

DATA PROTECTION POLICY

Reviewed May 2018



1 Introduction

- 1.1 This policy is intended to ensure that personal information is dealt with correctly and securely and in accordance with the Data Protection Act 1998, the General Data Protection Regulations (GDPR) 2018 and other related legislation. It will apply to information regardless of the way it is collected, used, recorded, stored or destroyed and irrespective of whether it is held in paper files or electronically.
- 1.2 This policy should be read in conjunction with the Document Retention Schedule and the Safeguarding and Child Protection Policy. For the sake of clarity, any mention of 'SMS Coaching' includes staff working in any of our facilities.
- 1.3 SMS Coaching needs to keep certain information about its employees, pupils and their Parents/Carers to allow it to monitor performance, achievements and health and safety and seek to achieve its aims (as set out in the commitment statement). In so doing, SMS Coaching will comply with the terms of the General Data Protection Regulations (GDPR) 2018 and any associated legislation, to ensure personal data is treated in a manner that is fair and lawful. In summary, these state that personal data shall:
 - be obtained and processed fairly and lawfully and shall not be processed unless certain conditions are met;
 - be obtained for a specified and lawful purpose and shall not be processed in any manner incompatible with that;
 - be adequate, relevant and not excessive for that purpose;
 - be accurate and kept up-to-date;
 - not be kept for longer than is necessary for that purpose;
 - be processed in accordance with the data subject's rights;
 - be kept safe from unauthorised access, accidental loss or destruction;
 - not be transferred to a country outside the European Economic Area, unless that country has equivalent levels of protection for personal data.
- 1.4 Data Protection law is complex and the meaning of many of the terms used is often unclear to non-lawyers. Definitions of the main terms used are listed for reference purposes in an appendix to this Policy.
- 1.5 SMS Coaching and all staff or others who process or use personal information on the Companies behalf must ensure that they follow these principles at all times. In order to ensure that this happens, SMS Coaching has adopted this data protection policy. Data protection statements will be included on any forms that are used to collect personal data.

2 Status of this Policy

- 2.1 This policy has been adopted by SMS Coaching and is a detailed statement of policy regarding one main area of information management. It does not form part of the formal contract of employment for staff or a formal offer of a place of study for pupils. However, this policy will be included in the staff handbook and it is a condition of employment that employees will abide by the rules and policies made by the Company from time to time. Any failure to follow the policy can, therefore, result in disciplinary proceedings.

3 The Data Controller and the Data Protection Compliance Officer

3.1 SMS Coaching as a body corporate is the Data Controller. However, the Data Protection Compliance Officer will deal with day to day matters. Any member of staff, pupil or any other individual who considers that the policy has not been followed in respect of personal data about himself or herself should raise the matter with the Data Protection Compliance Officer. The Data Protection Compliance Officer for SMS Coaching can be contacted via the main office

4 Data Gathering

4.1 All personal data relating to staff, pupils or other people with who we have contact, whether held on computer or in paper files, are covered by the Act.

4.2 Only relevant personal data may be collected and the person from whom it is collected must be informed of the intended use of the data (only if that person is the data subject) and of any possible disclosures of that information which may be made.

4.3 Where we collect data which is of a more sensitive nature (for example details of medical conditions which pupils have and which SMS Coaching needs to know about), the Company will obtain the explicit consent from the Parents/Carers in respect of its holding of that information.

5 Data Checking

5.1 SMS Coaching will issue regular reminders at the beginning of the academic year to staff and Parents/Carers to ensure that personal data held is up-to-date and accurate.

6 Responsibilities of Staff

6.1 All staff are responsible for:

- checking that any information which they provide to SMS Coaching in connection with their employment is accurate and up-to-date; and
- informing SMS Coaching of any changes to information they have provided, e.g. change of address, either at the time of appointment or subsequently. The Company cannot be held responsible for any errors unless the staff member has informed the Company of such changes.

7 Responsibility of Parents/Carers

7.1 Pupils and their Parents/Carers should ensure that all personal information provided to SMS Coaching is accurate and up-to-date. They should ensure that changes of address, etc. are notified as soon as possible. The Company cannot be held responsible for any errors unless the parent/carer has informed The Company of such changes. Subject to the above, any errors discovered will be rectified and, if the incorrect information has been disclosed to a third party; they will be informed of the corrected data.

8 Data Storage

8.1 Staff are responsible for ensuring that:

- any personal information held in respect of pupils is kept securely;
- the personal information is not disclosed either orally, in writing, electronically or by any other means accidentally or otherwise to any unauthorised third party.

8.2 Staff should note that any unauthorised disclosure will usually be a disciplinary matter.

- 8.3 Personal data should (in respect of manual data) be stored in a secure and safe manner. It should be kept in a locked filing cabinet, drawer or safe where it is inaccessible to anyone who does not have legitimate reason to view or process that data
- 8.3 Electronic data should be coded, encrypted or password protected both on a local hard drive and on a network drive that is regularly backed up and if a copy is kept on a diskette or other removal storage media, that media must itself be kept in a locked filing cabinet, drawer or safe.
- 8.4 Computer work stations in administrative areas must be positioned so that they are not visible to casual observers waiting either in the office or waiting at reception or through any window which may permit unauthorised staff or visitors to view information on monitor screens.

9 Subject Access Requests

9.1 All people for whom SMS Coaching holds personal information are entitled to:

- know what information The Company holds and processes about them and why;
- know how to gain access to it;
- understand the mechanisms used to keep the data up-to-date; and
- know what The Company is doing to comply with its obligations.
- know who will see the information and who it is likely to be shared with

9.2 All people for whom SMS Coaching holds personal information have a right to access personal data being kept about them either on computer or in paper. This is subject to certain exemptions. If a member of staff sees a written request from a data subject to see any or all personal data that SMS Coaching holds about them, this should be treated as a subject access request and referred immediately to the Operations Director who will organise the response. The Company will respond with 40 calendar days, as required by law. The Company does not charge for any Subject Access Requests.

9.3 The Data Protection Act gives all pupils, regardless of age, the right of access to their pupil records. Requests to see or receive copies of records should be made in writing to the Managing Director.

9.4 In addition to the right to be given a copy of the educational record, pupils are entitled to be given a description of the personal data which makes up the record, together with details of the purposes for which the data are processed, the sources of the data (if known) and individuals or organisations to which the data may have been disclosed.

9.5 A period of up to 15 work days is allowed in which to respond to a subject access request for educational records. (The equivalent period for other types of record is up to 40 calendar days). Pupils and Parents/Carers may be asked for information to verify their identity if it is necessary, for instance in the case of former pupils who may not be currently known to the SMS Coaching. They may also be asked for information necessary to locate the data held about them. For instance, a former pupil may be asked to supply the dates between which he or she attended.

9.6 Only in exceptional cases will SMS Coaching be able to withhold some of the information which is requested by a pupil. For example, information does not have to be disclosed by The Company where that information might cause harm to the physical or mental health of the pupil or a third party. Also, information which may identify third parties (for example other pupils, although not teachers) is exempt from disclosure by the Company. Information may also be withheld if in the particular case it would hinder the prevention and detection of crime or the prosecution or apprehension of offenders to provide it.

- 9.7 If pupils are incapable of understanding or exercising their own rights under the Data Protection Act (for instance because they are too young) Parents/Carers can make subject access requests on their behalf.
- 9.8 If a pupil or parent/carer feels that SMS Coaching is ignoring the subject access request, is refusing to disclose the information or has not given full disclosure of the information, the matter may be referred to the Information Commissioner.
- 9.9 Parents/Carers have an independent right of access to pupil records (under the Education Pupil Information (England) Regulations 2000). Because of this, the pupils themselves have no right to prevent their Parents/Carers from obtaining a copy of their record.

10 Data Disclosures to Third Parties

- 10.1 Personal data will only be disclosed to organisations or individuals where SMS Coaching has consent to do this, or where there is a legal requirement to make the disclosure without consent
- 10.2 When requests to disclose personal data are received by telephone, it is the legal responsibility of the Directors to ensure that SMS Coaching is entitled to disclose the data and that the organisation is who it says it is. Therefore, such requests should be referred to the head Teacher who will normally ask for the request in writing.
- 10.3 A record should be kept of any personal data disclosed so that the recipient can be informed if the data is later to be found to be inaccurate. This will also enable an audit trail to be created.
- 10.4 Personal data will not be used in newsletters, websites or other media without the consent of the data subject.
- 10.5 Routine consent issues are incorporated into the pupil and staff data gathering sheets to avoid the need for frequent similar requests for consent being made. This will include information considered sensitive under the 1998 Act relating to particular health needs, such as allergies or medical conditions. SMS Coaching will only use this information in the protection of the health and safety of the individual, but requires consent to process this data in the event of a medical emergency.
- 10.6 Therefore, any data gathering sheets that staff and pupils are required to complete will include a section requiring consent to process the applicant's personal data. A refusal to sign such a form will prevent the application from being processed

11 Retention of data

- 11.1 Personal data will be retained for no longer than is necessary for the purpose for which it was collected. Standard retention times are necessary to meet various contractual requirements.

12 Disposal of data

- 12.1 Particular care must be taken with the disposal of personal data. Staff should be aware that the same standards should be applied to informal records, lists and printouts held by individual members of staff containing personal data as to records which are part of the formal records system. This material must not be disposed of in ordinary office waste paper bins. Personal data must be destroyed by secure methods such as shredding.

13 References

- 13.1 The provision of a reference will generally involve the disclosure of personal data. SMS Coaching is responsible for references given in a corporate capacity. All staff references requested should be referred to the Head Teacher.
- 13.2 SMS Coaching is not responsible for references given in a personal capacity. These must not be provided on stationery and should be clearly marked as personal. SMS Coaching will not provide subject access rights to confidential references written on behalf of SMS Coaching about employees and sent to other organisations. SMS Coaching recognises that once the reference is with the organisation to whom it was sent then no specific exemption from subject right access exists for the receiving organisation.
- 13.3 SMS Coaching will normally provide subject right access to confidential references received about employees provided to SMS Coaching by other organisations. However, SMS Coaching may withhold information if it is likely to result in harm to the author or some other person or if it reveals information about another third party other than the previous supervisor or manager of the employee.

Annex: Definitions in Data Protection Law

Data

Information processed by equipment (or intended to be processed by such equipment) or which is part of a relevant filing system or is an accessible record (including pupil records) or is other 'recorded information'.

Data subject

An individual who is the subject of personal data held.

Personal data

Any information that identifies a living individual, including expressions of opinion.

Processing data

Carrying out any operation with the data i.e. obtaining, recording, holding, disclosing or disposing.

Pupil Educational Records Information held on a pupil, which must be disclosed within 15 days of a written request addressed to the Principal by the pupil or parent/carer.

Recorded information

Information recorded in any form, including structured information and unstructured information (where data is not organised by reference to individuals).

Rights of Data Subjects

The right to be given a description of their personal data, why it is being held and to whom it may be disclosed. Also, he/she must be given within 40 days of a request, the information constituting the personal data and any information as to the source of the data. There is also the right to prevent any processing of personal data likely to cause unwarranted damage or distress

Refusal of Subject Access

A Subject Access Request can never be refused wholesale. The request must always be considered, and as much information as possible must be disclosed. Only certain information may be withheld if it falls under one of the exemptions.

Also the names of members of staff need not be disclosed if there is likelihood that this will cause physical or mental harm to the member of staff concerned.

Sensitive Personal Data

Racial or ethnic origin; political opinions; religious or similar beliefs; physical or mental health; trade union membership; or data referring to the commission or alleged commission of an offence.

Subject access request

A written request for personal data from the data subject. A subject access request for 'structured/unstructured personal data' must contain a description of the data.