



DATA PROTECTION POLICY

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Background

Data protection is an important legal compliance issue for the Geneva English School. During the course of the School's activities it collects, stores and processes personal data (sometimes sensitive in nature) about staff, pupils, their parents, suppliers and other third parties (in a manner more fully detailed in the School's Privacy Notice).

The School, as "data controller", is liable for the actions of its staff and governors in how they handle data. It is therefore an area where all staff have a part to play in ensuring we comply with and are mindful of our legal obligations, whether that personal data handling is sensitive or routine.

The law changed on 25 May 2018 with the implementation of the General Data Protection Regulation (GDPR) – an EU Regulation that is directly effective in the UK, regardless of Brexit status – and a new Data Protection Act 2018 (DPA 2018) was also passed to deal with certain issues left for national law. The DPA 2018 included specific provisions of relevance to independent schools: in particular, in the context of our safeguarding obligations, and regarding the right of access to personal data. In its fall 2020 session, Swiss Parliament passed the new Act on Federal Data Protection (nFADP).

Implementation through the Data Protection Ordinance is on September 1, 2023. Swiss law's compatibility with European law, and in particular with the European General Data Protection Regulation (GDPR), is the nFADP's other challenge. The nFADP should make it possible to maintain the free flow of data with European Union (EU) and thus avoid a loss of competitiveness for Swiss companies.

Without fundamentally changing the principles of data protection law, and while providing some helpful new grounds for processing certain types of personal data, in most ways this new law has strengthened the rights of individuals and placed tougher compliance obligations on organisations including schools that handle personal information. The Federal Data Protection and Information Commissioner (FDPIC) is responsible for enforcing data protection law, will typically look into individuals' complaints routinely and without cost, and has various powers to take action for breaches of the law.

Definitions

Key data protection terms used in this data protection policy are:

- **Data controller** – a person or body that determines the purpose and means of the processing of personal data, and who is legally responsible for how it is used. For example, the School (including by its governors) is a controller. An independent contractor who makes their own such decisions is also, separately, likely to be a data controller.
- **Data processor** – an organisation that processes personal data on behalf of a data controller, for example a payroll or IT provider or other supplier of services with whom personal data may be shared but who is not authorised to make any decisions about how it is used.
- **Personal data breach** – a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data.
- **Personal information (or personal data)**: any information relating to a living individual (a data subject) by which that individual may be identified by the

controller. That is not simply a name but any form of identifier, digital or contextual, including unique ID numbers, initials, job titles or nicknames. Note that personal information will be created almost constantly in the ordinary course of work duties (such as in emails, notes of calls, and minutes of meetings). The definition includes expressions of opinion about the individual or any indication of the school's, or any person's, intentions towards that individual.

- **Processing** – virtually anything done with personal information, including obtaining or collecting it, structuring it, analysing it, storing it, sharing it internally or with third parties (including making it available to be viewed electronically or otherwise), altering it or deleting it.
- **Special categories of personal data** – data relating to racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, health and medical conditions, sex life or sexual orientation, genetic or biometric data used to identify an individual. There are also separate rules for the processing of personal data relating to criminal convictions and offences.

Data Protection Officer

The School has appointed Mr Daniel Crabtree as the Data Protection Officer who will endeavour to ensure that all personal data is processed in compliance with this Policy and the principles of the GDPR. Any questions about the operation of this policy or any concerns that the policy has not been followed should be referred in the first instance to the Data Protection Officer.

The Principles

The GDPR and (nFADP) sets out six principles relating to the processing of personal data which must be adhered to by data controllers (and data processors). These require that personal data must be:

1. Processed lawfully, fairly and in a transparent manner;
2. Collected for specific and explicit purposes and only for the purposes it was collected for;
3. Relevant and limited to what is necessary for the purposes it is processed;
4. Accurate and kept up to date;
5. Kept for no longer than is necessary for the purposes for which it is processed; and
6. Processed in a manner that ensures appropriate security of the personal data.

The GDPR's 'accountability' principle also requires that the School not only processes personal data in a fair and legal manner but that we are also able to demonstrate that our processing is lawful. This involves, among other things:

- keeping records of our data processing activities, including by way of logs and policies;
- documenting significant decisions and assessments about how we use personal data; and
- generally having an 'audit trail' vis-à-vis data protection and privacy matters, including for example when and how our Privacy Notice(s) were updated; when staff training was undertaken; how and when any data protection consents were collected from individuals; how personal data breaches were dealt with, whether or not reported (and to whom), etc.

Lawful grounds for data processing

Under the GDPR there are several different lawful grounds for processing personal data. One of these is consent. However, because the definition of what constitutes consent

has been tightened under GDPR (and the fact that it can be withdrawn by the data subject) it is generally considered preferable to rely on another lawful ground where possible. One of these alternative grounds is 'legitimate interests', which is the most flexible basis for processing. However, it does require transparency and a balancing assessment between the rights of the individual and the interests of the Controller. It can be challenged by data subjects and also means the Controller is taking on extra responsibility for considering and protecting people's rights and interests. The School's legitimate interests are set out in its Privacy Policy, as GDPR requires.

Other lawful grounds include:

- compliance with a legal obligation, including in connection with employment and diversity;
- contractual necessity, e.g. to perform a contract with staff or parents;
- a narrower set of grounds for processing special categories of personal data (such as health information), which includes explicit consent, emergencies, and specific public interest grounds.

Headline responsibilities of all staff

Record-keeping

It is important that personal data held by the School is accurate, fair and adequate. One is required to inform the School if they believe that their personal data is inaccurate or untrue or if they are dissatisfied with the information in any way. Similarly, it is vital that the way we record the personal data of others – in particular colleagues, pupils and their parents – is accurate, professional and appropriate.

Staff should be aware of the rights set out below, whereby any individuals about whom they record information in emails and notes on School business may have the right to see that information. This absolutely must not discourage staff from recording necessary and sometimes difficult records of incidents or conversations involving colleagues or pupils, in accordance with the School's other policies, and grounds may sometimes exist to withhold these from such requests. However, the starting position is to record every document or email in such a way that you would be able to stand by it if the person about whom it was recorded were to see it.

Data handling

All staff have a responsibility to handle the personal data which they come into contact with fairly, lawfully, responsibly and securely and in accordance with the staff handbook and all relevant School policies and procedures. In particular, there are data protection implications across a number of areas of the School's wider responsibilities such as safeguarding and IT security, so all staff should read and comply with the following policies:

- Staff Acceptable Use Policy
- Safeguarding and Child Protection Policy

Responsible processing also extends to the creation and generation of new personal data / records, as above, which should always be done fairly, lawfully, responsibly and securely.

Avoiding, mitigating and reporting data breaches

One of the key new obligations contained in the GDPR is on reporting personal data breaches. Data controllers must report certain types of personal data breach (those which risk an impact to individuals) to the FDPIC within 72 hours.

In addition, data controllers must notify individuals affected if the breach is likely to result in a "high risk" to their rights and freedoms. In any event, the School must keep a record of any personal data breaches, regardless of whether we need to notify the FDPIC.

If you become aware of a personal data breach you must notify the Data Protection Officer. If staff are in any doubt as to whether or not you should report something, it is always best to do so. A personal data breach may be serious, or it may be minor, and it may involve fault or not, but the School always needs to know about them to make a decision.

As stated above, the School may not need to treat the incident itself as a disciplinary matter – but a failure to report could result in significant exposure for the School, and for those affected, and could be a serious disciplinary matter whether under this Policy or the staff member's contract.

Care and data security

More generally, we require all School staff to remain conscious of the data protection principles (see section above), to attend any training we require them to, and to use their best efforts to comply with those principles whenever they process personal information. Data security is not simply an online or digital issue but one that affects daily processes:

- filing and sending correspondence, notably hard copy documents. Staff should always consider what the most assured and secure means of delivery is, and what the consequences would be of loss or unauthorised access.

We expect all those with management / leadership responsibilities to be particular champions of these principles and to oversee the swift reporting of any concerns about how personal information is used by the School to the Data Protection Officer, and to identify the need for (and implement) regular staff training.

Rights of Individuals

In addition to the School's responsibilities when processing personal data, individuals have certain specific rights, perhaps most significantly that of access to their personal data held by a data controller (i.e. the School). This is known as the 'subject access right' (or the right to make 'subject access requests'). Such a request must be dealt with promptly and does not need any formality, nor to refer to the correct legislation.

If you become aware of a subject access request (or indeed any communication from an individual about their personal data), you must tell the Data Protection Officer as soon as possible.

Individuals also have legal rights to:

- require us to correct the personal data we hold about them if it is inaccurate;
- request that we erase their personal data (in certain circumstances);
- request that we restrict our data processing activities (in certain circumstances);
- receive from us the personal data we hold about them for the purpose of transmitting it in a commonly used format to another data controller;

- object, on grounds relating to their particular situation, to any of our particular processing activities where the individual feels this has a disproportionate impact on them; and

None of the above rights for individuals are unqualified and exceptions may well apply. However, certain rights are absolute and must be respected, specifically the right to:

- object to automated individual decision-making, including profiling (i.e. where a significant decision is made about the individual without human intervention);
- object to direct marketing; and withdraw one's consent where we are relying on it for processing their personal data (without affecting the lawfulness of processing carried out prior to that point in reliance on consent, or of any processing carried out on some other legal basis other than consent).

In any event, however, if you receive a request from an individual who is purporting to exercise one or more of their data protection rights, you must tell the DPO as soon as possible

Data Security: online and digital

The School ensures that appropriate security measures are taken against unlawful or unauthorised processing of personal data, and against the accidental loss of, or damage to, personal data. No member of staff is permitted to take unencrypted electronic personal data offsite. All appropriate measures should be taken in case of taking paper copies of personal data offsite.

Processing of Credit Card Data

The School complies with the requirements of the PCI Data Security Standard (PCI DSS). Staff who are required to process credit card data must ensure that they are aware of and comply with the most up to date PCI DSS requirements.