

**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 with other organisations.
- 1.2. However, before the College can share any Personal or Special Category Data (what used to be called “Sensitive Data” under the Data Protection Act 1998, which the 2018 Act replaces)(see GA23 Data Protection Policy for further), the College must be able to show that it has a **lawful basis** for doing so.
- 1.3. In addition, and except in very limited circumstances, the College will also not share any Personal and or Special Category Data with another organisation unless there is first a **data sharing agreement** as between the College and the organisation that has asked the College to share information with it.

Lawful basis for sharing

- 1.4. The College will only share Personal Data, including Special Category 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; or where
 - this sharing of Personal Data is necessary for the **performance of a contract** between the College and the third party organisation concerned; or 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; or 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; or where

Version: September 2019	Next Review: September 2020	Author: Legal and Compliance Adviser	SMT Owner: Clerk to the Corporation
-------------------------	-----------------------------	--------------------------------------	-------------------------------------

DATA SHARING POLICY GA26

- 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.
- 1.5. 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 (September Guarantee, etc), which also enables those institutions to comply with their reporting requirements to their local education authorities.
- 1.6. The College is also subject to a number of obligations under various statutes that apply to the education sector such as the Education Act 1996 and the Education and Skills Act 2008 to share Personal Data, including in some instances, Special Category Data, with local authorities and local education authorities.

Data Sharing Agreement

- 1.7. **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, and the College is satisfied that the other organisation’s data sharing agreement is properly drafted.
- 1.8. The only exceptions to this will be where the sharing of Personal Data is necessary in the “**vital interests**” of a student or individual 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. This is likely to apply in an **emergency situation**, for instance, when a student or individual is injured and the emergency services ask for information about that person, in order to be able to administer first aid to that person.
- 1.9. The requirement to share information with another organisation without there first being a data sharing agreement in place may also apply where 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.

Data sharing clause in a contract

- 1.10. 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.

Version: September 2019	Next Review: September 2020	Author: Legal and Compliance Adviser	SMT Owner: Clerk to the Corporation
-------------------------	-----------------------------	--------------------------------------	-------------------------------------

DATA SHARING POLICY GA26

- 1.11. 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.
- 1.12. Any new contracts with any new service providers must also be GDPR compliant and include appropriate data sharing provisions.

Approving requests to share data

- 1.13. **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.**
- 1.14. **Only once a signed Data Sharing Agreement is in place, will information be released to the third party organisation.**
- 1.15. 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.
- 1.16. 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 (an electronic copy, which will be saved to the Exec drive, and a hard copy which will be kept in the safe) 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.
- 1.17. 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.
- 1.18. For further information, please see the College's Data Sharing Procedure.

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

Version: September 2019	Next Review: September 2020	Author: Legal and Compliance Adviser	SMT Owner: Clerk to the Corporation
-------------------------	-----------------------------	--------------------------------------	-------------------------------------

DATA SHARING POLICY GA26

- 2.3 In addition, the College's Data Protection Officer, assisted by the Legal and Compliance Adviser, 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 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 or by emailing DataProtection@askham-bryan.ac.uk or by contacting the Legal and Compliance Adviser at jethro.powell@askham-bryan.ac.uk.
- 2.5 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 contact the Information Commissioner's Office (or "ICO"), the UK's supervisory authority, at <https://ico.org.uk/concerns/> and make a formal complaint. 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.
- 2.6 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:

- 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)

Version: September 2019	Next Review: September 2020	Author: Legal and Compliance Adviser	SMT Owner: Clerk to the Corporation
-------------------------	-----------------------------	--------------------------------------	-------------------------------------