

# **Rights of Individuals under the GDPR Policy 2021**

The Midland Academies Trust

Data Protection Officer

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## Rights of Individuals under the GDPR Policy 2021

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# Rights of Individuals under the GDPR - Policy 2021

## 1. Introduction

- 1.1 The Midland Academies Trust's (the Trust) reputation and future growth are dependent on the way the Trust manages and protects Personal Data.
- 1.2 All individuals have rights over their Personal Data and the Trust recognises the importance in having an effective Policy in place to allow individuals to exercise these rights in a way that is clear and easy for them.
- 1.3 The Trust has therefore implemented this Policy to ensure all Trust staff are aware of:
  - i. the rights individuals have over their Personal Data and;
  - ii. how the Trust will ensure that those rights can be exercised.
- 1.4 Trust staff will receive a copy of this Policy when they begin to work and may receive periodic revisions of this Policy.
- 1.5 This Policy does not form part of any member of staff's contract of employment and the Trust reserves the right to amend this Policy at any time.
- 1.6 All Trust staff are obliged to comply with this Policy at all times.

## 2. Rationale

- 2.1 The Trust's Data Protection & GDPR Policy is the Trust's fundamental policy, which sets out:
  - i. the types of Personal Data that the Trust's may be required to handle;
  - ii. the Trust's legal purposes for doing so; and
  - iii. how the Trust complies with its obligations under the Data Protection Laws.
- 2.2 This Policy explains how the Trust complies with its legal obligations to allow individuals to exercise their rights over their Personal Data.
- 2.3 The Trust has a corresponding Rights of Individuals under the GDPR - Procedure. This sets out the processes the Trust follows to respond to individuals exercising the rights set out in this Policy.

## 3. Scope

- 3.1 This Policy applies to all Trust staff who collect and / or use individuals Personal Data, which is stored electronically, in paper form or otherwise.

## 4. Definitions

- 4.1 **Trust staff** - any Trust employee or contractor who has been authorised to access any Personal Data and will include employees, consultants, contractors and temporary staff hired to work on behalf of the Trust.
- 4.2 **Data Protection Laws** - the General Data Protection Regulation and all applicable laws relating to the collection and use of PD and privacy and any applicable codes of practice issued by a regulator including in the UK, the Data Protection Act 2018.

- 4.3 **Data Protection Officer (DPO)** - the DPO can be contacted at 02476 243000 or by email at [dpo@midlandacademiestrust.co.uk](mailto:dpo@midlandacademiestrust.co.uk) .
- 4.4 **ICO** - the Information Commissioner's Office, the UK's data protection regulator.
- 4.5 **Personal data** - any information about an individual which identifies them or allows them to be identified in conjunction with other information that is held. Personal Data is defined very broadly and covers both ordinary Personal Data from personal contact details and business contact details to special categories of Personal Data such as trade union membership, genetic data and religious belief. It also includes information that allows an individual to be identified indirectly, for example an identification number, location data or an online identifier.
- 4.6 **Processing** - any collection, use or storage of Personal Data, whether on the Trust's information systems or in paper form.
- 4.7 **Special categories of Personal Data** - Personal Data which reveals a person's racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic data (i.e. information about their inherited or acquired genetic characteristics), biometric data (i.e. information about their physical, physiological or behavioural characteristics such as facial images or fingerprints), physical or mental health, sexual life or sexual orientation and criminal record.

## 5. Related Policies, Procedures and Documents

- 5.1 Data Protection & GDPR Policy;
- 5.2 Rights of Individuals under the GDPR Procedure;
- 5.3 Freedom of Information Policy;
- 5.4 Retention of Information Schedule;
- 5.5 IT Security Policy.
- 5.6 Other policies and documents may be identified from time to time as circumstances change and may be added to this list.

## 6. Staff Responsibilities

- 6.1 This Policy sets out the rights that individuals have over their Personal Data under Data Protection laws. If a member of staff receives a request from an individual to exercise any of the rights set out in this Policy, that member of staff must:
  - i. notify the DPO as soon as possible and, in any event, within 24 hours of receiving the request;
  - ii. inform the DPO as to what the request consists of, who has sent the request and provide the DPO with a copy of the request;
  - iii. not make any attempt to deal with or respond to the request without authorisation from the DPO.

## 7. Individuals' Rights Over Their Personal Data

### 7.1 Right of Access (Subject Access Requests - SAR)

- 7.1.1 Individuals have the right to ask the Trust to confirm the Personal Data that the Trust is holding about them, and to have copies of that Personal Data along with the following information:
  - i. the purposes for which the Trust is holding their Personal Data;

- ii. the categories of Personal Data that the Trust is holding about them;
- iii. the recipients or categories of recipients that their Personal Data has been or will be disclosed to;
- iv. how long the Trust will keep their Personal Data;
- v. that they have the right to request the Trust to correct any inaccuracies in the Personal Data (see 7.2) or deletes their Personal Data (see 7.3); or restrict the uses the Trust is making of the Personal data (for the circumstances when this can happen see below for further information); or to object to the uses the Trust is making of their Personal Data (for the circumstances when this can happen see below for further information);
- vi. that they have the right to complain to the ICO if they are unhappy about the way the Trust has dealt with this request or in general about the way the Trust is handling their Personal Data;
- vii. where the Personal Data was not collected from the, where the Trust obtained it from; and
- viii. the existence of automated decision-making including profiling (if applicable).

7.1.2 The Trust is not entitled to charge individuals for complying with this request; however if the individual asks for a further copy of the information requested, the Trust can charge a reasonable fee based on its administrative costs of making the further copy.

7.1.3 There are no formality requirements to the making of a SAR, which does not have to refer to data protection law or use the words 'Data Subject Access Request' or 'SAR'. The Trust will monitor its incoming communications, including post, email, website and social media pages to ensure the Trust recognises a SAR when one is received.

7.1.4 The Trust is required to respond to a SAR within one month from the date the Trust receives it. If the SAR is complex or there are multiple requests at once, the Trust may extend this period by two further months, provided the Trust tells the individual who has made the SAR about the delay and the Trust's reasons for the delay within the first month.

7.1.5 The DPO will reach a decision as to the complexity of the SAR and whether the Trust is entitled to extend the deadline for responding.

## 7.2 **Right to Rectification**

7.2.1 Individuals have the right to ask the Trust to correct any Personal Data that it is holding about them, that is incorrect.

7.2.2 Where the individual tells the Trust that their Personal Data is incomplete, the Trust is obliged to complete that data if the individual asks the Trust to do so. This may mean adding a supplementary statement to their personal file for example.

7.2.3 If the Trust has disclosed the individual's inaccurate Personal Data to any third parties, the Trust is required to tell the individual who those third parties are and to inform the third parties of the correction, where the Trust can.

7.2.4 Where an individual asks the Trust to correct their Personal Data, the Trust is required to do so and to confirm this in writing to the individual within one month of them making the request.

## 7.3 **Right to Erasure (Right to Be Forgotten)**

7.3.1 Individuals have the right to ask the Trust to delete the Personal Data the Trust has about them in certain circumstances. This right is limited in scope and does not apply to every individual. The right to be forgotten applies when:

- i. the Personal Data is no longer necessary for the purpose the Trust has collected it for;
- ii. the individual withdraws consent and the Trust has no other legal basis to use their Personal Data;
- iii. the individual objects to the Trust's processing and there is no overriding legitimate interest for continuing the processing;

- iv. the Personal Data was unlawfully processed; and / or
  - v. the Personal Data has to be erased to comply with a legal obligation.
- 7.3.2 If the Trust has disclosed the individual's deleted Personal Data to any third parties, the Trust is required to tell the individual who those third parties are and to inform the third parties to delete the Personal Data, where the Trust can.
- 7.3.3 When an individual asks the Trust to delete their Personal Data, the Trust is required to do so and to inform the individual in writing within one month of them making the request this this has been done.

#### **7.4 Right to Restrict Processing**

- 7.4.1 Individuals have the right to 'block' or 'supress' the Trust's processing of their Personal Data when:
- i. they contest the accuracy of the Personal Data, for a period enabling the Trust to verify the accuracy of the Personal Data;
  - ii. the processing is unlawful and the individual opposes the deletion of the Personal Data and requests restriction instead;
  - iii. the Trust no longer needs the Personal Data for the purposes the Trust collected it for, but the Trust is required by the individual to keep the Personal Data for the establishment, exercise or defence of legal claims;
  - iv. the individual has objected to the Trust's legitimate interests, for a period enabling the Trust to verify whether its legitimate interests override their interest.
- 7.4.2 If the Trust has disclosed the individual's restricted Personal Data to any third parties, the Trust is required to tell the individual who those third parties are, and to inform the third parties about the restriction, where the Trust can.
- 7.4.3 When an individual asks the Trust to restrict its processing of their Personal Data, the Trust is required to do so and to confirm to the individual in writing within one month of them making the request that this has been done.

#### **7.5 Right to Data Portability**

- 7.5.1 Individuals have the right to obtain from the Trust, a copy of their own Personal Data in a structured, commonly-used and machine-readable format (such as CSV files<sup>1</sup>). The aim of this right is to facilitate the ability of individuals to move, copy or transmit their Personal Data easily from one IT environment to another.
- 7.5.2 The right to data portability only applies when:
- i. the individual provided the Trust with the Personal Data ;
  - ii. the processing the Trust is carrying out is based on the individual's consent or is necessary for the performance of a contract; and
  - iii. the processing is carried out by automated means.
- 7.5.3 This means that the right to data portability does not apply to personal data the Trust is processing on another legal basis, such as legitimate interests.
- 7.5.4 The Trust is obliged to provide this information free of charge within one month of the individual making the request (or two months where the request is complex, provided the Trust explains to the individual why it needs more time).
- 7.5.5 The individual also has the right to ask the Trust to transmit the Personal Data directly to another organisation if this is technically possible.

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<sup>1</sup> CSV files are comma-separated values files - CSV is a simple file format used to store tabular data, such as a spreadsheet or database. Files in the CSV format can be imported to and exported from programs that store data in tables, such as Microsoft Excel.

## 7.6 Right to Object

7.6.1 Individuals have the right to object where to the Trust's processing of their Personal Data where:

- i. the Trust's processing is based on its legitimate interests or the performance of a task in the public interest and the individual has grounds relating to his or her particular situation on which to object;
- ii. the Trust is carrying out direct marketing to the individual; and / or
- iii. the Trust's processing is for the purpose of scientific / historical research and the individual has grounds relating to his or her particular situation, on which to object.

7.6.2 If an individual has grounds to object to the Trust's legitimate interests, the Trust must stop processing their Personal Data unless the Trust has compelling legitimate grounds for the processing which override the interest of the individual, or where the processing is for the establishment, exercise or defence of legal claims.

7.6.3 If an individual objects to direct marketing, the Trust must stop processing their Personal Data for those purposes as soon as the Trust receives the request. The Trust cannot refuse their request for any reason and cannot charge them for complying with it.

7.6.4 Before the end of one month from the date the Trust gets the request, the Trust must notify the individual in writing that the Trust has complied or intends to comply with their objections or that the Trust is not complying and the reason why.

## 7.7 Rights in Relation to Automated Decision Making

7.7.1 Individuals have the right not to be subject to a decision based solely on automated processing, including profiling, which produces legal effects concerning him or her or similarly significantly affects him or her unless the decision is:

- i. necessary for entering into or performing a contract between the Trust and the individual;
- ii. required or authorised by Data Protection Laws; or
- iii. based on the individual's explicit consent.

7.7.2 Automated decision making happens where the Trust makes a decision about an individual solely by automated means without any human involvement.

7.7.3 Profiling happens where the Trust automatically used Personal Data to evaluate certain things about an individual.

## 8. Equality Analysis

8.1 By virtue of the provisions of the Equality Act 2010, the Trust has a duty to have due regard to the need to:

- i. eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct;
- ii. advance equality of opportunity between people of different groups;
- iii. foster good relations between people from different groups.

8.2 In implementing this Policy and associated procedures, the Trust will actively take these aims into account as part of its decision making process and will demonstrate how this has been undertaken.

8.3 Where necessary a full equality impact assessment will be undertaken.



## **9. Implementation, Monitoring and Review**

- 9.1 Activity taking place under this Policy will be reviewed by the DPO and reported to the Executive on a monthly basis, the Audit Committee on a termly basis and the Board of Directors on an annual basis.
- 9.2 This Policy will be reviewed every three years, or as otherwise directed by the Chief Executive, Trust policy or legislative changes.