

DATA PROTECTION POLICY

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DATA PROTECTION ACT POLICY – OCTOBER 2014 UPDATE

1. Introduction

Fareham College needs to keep certain information about its staff, students and other users to allow it to monitor a range of activities including performance, achievements and health and safety. It is also necessary to process information to ensure that staff can be recruited and paid, courses organised and compliance with legal obligations to funding bodies and Government. To comply with the Law, information must be collected and used fairly, stored safely and not disclosed to any other person (unlawfully/lawfully). To do this, the College must comply with the Data Protection Principles which are set out in the Data Protection Act 1998 (the 1998 Act). 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.

2. Status of the Policy

This policy does not form part of the formal staff contract of employment, but it is a condition of employment that staff abide by the rules and policy made by the College from time to time. Any breach of the policy could, 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 Deputy Principal initially, as detailed in Section 11. If the matter is not resolved it should be raised as a formal grievance.

3. 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;
- Know how to gain access to it;
- Know how to keep it up-to-date;
- Know what the College is doing to comply with its obligations under the 1998 Act.

The College will, therefore, provide all staff and students and other relevant users with a standard form of notification. This will state all the types of data the College holds and processes about them, and the reasons for which it is processed. **The College will seek to do this at least annually for students and every two years for staff.** This will conform to the model in **Appendix 1** of this Policy.

4. Responsibilities of Staff

- Checking that any information which they provide to the College in connection with their employment is accurate and up-to-date;

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- Informing the College of any changes to the information which they have provided e.g. changes of address;
 - Checking the information which 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, (e.g. 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, which are at **Appendix 2** to this Policy.

5. Data Security

All staff are responsible for ensuring that:

- Any personal data which they hold is kept securely;
- Personal information is not disclosed either orally or in writing or accidentally or otherwise to any unauthorised third party;

Staff should note that unauthorised disclosure will usually be a disciplinary matter and in some cases may be considered to be gross misconduct.

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 disc which is itself kept securely.

6. Student Obligations

Students must ensure that all personal data provided to the College is accurate and up-to-date. They must ensure that changes of address, etc. are notified to Student Services/their Tutor and/or subject Lecturer.

Students who use the College's computer facilities may, from time-to-time, process personal data. If they do they must notify the Data Controller. All students must comply with the College's IT Regulations.

7. Right 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 (see **Appendices 3A and 3B**)

For students, the College will generally not make a charge on each occasion that access is requested, although the College has discretion to make a charge if multiple requests are received from the same student. The written request should be passed to Student Services.

For staff, there will be no charge and the relevant form should be passed to Personnel and Training.

The College aims to comply with requests for access to personal information as quickly as possible, but will ensure that it is provided within 21 days unless there is good reason for delay. In such cases, the reason for delay will be explained in writing to the data subject making the request.

8. Publication of College Information and the Freedom of Information Act 2000

Under the provisions of the Freedom of Information Act 2000, the College is required to adopt a Publication Scheme which came into force on 29th February 2004. This describes the

information which the College publishes or intends to publish, i.e. make routinely available. The Scheme is a guide to, rather than a list of actual publications because individual items will change as new material is created and there are revisions to existing materials. However the Scheme is a commitment to make available the information which is described. From 2005, any information not available via the Publication Scheme can be requested.

The College has adopted this model scheme for Further Education which has been produced for the Further Education sector. This sets down the categories of information which are available and the relevant media, as well as specifying any costs which apply. The Model Scheme is a separate document to this Data Protection Act Policy. The College's aim is to publish widely and to make a charge only where that is deemed to be strictly necessary. The College's publications will be a mixture of paper-based and electronic media.

9. 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 or explicit 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.

A (non-exhaustive nor fully inclusive) guide on what constitutes personal versus sensitive data can be found in **Appendix 8** of this DPA Policy – this is subject to change as per latest DPA legislation.

A current guide on the type of information and/or data that is outside the current scope of the DPA is shown in **Appendix 9** of this DPA Policy – again, this is also subject to change in line with latest DPA legislation.

Some jobs or courses will bring the applicants into contact with children, including young people between the ages of 16 and 18 and vulnerable adults over the age of 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's 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, (see **Appendix 4**) 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.

10. The Use of Photographs and Web pages

There are a number of instances when the College uses photographs of both individuals and groups within the College. These include the development of ID badges for security purposes, the use of photographs on notice-boards, in general publicity, on the College's intranet and in personal (paper and electronic) files. All members of the College community need to be aware of this and of the implications. It is recognised that, in very exceptional circumstances, there might be valid reasons why staff or students might not wish their photographs to be used in a specific way. It is College Policy that all members of the College community will be deemed to have given consent for the use of their photographs for legitimate College purposes unless they specifically opt-out. Students and staff will be advised of this Policy when they join the College and must complete the form in **Appendix 5** if they wish to request authorisation to opt-out. The Executive Director Human Resources / Director – Students & Recruitment will make the final recommendation (on staff / student matters respectively) with final sign off by the Deputy Principal. Where staff/student photographs are included in publicity and an individual subsequently is authorised to opt-out, it will not be possible to recall or destroy existing stocks of the publications concerned. The photograph will, where possible, be removed from the next edition.

11. Processing Sensitive Information

Sometimes it is necessary to process information about a person's health, criminal convictions, race and gender or details of any other protected category 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. As this information is considered to be 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. A standard form will be used for this (see **Appendix 6**). Please see **Appendix 8** of the College DPA Policy of what constitutes 'personal' versus 'sensitive data'.

12. The Data Controller and the Designated Data Controller/s

The 'Data Controller' determines the purposes for which, and the manner in which, personal data are, or are to be, processed. This may be an individual or an organisation, and the processing may be carried out jointly or in common with other persons. The College as a body corporate is the Data Controller under the Act, and the Corporation is, therefore, ultimately responsible for the implementation of and on-going compliance with DPA requirements, processes and procedures.

The College Principal is the 'senior responsible officer' overseeing DPA issues within the College, in the role as Chief Executive Operational authority for DPA within the College is delegated by the Principal to the Deputy Principal, who also ensures on-going maintenance of the College DPA Policy together with the Head of Information Services who is the designated 'Chief Information Officer' (CIO).

'Designated Data Controllers' deal with day-to-day operational matters connected with the DPA and they ensure operational compliance – this group comprises all the members of the College Management Team (MT).

However, certain Data Controllers can be considered as 'lead controllers' within the College organisational structure due to their specialist areas of responsibility that are regularly subject to requirements of the Data Protection Act – namely:

- All members of the College SMT;
- Personnel Manager;
- Deputy IS Manager
- Head of Student Services;
- Head of Finance;
- Finance Office Manager; and
- IT Services Manager.

Any in-house queries with regard to DPA should be addressed initially to the Head of Information, copied to the PA to the Deputy Principal.

13. Examination Marks

Students will be entitled to information about their marks for both coursework and examinations. However, this may take longer than other information to provide. The College may withhold certificates, accreditation or references in the event that the full course fees have not been paid, or all books and equipment returned to the College.

14. Retention of Data

The College will keep some forms of information for longer than others. Information about students cannot be kept indefinitely, due to storage problems, unless there are specific requests to do so. In general, information about students will be kept for a maximum of six years after they leave the College. This will include:

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- Name and address;
 - Academic achievements, including marks for coursework and;
 - Copies of any reference written.

The College will need to keep information about staff for longer periods of time. In general, all information will be kept for six 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 and information required for job references. A full list of information with proposed retention time is available in **Appendix 7**

15. Disposal of Data

Once the retention period has elapsed, the College will ensure that any information is immediately, suitably destroyed by secure means, i.e. by shredding, pulping or burning. While awaiting destruction, information will not be kept in any insecure receptacle (e.g. waste bin or confidential waste sack).

16. Conclusion

Compliance with the 1998 Act 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 of operation of this policy should be referred to the Deputy Principal in the first instance.

STANDARD FORM FOR NOTIFICATION OF PERSONAL DATA HELD BY THE COLLEGE - MODEL

This notice is served as part of the requirements of the Data Protection Act 1998. It sets out the types of personal data that this College currently holds about you, and gives details of that data.

When you receive this form you should:

- Check that the information included about you is correct;
- Tell us if there are any errors or if any of the data is incomplete;
- Ask to see any of the information if you want further details

We cannot provide all the data on this form, but you do have the right to access most of the information we have about you.

We currently hold information in the following categories:

- 1. Personal details: this includes, name, address, qualifications; next of kin**
(details of this information to be inserted for the data subject to check)
- 2. Details of physical and/or mental health: this includes details about specific conditions individuals may suffer from, such as asthma or diabetes; information about pregnancy, if appropriate, information about sickness absences and any medical reports we may have received.** (details of this information to be inserted for the data subject to check)
- 3. Membership/non membership of trade unions.** (details of this information to be inserted for the data subject to check)
- 4. Details about student academic performance and expected results, references and recommendations and attendance.** (details of this information to be inserted for the data subject to check)
- 5. Details about student course fees, course registration, Library and other equipment on Loan.** (details of this information to be inserted for the data subject to check)
- 6. Details about employees work performance, including notes of supervision sessions, appraisals, and training assessment.** (details of this information to be inserted for the data subject to check)
- 7. Personnel information. This includes details about start date; pension and pay details; your next of kin; any current disciplinary or grievance matters; any deductions from salary or any loans.** (details of this information to be inserted for the data subject to check)
- 8. Details about any criminal record**
(Insert details of this information for the data subject to check)
- 9. Other categories – to be specified**
(Insert details of this information for the data subject to check)

Signed:..... **On behalf of Fareham College**

Dated:.....

STAFF GUIDELINES FOR DATA PROTECTION

1. **All** 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 the 1998 Act. The information with which staff deal 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.[Please see **Appendix 8** of the College DPA Policy for the current definitions of what constitutes 'personal' versus 'sensitive' data].
2. Information about a student's physical or mental health; sexual life; political or religious views; trade union membership or ethnicity or race is sensitive and can only be collected and processed with the students express or explicit consent (generally accepted as being sufficiently evidenced through a signature being given by the data subject). If staff need to record this information, they should use the College standard form. 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.
[Please see **Appendix 8** of the College DPA Policy for the current definitions of what constitutes 'personal' versus 'sensitive' data].
3. All staff have a duty to make sure that they comply with the Data Protection principles, which are set out in the College Data Protection Policy, available from the Deputy Principal, LRC Staff or their respective designated Data Controller (representative on MT), as specified in the current College DPA 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 DPA & Archiving Policies.
4. The College will designate staff in each area 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/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 is an active member of a religious group (that might object to the form of medical assistance being undertaken or the type of information having to be disclosed).

5. Authorised staff will be responsible for ensuring that all data is kept securely.
6. Staff must not disclose personal data to any student, unless for normal academic or pastoral purposes, without authorisation or agreement from the data controller, or in line with the EI policy.
7. Staff shall not disclose personal data to any other staff member except with the authorisation or agreement of the designated data controller, or in line with EI policy.
8. Before processing any personal data, all staff should consider the following checklist.

Staff Checklist for Recording Data

- Do you really need to record the information?
- Is the information standard or is it 'sensitive'?
- It is sensitive, do you have the data subject's express consent?
- Has the student been told that this type of data will be processed?
- Are you authorised to collect/store/process the data?
- If yes, have you checked with the data subject that the data is accurate?
- Are you sure that the data is secure?
- If you do not have the data subject'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?
- Have you reported the fact of data collection to the authorised person within the required time?

**STANDARD REQUEST FORM FOR ACCESS TO DATA - STAFF**

Under the provisions of the 1998 Data Protection Act, individuals have a range of rights in connection with access and processing of data held about them. If you wish to exercise your rights, you must complete this form and pass it to the Human Resources Department.

The College aims to comply with requests for access to personal information as soon as possible, but will ensure that it is provided within 21 working days unless there is good reason for a delay. In such cases, the reason for the delay will be explained in writing to you.

I,,

wish to have access to: (delete as appropriate)

either:

1. All the data which Fareham College currently has about me, either as part of an automated system or part of a relevant filing system;

Or:

2. Data which Fareham College has about me in the following categories – please indicate which applies:

- Academic or employment references;
- Disciplinary records;
- Health and medical matters;
- Political, religious or trade union information;
- Any statement of opinion about my performance or abilities;
- Personal details including name, address, date of birth etc;
- Other information – please specify

Signed:.....

Dated:.....

**STANDARD REQUEST FORM FOR ACCESS TO DATA - STUDENTS**

Under the provisions of the 1998 Data Protection Act, individuals have a range of rights in connection with access and processing of data held about them. If you wish to exercise your rights, you must complete this form and pass it to the College Reception.

The College aims to comply with requests for access to personal information as soon as possible, but will ensure that it is provided within 21 working days unless there is good reason for a delay. In such cases, the reason for the delay will be explained in writing to you.

I,,

wish to have access to: (delete as appropriate)

either:

3. All the data which Fareham College currently has about me, either as part of an automated system or part of a relevant filing system;

Or:

4. Data which Fareham College has about me in the following categories – please indicate which applies:

- Academic marks or course work details;
- Academic or employment references;
- Disciplinary records;
- Health and medical matters;
- Political, religious or trade union information;
- Any statement of opinion about my performance or abilities;
- Personal details including name, address, date of birth etc;
- Other information – please specify

I understand that I may have to pay a fee if I submit multiple requests for data.

Signed:.....

Dated:.....

MODEL CLAUSE FOR USE IN AGREEMENTS OR OFFERS

The College collects information about all staff and students for various administrative, academic and health and safety reasons.

Under the provisions of the Data Protection Act 1998, we need your consent before we can do this. Since we cannot operate the College effectively without processing information about you, we need you to sign the following **consent to process** clause.

If you do not do so, we will be unable to offer you a course place/offer of employment/etc and may withdraw any offer already made. If you require any further information about this, please contact insert as appropriate

I agree to allow Fareham College to process the personal data contained in this form, or other data which the College may obtain from me or other people, whilst I am a student/member of staff. I agree to the processing of such data for any purposes connected with my studies/my employment or my health and safety whilst on the premises or for any other legitimate reason.

Signed by the student [or their guardian or representative]/member of staff

.....

Dated.....

REQUEST TO OPT-OUT FORM

Name:

Student/Staff – please indicate:

Area of work or Study:

Reasons for requesting to opt-out of the College's arrangements for use of photographs etc:

Signed:.....

Dated:.....

Please pass this form to your Head of Department/Programme Manager and Director, Students and Recruitment (students and teaching staff) / Line Manager and Executive Director HR (support staff)

Comments by Director or Executive Director HR:

Signed:.....

Dated:.....

Please then pass to Deputy Principal for final sign off

Decision:

Signed:.....

Dated:.....

STANDARD FORM FOR CONSENT TO PROCESS SENSITIVE DATA

I, (full name) give my consent to Fareham College to record and process information about me in the following categories:

1. Race and ethnic origin.
2. Political opinions
3. Membership of trade union
4. Physical or mental health or medical condition
5. Criminal records
6. Other

The information will be used for the following purposes:

- Administering sick pay and sick leave schemes;
- Managing the absence control policy
- Checking suitability and fitness to work at the College
- Checking suitability and fitness for course places
- Administration of pay and payroll functions
- Administering the College and statutory maternity Leave and pay schemes
- Managing and maintaining a safe College environment
- Managing duties and obligations under the Disability Discrimination Act (DDA)
- [insert other purposes for which data is collected as appropriate].

I understand that this information will be used only for the purposes set out in the statement above, and my consent is conditional upon the College complying with its obligations and duties under the Data Protection Act 1998.

The particular information to be recorded and processed has been shown to me on[insert date] and I confirm that it is correct.

Signed:.....

Dated:.....

GUIDELINES FOR RETENTION OF PERSONAL DATA

The following is a list of the main types of data and the length of time they are held by the College. It is not an exhaustive list. Medical records are kept for a variety of health and safety reasons, and carry their own retention times.

TYPE OF DATA	SUGGESTED RETENTION PERIOD	REASON
Personnel files including training records and notes of disciplinary and grievance hearings	6 years from the end of employment	Reference and potential litigation
Application forms/interview notes	At least 6 months from the date of the interviews	Time limits on litigation
Facts relating to redundancies Where there are less than 20 redundancies	3 years from the date of redundancy	As above
Facts relating to redundancies where there are 20 or more redundancies	12 years from date of redundancies	Limitation Act 1980
Income Tax and NI returns including correspondence with tax office	At Least 3 years after the end of the Income Tax financial year to which the records relate	Income Tax (Employment) Regulations 1993
Statutory Maternity Pay records and calculations	As above	Statutory Maternity Pay (General) Regulations 1986
Statutory Sick Pay records and calculations	As above	Statutory Sick pay (General) Regulations 1982
Wages and salary records	6 years	Taxes Management Act 1970
Accident books, and records and reports of accidents	3 years after the date of the last entry	RIDDOR 1985
Health records	During employment	Management of Health and Safety at Work Regulations
Health records where reason for termination of employment is connected with health, including stress related illness	3 years	Limitation period for personal injury claims
Medical Records kept by reason of the Control of Substances Hazardous to Health Regulations 1994	40 years	COSHHR 1994

Appendix 7

Student records, including academic achievements and conduct.	At least 6 years from the date the student leaves the College, in case of litigation for negligence. At least 10 years for personal and academic references, with the agreement of the student.	Limitation period for negligence
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GUIDELINES FOR 'PERSONAL' VERSUS 'SENSITIVE' DATA

(SUBJECT TO CHANGE IN ACCORDANCE WITH LATEST DPA LEGISLATION)

Personal v Sensitive Data

► Personal Information

- ❖ Self, family, business or profession (word or image)
- ❖ Informs or influences decisions about someone (opinions/intentions)
- ❖ Linked indirectly/directly to an individual
- ❖ Name
- ❖ Address
- ❖ Phone Number(s)
- ❖ Email –home or work
- ❖ Date of Birth
- ❖ NIC Number
- ❖ Bank / Card Number(s)
- ❖ Financial/creditworthiness
- ❖ Biographical (location at a set date/time) – even Minutes!
- ❖ Main focus on the individual
- ❖ Productivity of an individual

► Sensitive Information

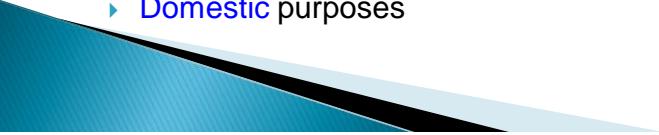
- ✓ Racial or ethnic origin
- ✓ Medical history (including physical & mental health)
- ✓ Religious beliefs (could also be conveyed through a photo)
- ✓ Political beliefs / opinions
- ✓ Trade Union Membership
- ✓ Sexual life
- ✓ Criminal offences, sentences, proceedings or allegations

Whether data relates to an identified or identifiable living individual
(content determines)

Data subject has to have given his/her '*Explicit Consent*' or other factors
Again – data relates to an identified or identifiable living individual (content determines)

Exemptions from DPA

- ▶ Public information – since data already out in public arena
 - not much protection here!
- ▶ Confidential 3rd party references
- ▶ Management information – forecasts and planning
- ▶ Negotiations
- ▶ Exam marks and scripts
- ▶ Crime and taxation
- ▶ Health, education and social work – applies to schools not FE Colleges
- ▶ Journalism, literature or Art
- ▶ Legal professional privilege
- ▶ Research, history and statistics
- ▶ National security, armed forces, judiciary and Crown employment
- ▶ Domestic purposes



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