific rights of the school or a person under employment, social security and social protection law or a collective agreement under law;

- (c) processing is necessary to protect the vital interests of a person or where the person is physically or legally incapable of giving consent;
- (d) processing by non-for-profit bodies for legitimate activities with appropriate safeguards;
- (e) processing relates to personal data which have been made public by a person;
- (f) processing is necessary for the establishment, exercise or defence of legal claims or whenever courts are acting in their judicial capacity;
- (g) processing is necessary for reasons of substantial public interest under law;
- (h) processing is necessary for the purposes of preventive or occupational medicine, for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services on the basis of law or pursuant to contract with a health professional and subject to the duty of confidentiality;
- (i) processing is necessary for reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of quality and safety of health care and of medicinal products or medical devices, subject to the duty of confidentiality; or,
- (j) processing is necessary for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes.

Procedures for ensuring compliance with the principles

Article 5 of the UK General Data Protection Regulation sets out the data protection principles. These are Bromley Hills Primary School procedures for ensuring we comply with them.

Principle 1: Lawfulness, fairness and transparency

Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject.

Bromley Hills Primary School will:

- Ensure that personal data is only processed where a lawful basis applies, and where processing is otherwise lawful
- Only process personal data fairly, and will ensure that data subjects are not misled about the purposes of any processing
- Ensure that data subjects receive full privacy information so that any processing of personal data is transparent

Principle 2: Purpose limitation

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

Bromley Hills Primary School will:

- Only collect personal data for specified, explicit and legitimate purposes, and we will inform data subjects what those purposes are in a privacy notice.
- Not use personal data for purposes that are incompatible with the purposes for which it was collected. If we do use personal data for a new purposes that is compatible, we will inform the data subject first.

Principle 3: Data Minimisation

Personal data shall be adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed.

Bromley Hills Primary School will:

- Only collect the minimum personal data that we need for the purposes for which it is collected.
- We will ensure that the data we collect is adequate and relevant.

Principle 4: Accuracy

Personal data shall be accurate and, where necessary, kept up to date.

Bromley Hills Primary School will:

- Ensure that personal data is accurate, and kept up to date where necessary.
- We will take particular care to do this where our use of the personal data has a significant impact on individuals.

Principle 5: Storage limitation

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.

Bromley Hills Primary School will:

- Only keep personal data in identifiable form as long as is necessary for the purposes for which it is collected, or where we have a legal obligation to do so.
- Once we no longer need personal data it shall be deleted or rendered permanently anonymous.

Principle 6: Integrity and confidentiality (security)

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.

Bromley Hills Primary School will:

- Ensure that there are appropriate organisational and technical measures in place to protect personal data.

Accountability Principle

Bromley Hills Primary School, as Data Controller, shall be responsible for, and be able to demonstrate compliance with the principles above. The Senior Information Risk Owner (Headteacher), Senior Leadership Team, Teachers, Teaching Assistant, School Business Manager, Office Staff, Site Manager, and any other member of staff as appropriate, are responsible for ensuring that Bromley Hills Primary School is compliant with these principles.

Bromley Hills Primary School will:

- Ensure that records are kept of all personal data processing activities, and that these are provided to the Information Commissioner on request.
- Carry out a Data Protection Impact Assessment for any high risk personal data processing, and consult the Information Commissioner if appropriate.
- Ensure that the School's Data Protection Officer is consulted to provide independent advice and monitoring of the School's personal data handling, and that the Data Protection Officer has access to report to the highest management level of the School.
- Have in place internal processes to ensure that personal data is only collected, used

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or handled in a way that is compliant with data protection law

Retention and erasure policies

Where special category of criminal convictions personal data is processed Bromley Hills Primary School will ensure that:

- There is a record of that processing, and that record will set out, where possible, the envisaged time limits for erasure of the different categories of data
- Where we no longer require special category or criminal convictions personal data for the purpose for which it was collected, we will delete it or render it permanently anonymous
- Data subjects receive full privacy information about how their data will be handled, and that this will include the period for which the personal data will be stored, or if that is not possible, the criteria used to determine that period.

Version Control

This policy will be evaluated on a regular. It was last updated on 1st February 2021 and is due for review in February 2022.

Further information

For further information, please contact:
YourIG Data Protection Officer Service
Dudley MBC, 3-5 St James's Road, Dudley, DY1 1HZ

Email: YourIGDPOService@dudley.gov.uk tel: 01384 815607

Additional guidance

This can be found via the following links:

ICO guide to [Special Category Data](#)

ICO guidance on [Appropriate Policy Document](#)