



*Elmley Dray
School*

Appropriate Policy Document

Introduction and Scope

The Data Protection Act 2018 (DPA 2018) outlines the requirement for an Appropriate Policy Document (APD) to be in place when processing special category (SC) and criminal offence (CO) data under certain specified conditions. As part of their normal function, The Elmley Dray School (the school) processes personal information which is listed in Schedule 1 of the Data Protection Act 2018 and are required to have an APD in place. When processing personal data and specifically Special Category and Criminal Offence data, the school will comply with the requirements of the UK General Data Protection Regulation (UK GDPR) Article 5 principles. This APD therefore complements the school's record of processing under Article 30 of the GDPR and provides Special Category and Criminal Offence data with further protection and accountability. See Schedule 1 Part 4 paragraph 41

Definition of special category, sensitive and criminal offence data

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 DPA 2018) 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

Article 10 UK GDPR applies to the processing of personal data relating to criminal convictions and offences or related security measures.

Section 11(2) of the DPA 2018 provides that criminal offence data includes data which relates to the alleged commission of offences and related proceedings and sentencing. Information about victims and witnesses of crime is also included in the scope of data relating to criminal convictions and offences.

Description of data processed

The school (which includes the school, tutoring services and adult day services) processes the following types of Special Category and Criminal Offence data:

- Racial or ethnic origin
- Religious or philosophical beliefs
- Trade union membership
- Genetic information
- Health information
- Sexual orientation information
- Criminal convictions and offences

Conditions for processing special category and criminal offence data

Within the UK GDPR, all processing of special category data must meet an Article 9(2) condition in order for that processing to be lawful. The Article 9(2) conditions for processing special category data are:

- Article 9(2)(a) Explicit consent
- Article 9(2)(b) Employment, social security and social protection
- Article 9(2)(c) Vital interests
- Article 9(2)(d) Not-for-profit bodies
- Article 9(2)(e) Made public by the data subject
- Article 9(2)(f) Legal claims or judicial acts
- Article 9(2)(g) Reasons of substantial public interest (with a basis in law)
- Article 9(2)(h) Health or social care (with a basis in law)
- Article 9(2)(i) Public health (with a basis in law)
- Article 9(2)(j) Archiving, research and statistics (with a basis in law)

If an organisation is relying on conditions (b), (h), (i) or (j), you also need to meet the associated condition in UK law, set out in Part 1 of Schedule 1 of the DPA 2018.

If an organisation is relying on the substantial public interest condition in Article 9(2)(g), you also need to meet one of 23 specific substantial public interest conditions set out in Part 2 of Schedule 1 of the DPA 2018.

The school processes special category and criminal offence data under:

- Article 9(2)(a) Explicit consent

- Article 9(2)(b) Employment, social security and social protection
- Article 9(2)(d) Not-for-profit bodies
- Article 9(f) Legal claims or judicial acts
- Article 9(2)(g) Reasons of substantial public interest (with a basis in law)
- Article 9(2)(j) Archiving, research and statistics (with a basis in law)

Special category data is obtained with explicit consent where possible and appropriate.

Lawful basis for processing

Processing shall be lawful only if and to the extent that at least one of the following applies:

- Article 6(a) the data subject has given consent to the processing of their personal data for one or more specific purposes
- Article 6(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
- Article 6(c) processing is necessary for compliance with a legal obligation to which the controller is subject
- Article 6(d) processing is necessary in order to protect the vital interests of the data subject or of another natural person
- Article 6(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
- Article 6(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 the 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.

The school processes special category and criminal offence data under:

- Article 6(a) of the UK GDPR - the data subject has given consent to the processing of their personal data for one or more specific purposes
- Article 6(b) of the UK GDPR - 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
- Article 6(c) of the UK GDPR - processing is necessary for compliance with a legal obligation to which the school is subject
- Article 6(d) of the UK GDPR - processing is necessary to protect the vital interests of the data subjects or of another natural person
- Article 6(e) of the UK GDPR - processing is necessary for the performance of a task carried out in the public interest

The school processes sensitive data when it is necessary for law enforcement purposes under section 35 of the DPA 2018.

The school Data Protection and GDPR Policy, Privacy Notices and Retention Policy contain further information about school's data protection policy and procedures, including the kind of information we hold and what it is used for.

Schedule 1 condition for processing

The school processes special category data under the following Schedule 1 conditions:

Schedule 1, Part 1 – Conditions relating to employment, social security, and social protection

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

Schedule 1, Part 2 – Substantial Public Interest

Conditions Statutory and government purposes:

- Fulfilling the school's obligations under UK legislation for the provision of education
- Complying with other legal requirements, such as the requirement to disclose information in connection with legal proceedings
- Criminal offence data may also be processed under this condition

Equality of opportunity or treatment:

- Ensuring compliance with the school's obligations under the Equality Act 2010
- Ensuring we provide equal access to our services, in recognition of our legal and ethical duty

Preventing or detecting unlawful acts:

- Processing data concerning criminal records in relation to employment to reduce the risk to the school and safeguard children, vulnerable adults and the wider community
- Disclosing data to support the prevention or detection of unlawful acts

Protecting the public against dishonesty etc:

- Processing data concerning dishonesty, malpractice, or other improper conduct to safeguard and protect children, vulnerable adults and the wider community
- Carrying out investigations and disciplinary actions relating to our employees
- Regulatory requirements relating to unlawful acts and dishonesty etc
- Assisting other agencies in connection with their regulatory requirements

Support for individuals with a particular disability or medical condition:

- To provide services or raise awareness of a disability or medical condition in order to deliver services to individuals

Safeguarding of children and individuals at risk:

- Protecting vulnerable children, young people and adults from neglect, physical, mental, or emotional harm
- Identifying individuals at risk
- Obtaining additional support for children and individuals at risk by sharing information with relevant agencies

Insurance:

- Information that is necessary for insurance purposes

Occupational pensions:

- Fulfilling the school's obligation to provide an occupational pension scheme

Schedule 1, Part 3 – Additional Conditions Relating to Criminal Convictions, etc.

The school may process personal data relating to criminal convictions in connection with its statutory public function or as part of recruitment and employment checks to safeguard and protect children, vulnerable adults and the wider community against dishonesty.

Procedures for ensuring compliance with the principles

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

The school will ensure that:

- for each occasion where we process personal data, we have established the lawful basis of the processing under the UK GDPR

- where our processing is based on explicit consent, we have taken steps to ensure clear, freely given consent has been given and is recorded. We have made it clear to all parties how consent can easily be withdrawn at any time
- we provide clear and transparent information about why we process personal data through our privacy notices and associated policies
- a Data Protection and GDPR Policy is established for the protection of personal data held within the school. This has been approved by Director/s and communicated to all employees and other relevant people

Principle (b): 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 ensure that:

- we only collect personal data for specified, explicit and legitimate purposes, and, having regard for the purpose of the processing, we will inform data subjects what those purposes are in a privacy notice
- we do 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 purpose that is compatible, and having regard for the purpose of the processing, we will inform the data subject first

Principle (c): Personal data shall be adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed ('data minimisation').

The school will ensure that:

- we collect personal data necessary for the relevant purposes and ensure it is not excessive
- the information we process is necessary for and proportionate to our purposes
- where personal data is provided to us or obtained by us, but is not relevant to our stated purposes, we will erase it

Principle (d): Personal data shall be accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay ('accuracy').

The school will ensure that:

- where we become aware that personal data is inaccurate or out of date, having regard to the purpose for which it is being processed
- we will take every reasonable step to ensure that data is erased or rectified without delay

- if we decide not to either erase or rectify it, for example because the lawful basis we rely on to process the data means these rights don't apply, we will document our decision

Principle (e): 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; ('storage limitation').

The school will ensure that:

- all special category data processed by us is retained for the periods set out in our Retention Policy.
- we determine the retention period for this data based on our legal obligations and the necessity of its retention for our business needs. Our retention schedule is reviewed regularly and updated when necessary

Principle (f): 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 ('integrity and confidentiality')."

The school will ensure that:

- data protection by design is at the heart of developing and maintaining our core systems and procedural developments
- all employees have completed mandatory training and receive annual refresher training in meeting their responsibilities under data protection legislation
- all of our employees are subject to confidentiality obligations with respect to personal data
- where we use data processors to process any personal data on our behalf, we have established data processing agreements
- routine data transfers that are necessary for our core business processes are secure and use industry standard encryption methods. We regularly review our processes for data transfer in line with new technological developments.
- we have a robust IT infrastructure to guard against the most common cyber threats and demonstrate our commitment to cyber security
- hard copy information is processed in line with our security procedures
- our electronic systems and physical storage have appropriate access controls applied

Retention and erasure

The school has appropriate policies in relation to retention and disposal of personal data. Personal data is held and disposed of in line with our Retention Policy. Secure disposal methods are applied and duly recorded.

Other documentation

This policy should be read in conjunction with:

- Data Protection and GDPR Policy
- Privacy Notices
- Retention Policy
- Acceptable IT Use Policy
- Safer Recruitment Policy
- Safeguarding, Child and Vulnerable Adults Protection Policy

Further information

For further information about this policy, please contact our Data Protection Officer – David Baines, contactable via finance@elmleydrayschool.co.uk

Version control - Approval and review

Version No.	Approved By	Approval Date	Main Change	Review Period
1	Hayley Furnell	October 2024	Initial policy approved	Annually
1.1	Hayley Furnell	August 2025	Annual review	Annually



Hayley Furnell, Director,
on behalf of Elmley Dray School
Dated: August 2025
Next review: August 2026

