

## Data Sharing Policy GA26

**Equality Impact Assessment:** Askham Bryan College recognises the importance of the Equality Act 2010 and its duties under the Act. This document has been assessed to ensure that it does not adversely affect staff, students or stakeholders on the grounds of any protected characteristics.

### 1. INTRODUCTION

- 1.1. Under the General Data Protection Regulation (“GDPR”) and Data Protection Act 2018, it is permitted to share information about an individual (“Personal Data”) with other organisations in certain circumstances.
- 1.2. The College must, however, be able to justify its reasons for doing so.
- 1.3. The College will only share Personal Data, including Special Category or “Sensitive” Data, with a third party organisation where:
  - the College has a student’s or individual’s **consent** to share their Personal Data with a third party organisation;
  - this sharing of Personal Data is necessary for the performance of a contract between the College and the third party organisation concerned;
  - the College has a legal obligation and is required by law to share a student’s or individual’s Personal Data, which may override the wishes of the student or individual concerned;
  - the College has to share that Personal Data in the “vital interests” of a student or individual, for instance, in an emergency situation, where a person is hurt or unconscious and is not in a position to give consent to the sharing of their Personal Data;
  - it is necessary so that the College can comply with its obligations as a public body;
  - or where it is otherwise in the College’s “legitimate interests” to share that Personal Data.
- 1.4. The College has, for instance, taken a decision that it is in its “legitimate interests” to share Personal Data with schools and other colleges and education institutions, for instance, to share destinations data, which also enables those institutions to comply with their reporting requirements to their local education authorities.

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- 1.5. The College is also subject to a number of legal obligations such as obligations under statute that apply to the education sector such as the Education Act 1996 and the Education and Skills Act 2008 to share Personal Data with local authorities and local education authorities. For further examples, please see the College's Data Sharing Procedure.
- 1.6. Regardless of the reasons for wanting to share Personal Data with another organisation, information will not be shared with a third party organisation without first having a signed Data Sharing Agreement in place as between the College and the third party organisation concerned, either of a type shown in the College's Data Sharing Procedure, or one proposed by the third party organisation, assuming it complies with GDPR and other applicable legislation.
- 1.7. The only exceptions to this will be where the sharing of Personal Data is necessary in the **"vital interests"** of a student or individual, ie in an emergency situation, and it is not appropriate or there is no time in which to enter into a Data Sharing Agreement with the third party organisation, given the circumstances of that particular situation, or unless there is a statutory or legal requirement to share data with a third party organisation and a Data Sharing Agreement is not needed with that third party organisation because of who that third party organisation is. This is only really likely to apply with statutory bodies such as DfE, ESFA and HMRC.
- 1.8. In some instances, the College will already have an existing relationship with a third party organisation, that will process Personal Data supplied by the College, on the College's instructions, such as the companies that supply the College's catering and or transport. Where Personal Data has been shared with a third party organisations such as this, then instead of relying on a Data Sharing Agreement, it is permissible to instead rely on the contractual provisions of the contract in place with that third party organisation provided those contracts have similar data sharing provisions to those to be found in a Data Sharing Agreement of the type shown in the appendices to the College's Data Sharing Procedure. Any new contracts with any new service providers, however, must be GDPR compliant and include appropriate data sharing provisions.
- 1.9. All Data Sharing Agreements will be for a period of up to 3 years, after which time the agreement is to be reviewed as between the College and the third party organisation concerned. The College's Data Protection Officer with the assistance of the College's Legal and Compliance Adviser will approve all requests for a Data Sharing Agreement and will prepare the draft of any such agreement and agree the final version for signature with the third party organisation concerned.
- 1.10. Only once a signed Data Sharing Agreement is in place, will information be released to the third party organisation. The Information System Owners will be responsible for liaising with the third party organisation concerned about the release of this information and only the type(s) of Personal and or Special Category Data referred to in the Data Sharing Agreement will be released to the third party organisation concerned. If the third party organisation asks for more information than this, then the Data Sharing Agreement will either need to be amended or replaced with a new Data Sharing Agreement, depending on what further information is being requested and assuming it is appropriate

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to do so. In that instance, the College's Data Protection Officer and or Legal and Compliance Adviser must be consulted before any information not already subject of the existing Data Sharing Agreement is shared.

- 1.11. The College's Data Protection Officer and or the College's Legal and Compliance Adviser will retain a copy of any signed Data Sharing Agreement and maintain a record of all Data Sharing Agreements in place as between the College and any third party organisations with which the College has dealings.
- 1.12. All Personal and Special Category Data will at all times remain in the UK and EEA. Any requests to share Personal and or Special Category Data with organisations outside the UK or EEA must be referred to the College's Data Protection Officer.
- 1.13. For further information, please see the College's Data Sharing Procedure.

## **2. DATA PROTECTION OFFICER**

- 2.1. The College Senior Management Team has overall responsibility for ensuring compliance with data protection legislation and this policy and has appointed a Data Protection Officer, who is the Clerk to the Corporation. The Data Protection Officer will lead on the College's overall approach to data protection, assisted, where necessary, by the Legal and Compliance Adviser.
- 2.2. Any person who considers that this policy has not been followed should raise the matter with the Data Protection Officer by contacting [judith.clapham@askham-bryan.ac.uk](mailto:judith.clapham@askham-bryan.ac.uk) or by emailing [DataProtection@askham-bryan.ac.uk](mailto:DataProtection@askham-bryan.ac.uk)
- 2.3. Any person who is not satisfied with that response may then wish to contact the Information Commissioner's Office at <https://ico.org.uk/concerns/>.

## **3. RELATED POLICIES AND PROCEDURES**

This policy is supplemented by the following policies and procedures:

- GA23 Data Protection Policy
- GA24 Subject Access Request Policy
- GA25 Subject Access Request Procedure (internal use only)
- GA27 Data Sharing Procedure (internal use only)
- GA28 Data Retention Policy
- GA29 Data Retention Procedure (internal use only)
- GA30 Breach Detection and Reporting Policy
- GA31 Breach Detection and Reporting Procedure (internal use only)
- GA32 Data Subject Rights Policy
- GA33 Data Subject Rights Procedure (internal use only)

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