



## Data Sharing Policy 2021 - 2022

**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. Data sharing can bring great benefits to an organisation and in the case of the College, to its students.
- 1.2. However, in order to comply with data protection legislation, specifically, the General Data Protection Regulation (“the GDPR”) and Data Protection Act 2018, appropriate safeguards must first be in place.
- 1.3. Typically, this will be in the form of a **data sharing agreement** (also sometimes referred to as an information sharing agreement, a data or information sharing protocol or contract, or a personal information sharing agreement).
- 1.4. Whilst any College employee could be asked by an outside organisation to provide a data sharing agreement, the process of drafting and issuing an appropriate data sharing agreement needs to be properly overseen, to ensure that it is right in the circumstances of a particular request for the College to share data with the other organisation.
- 1.5. **All data sharing requests must therefore be directed as soon as possible to the Legal and Compliance Adviser** ([jethro.powell@askham-bryan.av.uk](mailto:jethro.powell@askham-bryan.av.uk)) for the Legal and Compliance Adviser to consider and respond to.
- 1.6. In the event of any disagreement as to whether a data sharing agreement is needed or not, then the College’s Data Protection Officer ([judith.clapham@askham-bryan.ac.uk](mailto:judith.clapham@askham-bryan.ac.uk)) will have the final say.

#### Data sharing agreements

#### Why is a data sharing agreement necessary?

- 1.7. Articles 26 and 28 of the GDPR provide that any data sharing arrangement should be properly documented so that each party to the arrangement is aware of their role and responsibilities.

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1.8. The ICO's Data Sharing Code of Practice also specifically states (at page 25):

*It is good practice to have a data sharing agreement. Data sharing agreements set out the purpose of the data sharing, cover what happens to the data at each stage, set standards and help all the parties involved in sharing to be clear about their roles and responsibilities. Having a data sharing agreement in place helps you to demonstrate you are meeting your accountability obligations under the GDPR.*

1.9. The specific accountability requirements of the GDPR mean that we are responsible for our compliance with the GDPR or the DPA 2018 and must be able to demonstrate that compliance.

1.10. The ICO will also take into account the existence of any relevant data sharing agreement when assessing any complaint it receives about the College's data sharing.

### Format

1.11. Typically, a data sharing agreement will include the following:

- Parties' names;
- **Purpose of the data sharing - you should document this in precise terms so that all parties are absolutely clear about the purposes for which they may share or use the data;**
- Which other organisations will be involved in the data sharing;
- **What data is to be shared;**
- Is there any special category data, sensitive data or criminal offence data?
- **The lawful basis for any sharing;**
- information governance arrangements – each party should have appropriate technical and organisational **data security measures** in place to **safeguard** any data shared.

### Data sharing clause in a contract

1.12. 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 organisation such as this, then instead of relying on a data sharing agreement, it is permissible for the College 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.

### Lawful basis for sharing

1.13. The College will only share Personal Data, including Special Category Data, with a third party organisation where the College is legally entitled to do so and where there is a lawful basis for doing so.

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- 1.14. Special Category Data is Personal Data that needs more protection because it is sensitive, such as health information, information about a person's sex life or sexual orientation, information about a person's gender or race, etc.
- 1.15. The College must identify *at least* one lawful basis for sharing before it can share any information. This can be:
- where the College has a student's or individual's **consent** to share their Personal Data with another organisation;
  - where the sharing of information is necessary for the **performance of a contract** between the College and another organisation;
  - where 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;
  - where 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;
  - where 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.
- 1.16. For further details, please see the College's Data Protection Policy and also the ICO website [Lawful basis for processing | ICO](#).
- 1.17. As stated above, **the College will only share information, even where there is a lawful basis for doing so, where there is a data sharing agreement in place with the other organisation.**

### Emergency Situations

- 1.18. **The only exception is if the sharing of information is necessary in an emergency.** In an emergency, you should go ahead and share data as is necessary and proportionate; **but it is still good practice to try and speak to the Legal and Compliance Adviser before you do this (depending on the circumstances).**
- 1.19. Not every urgent situation is an emergency. An emergency includes:
- preventing serious physical harm to a person;
  - preventing loss of human life;
  - protection of public health;
  - **safeguarding** vulnerable adults or children;

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- responding to an emergency;
- or an immediate need to protect national security.

1.20. The College will have to consider in an emergency situation the risks involved in not sharing the information.

1.21. Unless critical to a Police investigation, or unless in an emergency, the College will not share information with the Police unless there is an appropriate data sharing agreement in place.

## 2. DATA PROTECTION OFFICER

2.1 The College Senior Leadership Team has overall responsibility for ensuring compliance with data protection legislation and its associated policies and procedures and has appointed a Data Protection Officer, who is the Clerk to the Corporation and Director of Governance.

2.2 The Data Protection Officer will lead on the College's overall approach to data protection, assisted by the Legal and Compliance Adviser.

2.3 In addition, the College's Data Protection Officer, assisted by the Legal and Compliance Adviser and Head of IT, will monitor internal compliance with GDPR and the Data Protection Act 2018, and provide advice on data protection issues and how it impacts the College and its activities, and act as a contact point for Data Subjects and the Supervisory Authority, the ICO.

**2.4 However, all users of College systems, ie staff, students, contractors and visitors to the College, and link organisations such as the Wildlife Park and the Rural Business Research Unit ("RBRU"), are expected to comply with data protection legislation and support the College's Data Protection Officer, Legal and Compliance Adviser and Head of IT in meeting the College's obligations under data protection legislation, and cooperate with the College's Data Protection Officer, Legal and Compliance Adviser and Head of IT in the event of a Data Breach or Cyber Security incident.**

2.5 Any person who considers that any of the College's data protection policies and or procedures have not been followed should raise the matter with the College's 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) or by contacting the Legal and Compliance Adviser at [jethro.powell@askham-bryan.ac.uk](mailto:jethro.powell@askham-bryan.ac.uk) .

2.6 If an individual makes a complaint to the College's Data Protection Officer and is not satisfied with the College's response, he/she may then wish to contact the Information Commissioner's Office (or "ICO"), the UK's supervisory authority, at <https://ico.org.uk/concerns/> and make a formal complaint.

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- 2.7 The College is registered with the Information Commissioner's Office ("ICO"). The Registration Number is Z6170811. Renewal of the registration takes place annually on 22 January.
- 2.8 **Please note that the ICO is unlikely to investigate a complaint without an individual first having made a complaint to the College and exhausting the College's own internal complaints procedure first, before referring the matter to the ICO.**

### 3. RELATED POLICIES AND PROCEDURES

This policy is supplemented by the following policies and procedures:

Data Protection Policy  
Subject Access Request Policy  
Subject Access Request Procedure (internal use only)  
Data Sharing Procedure (internal use only)  
Data Retention Policy  
Data Retention Procedure (internal use only)  
Breach Detection and Reporting Policy  
Breach Detection and Reporting Procedure (internal use only)  
Data Subject Rights Policy  
Data Subject Rights Procedure (internal use only)

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