



Diocese of Salisbury
Academy Trust

Access to Personal Files Policy IN Diocese of Salisbury Academy Trust

1. Introduction

- 1.1 The Data Protection Act 1998 governs the collection, retention, disclosure and disposal of any personal information held about an individual. This policy outlines the principles of the Data Protection Act 1998 and how Diocese of Salisbury Academy Trust (DSAT) will respond to requests for access to, and the release of, personal information contained in personal employee files.
- 1.2 This policy is for guidance only; it does not represent legal advice. **DSAT is not able to accept liability for any actions, claims, costs or expenses arising out of the Academy or Local Advisory Board (LAB) failing to comply with current data protection legislation if they have not disclosed any requests to the HR Officer.**
- 1.3 Requests for access to specific documents on file should be handled on an informal basis wherever possible. Where a request is for access to the wider personnel file, or where there are repeated requests for access or where withheld information is requested, a formal subject access request should be made in line with paragraphs 6.1 to 6.4 of this policy.

2. Scope

- 2.1 This policy is applicable to all Academy employees within the DSAT Trust.

3. Definition

- 3.1 Personal files bring together individual employee records which management considers it appropriate to retain. Usually files will be non-computerised, but requests for access to personal files can also include a request for disclosure of all computerised records held on an individual employee. All information whether computerised or non-computerised is covered by the Data Protection Act 1998.
- 3.2 The Academy will endeavour to ensure that all data (i.e. information) held on an individual is processed, maintained and retained against the following principles of the Data Protection Act:
 1. Data to be fairly and lawfully processed;
 2. Data to be processed for limited purposes;
 3. Data to be adequate, relevant and not excessive;
 4. Data to be accurate and kept up to date;
 5. Data not to be kept longer than necessary;
 6. Data to be processed in accordance with the data subject's (employee's) rights;
 7. Data to be secure;
 8. Data not to be transferred without adequate protection (this includes not transferring it outside the EU or on the World Wide Web).
- 3.3 Generally personal files should include all or some of the following:

Application form; references; training records; current disciplinary and grievance records; requests for information from external agencies (e.g. building society); sickness information; details of trade union release; details of parental or other leave requested, approvals to undertake private work;

contract of employment; all correspondence between the school and the employee; and any such records or documents as the school may consider appropriate.

- 3.4 Personal information includes any factual information and any expression of opinion about that employee or the expression of intentions in respect of individual. This means that any information held about an employee either on the personal file or kept elsewhere (e.g. emails, computer files, etc.) should be scrutinised with a view to its disclosure. Any email that falls within the above definition should be printed and retained on the personal file. Any email that does not fall within the above definition and is not placed on a personal file should be deleted as part of regular maintenance of the email system.

3.5 Personal files will be kept by the Academy and by DSAT.

4. Access

- 4.1 All employees have a right to access their personal file held at the Academy, and/or their personal file held by DSAT, on request, subject to giving twenty working days notice. Formal requests for access to personal files must be made in writing and on the Subject Access Request Form.
- 4.2 Employees requesting access to their School personal file may do so by contacting their Principal or Headteacher. Employees requesting access to view their DSAT personal file should contact Human Resources.
- 4.3 In cases where access to the DSAT personal file is requested, the file may be examined by the individual requesting access in the presence of a member of staff within the HR team. Employees are entitled to be accompanied by their trade union representative.
- 4.4 Employees can request copies of any documents from their personal file(s). Where employees request copies of documents, this can be agreed provided that the documents are of a non confidential nature and an administrative charge is paid at the Academy's or DSAT's discretion. The administrative charge is 50p per single sheet copied. This charge will be regularly reviewed and updated. It is expected that copying charges should not exceed £10.00 (currently the rate charged for formal data subject access requests)

5. Arrangements for Access

- 5.1 Employees requiring access to the DSAT file should provide photographic evidence of their identity. Employees must give the required notice of their wish to view their personal file (see 4.1).
- 5.2 In allowing access to personal files, the Academy's equal opportunities policy will be adhered to. If employees require any reasonable adjustments to be made for access to Personal files this request should be made allowing reasonable time to put the arrangements in place.

6. Release of Information

- 6.1 The full personal file should be made available. However access to certain records such as references, third party information, and investigative records may be exempt from disclosure under the provisions of the Data Protection Act 1998, this will be determined on a case by case basis where applicable. For further information refer to paragraphs 7 to 9.
- 6.2 If access to withheld documents is requested, or if there are repeated requests to view information, or if employees want access to their wider personnel record, a formal Subject Access Request Form should be completed using the standard request form. If this is not completed for any reason then advice should be sought from the DSAT's Data Protection Officer.
- 6.3 Where subject access requests are made, DSAT in conjunction with the Academy has a legal obligation to provide access within 40 days of the request. In line with statutory provisions the school can charge a subject access fee (up to a maximum of £10) to process such requests.
- 6.4 Advice in respect of release of information is available from the DSAT's Data Protection Officer.

7. References

- 7.1 Where references have been provided to the Academy and DSAT by a named third party, it may be necessary to seek their authority for release of the reference prior to making it available to the employee. If consent is refused or it is impractical to seek consent, DSAT's Data Protection Officer will determine whether it is reasonable for the reference to be disclosed or not.
- 7.2 Where references have been provided by the Academy or DSAT in confidence to another organisation these are not required to be released if management chooses not to do so. Sensitive data should not be provided to third parties, without the prior permission of the employee, e.g. reasons for sickness absence.

8. Third Party Information

- 8.1 Where the disclosure of third party information without consent would represent a breach of confidentiality or a breach of that party's rights under the Data Protection Act 1998, the information may be altered to remove the identity of the third party.
- 8.2 Where it is not possible to anonymise such information, DSAT and the Academy will seek the third party's consent to disclose the information. Where consent is refused or it is impractical to seek consent, DSAT and/or the Academy with guidance from the DSAT Data Protection Officer may withhold that information.

9. Investigative Records – Investigation Stage

- 9.1 Documents relating to an ongoing investigative stage of any procedure may be exempt from disclosure if covered by a relevant exemption contained within the provisions of the Data Protection Act 1998. Where such records are involved, the employee should be advised to submit a formal subject access request on the appropriate Subject Access Request form. Advice on disclosure of such documents can be sought from HR and/or the DSAT Data Protection Officer (DDPO).
- 9.2 Once the investigation is completed, the exemptions may no longer apply and therefore any subsequent request for disclosure of investigation documents would have to be reassessed.
- 9.3 If allegations have been made but are not substantiated these can be recorded on the personal file but the outcome of any investigation and whether the allegations were or were not substantiated should be noted.

10. Disputes Regarding Release of Information or Information Held on Personal Files

- 10.1 Where the employee disagrees with the accuracy of information held on file they may ask for it to be amended. Where this is not agreed the employee may add a note to the file recording his/her disagreement with information and giving the reason why. An employee can also add reasonable and relevant information that she/he feels should be included on the file.

11. Right of Appeal

- 11.1 Employees may raise an internal grievance if they feel that all or part of their personal file has been unreasonably withheld from them, or where they regard any information held on file to be inaccurate and a request for it to be amended has been refused. In the first instance employees should direct their concerns to the DSAT's Data Protection Officer
- 11.2 Employees have a final right of appeal to the Information Commissioner if they have exhausted the internal grievance procedures and are not satisfied with the final decision in respect of their access to information. Details of how to contact the Information Commissioner can be found by contacting the DSAT's Data Protection Officer or by accessing the website at www.informationcommissioner.gov.uk.

12. Confidentiality

- 12.1 In general, no individual or organisation outside the DSA Trust or its Academies shall have access to specific personal data without the authority of the person to whom the information relates. Exceptions to this are members of the Senior Leadership Team, Governors, senior staff from the Trust and Human Resources who may need the information for operational reasons. Within the Academy only those who need to see an employee's personal file for operational reasons may do so and access should be limited accordingly.

- 12.2 Information should only be used for the purpose for which it was collected. Information can only be passed to another agency or person outside of Academy or DSAT if there is a lawful justification. If this occurs a record should be placed on the file stating what was disclosed, when and to whom and the individual should be notified.

13. Review

- 13.1 This policy will be reviewed periodically to ensure that it meets with statutory requirements and best practice guidance.