

POLICY FOR THE PROCESSING OF SPECIAL CATEGORY DATA

Policy Owner PPS Director of Operations and Finance	Applies to Prior Park Schools (Trust Wide)	Superseded documents NA
Associated documents Data Protection Policy Data Retention and Destruction Policy Handbook Data Protection Impact Statement (DPIA) Privacy Notice(s) Equal Opportunity Policy	Review frequency Every year (unless the legislation/regulations update before this time) Implementation date 1 May 2021	Legal Framework The Data Protection Act 2018 (DPA 2018) Access to Medical Reports Act 1988 General Data Protection Regulation (UK GDPR) KCSIE 2020 Prevent Duty Equality Act 2010

1. Introduction

Prior Park Schools (PPS) comprises three schools. Two of those schools, Prior Park College (PPC) and The Paragon School (TP) are incorporated in England as Prior Park Educational Trust Ltd. The third school, Prior Park School Gibraltar (PPSG), is incorporated in Gibraltar as Prior Park School Ltd. Both are companies limited by guarantee and registered charities.

2. Policy Scope

Under the UK General Data Protection Regulation (UK GDPR) and Data Protection Act (DPA) 2018, additional protections for job applicants, employees and other data subjects apply because PPS as the employer will be processing "Special Categories" of Personal Data and criminal records data.

One of these protections is a requirement to have an 'appropriate policy document' in place. This policy sets out the organisation's approach to processing Special Category Personal Data and criminal records data. It supplements our Data Protection Policy.

This policy details what Special Category and Criminal Offence data we process, our lawful basis (schedule 1 condition in the DPA) for processing it, the purposes for which we process it, and how we ensure compliance with the principles of data protection law provided in Article 5 of the GDPR.

This policy also details how long we will hold the Special Category and Criminal Offence data. Some of the information is already held in other policies and documents on the PPS website.

3. Definitions

"Special Category Personal Data" means information about an individual's racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, health, sex life or sexual orientation and genetic or biometric data.

"Criminal records data" means information about an individual's criminal convictions and offences, and information relating to criminal allegations and proceedings.

We may process the following types of Special Category and Criminal Offence data:

- Equal opportunities monitoring
- Health and disability
- Religious/philosophical belief
- Ethnic/racial background
- Age
- Gender and sexual orientation
- Trade Union membership
- Criminal records data

We do not process biometric or genetic data.

For the purposes of this policy Special Category Personal Data will be abbreviated to SC and Criminal Records Data to CR.

4. Condition for processing

PPS processes SC and CR for the following purposes.

Equal opportunities monitoring

Data related to racial and ethnic origin, religious and philosophical beliefs, health (including information on whether or not an individual has a disability) and sexual orientation are processed for equal opportunities monitoring purposes.

Health

Data related to health (including information on whether or not an individual has a disability) is processed to:

- ensure that PPS is complying with its health and safety obligations
- assess whether or not an employee is fit for work
- carry out appropriate capability procedures if an employee is not fit for work
- ensure that an employee receives sick pay or other benefits to which they may be entitled; and
- allow PPS to comply with its duties under the Equality Act 2010 for individuals with a disability.

Racial or ethnic origin

Data related to data subjects' nationality is processed to ensure that the organisation is complying with its obligations to check that they are entitled to work in the UK.

Criminal Records data

CR data is processed as part of recruitment processes and, where necessary, in the course of employment to verify that candidates are suitable for employment or continued employment and to comply with legal and regulatory obligations to which PPS is subject.

Additionally, we have a legal obligation to comply with the Department for Education, Catholic Education Services and the Independent Schools Council to provide data in the annual Censuses, which includes Special Category Data.

5. Compliance with Data Protection principles

PPS processes HR-related SC and CR data in accordance with the following Data Protection principles;

- (1) The organisation processes Personal Data lawfully, fairly and in a transparent manner and for specified, explicit and legitimate purposes.

PPS can process SC only if we have a legal basis for processing and, in addition, one of the specific processing conditions relating to SC, or CR, applies.

PPS processes SC and CR for the purposes outlined above and in compliance with the following legal conditions for processing.

Legal basis for processing	Special category personal data/criminal records data processing condition under sch. 1 of the Data Protection Act 2018
Equal opportunities data	

Processing is in the organisation's legitimate interests. These interests are not outweighed by the interests of Data Subjects.	Processing is necessary for monitoring equality of opportunity or treatment, as permitted by the Data Protection Act 2018 (under para.8 of sch.1).
Health data	
Processing is necessary for compliance with legal obligations (e.g. assessing an employee's fitness for work, complying with health and safety obligations, carrying out capability procedures and complying with Equality Act 2010 duties).	Processing is necessary for the purposes of performing or exercising obligations or rights imposed by law in connection with employment (under para.1 of sch.1).
Processing is necessary for the performance of a contract and/or complying with legal obligations (e.g. administering sick pay and other benefits).	Processing is necessary for the purposes of performing or exercising obligations or rights imposed by law in connection with employment (under para.1 of sch.1).
Racial or ethnic origin data	
Processing is necessary for compliance with legal obligations (e.g. checking job applicants' and employees' right to work in the UK).	Processing is necessary for the purposes of performing or exercising obligations or rights imposed by law in connection with employment (under para.1 of sch.1).
Criminal records data	
Processing is necessary for compliance with legal obligations (i.e. the organisation's legal requirement to carry out criminal records checks on those working with children or vulnerable adults).	Processing is necessary for the purposes of performing or exercising obligations or rights imposed by law in connection with employment (under para.1 of sch.1).

PPS has conducted a Data Protection Impact Assessment (DPIA) in relation to each processing operation to understand how processing may affect Data Subjects. The impact assessment balances the importance to PPS of the reasons for processing SC and CR data with the possible adverse impact on Data Subjects (for example in relation to intrusion into an individual's private life and the impact on the duty of trust and confidence between employer and employee).

The impact assessment concluded in each case that processing is necessary and proportionate in light of the other safeguards in place and does not pose a high risk to individuals.

PPS explains to Data Subjects how SC and CR data is used when it collects the data. This information is set out in the organisation's privacy notices (These are available via the website).

PPS does not use the data for any other purpose, and it reviews its processing and policies regularly to ensure that it is not using SC and CR data for any other purpose. PPS will not do anything unlawful with Personal Data.

SC and CR data is not disclosed to third parties, except in the context of seeking medical advice from the organisation's occupational health adviser or other medical advisers who are subject to a professional duty of confidentiality or reporting suspected offences to the appropriate authorities. PPS complies with the Access to Medical Reports Act 1988 where relevant.

(2) The organisation processes personal data only where the data is adequate, relevant and limited to what is necessary for the purposes of processing.

PPS collects and retains the minimum amount of information necessary to allow it to achieve the purposes outlined above. The impact assessment carried out in relation to each processing operation involving SC and CR data considered data minimisation as a way of reducing the possible adverse impact of processing for individuals.

As noted above, the organisation includes relevant information in privacy notices as to how SC and CR data is used and does not use data for any other purpose.

As far as possible, information required for equal opportunities monitoring purposes is kept in an anonymised form. Monitoring forms are kept under review to ensure that the information collected is accurate and not excessive.

As far as possible, the organisation relies on health questionnaires, rather than medical testing, to obtain necessary information. Any medical testing that is carried out is relevant to the purpose for which it is undertaken.

Criminal records checks are carried out only for individuals undertaking roles where the organisation is under a legal obligation and regulatory requirement to perform such checks or where this is necessary for the prevention or detection of unlawful acts.

PPS makes relevant searches against professional prohibition databases in order to reach a decision about the suitability of the current or prospective employee. Those searches are provided by external agencies such as Teaching Regulation Agency.

All data is reviewed periodically, and unnecessary data is deleted in line with our Data Retention and Destruction Policy Handbook.

(3) The organisation keeps accurate personal data and takes all reasonable steps to ensure that inaccurate personal data is rectified or deleted without delay.

PPS takes reasonable steps to ensure that the Personal Data that it holds is accurate. SC and CR data is obtained:

- directly from job applicants, employees and other data subjects; or
- from external sources that the organisation is entitled to assume will provide accurate information, such as the Disclosure and Barring Service in the case of criminal records data, Teaching Regulation Agency in the case of professional prohibitions or medical professionals in the case of health data.

PPS keeps a record of the source of all data it collects and data is reviewed periodically and checked for accuracy. Appropriate records are kept of amendments to data. The organisation will erase or rectify inaccurate data that it holds without delay in accordance with our Data Protection policy if an individual notifies us that their Personal Data has changed or is otherwise inaccurate, or if it is otherwise found to be inaccurate. Individuals are reminded to review their data on a regular basis to ensure that it remains up to date.

(4) The organisation keeps personal data only for the period necessary for processing.

PPS has considered how long it needs to retain SC and CR data as set out in our Data Retention and Destruction Policy Handbook.

PPS does not retain copies of an individual's criminal record certificate after the commencement of employment, although it will retain a note (in the form of a risk assessment) on individual HR files where a notification of a disclosure has been made.

At the end of the relevant retention period, PPS erases and/or securely destroys SC and CR data.

(5) The organisation adopts appropriate measures to make sure that personal data is secure and protected against unauthorised or unlawful processing, and accidental loss, destruction or damage.

PPS takes the security of SC and CR data seriously. PPS has internal policies and controls in place to protect Personal Data against loss, accidental destruction, misuse or disclosure, and to ensure that data is not accessed, except by employees in the proper performance of their duties. PPS has analysed the risk presented by processing SC and CR data and taken this into account in assessing appropriate security requirements.

Further details can be found in our Data Protection Policy.

6. Accountability

PPS has put appropriate technical and organisation measures in place to meet accountability requirements. These include:

- appointing a Data Protection Controller
- maintaining appropriate documentation of processing activities, in particular a register of HR-related personal data, including SC Personal Data and CR Data (this held on the PPS Register of Processing Activities)
- adopting and implementing a Data Protection Policy covering HR-related data, which is regularly reviewed; and
- carrying out Data Protection Impact Assessments into processing of SC and CR data, as outlined in relation to compliance with the first data protection principle above.

7. Review and retention of policy and provision to Information Commissioner

This policy on processing SC and CR data is reviewed annually and, if necessary, amended to ensure that it remains up to date and accurately reflects PPS' approach to processing such data.

This policy will be retained by PPS while SC and CR data is being processed and for a period of at least six months after PPS stops carrying out such processing.