THE HOWARD PARTNERSHIP TRUST

DATA PROTECTION POLICY

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Related policies:
THPT Freedom of Information Publication Scheme
THPT Subject Access Request Procedures
THPT Child Protection & Safeguarding Policy
THPT Online Safety Policy
Acceptable User Agreements
Privacy Notices
Governance Privacy Notice
Subject Access Flowchart
AI and Digital Information Policy

Purpose:
This policy sets out how the Trust ensures that all personal data is collected, stored and processed in accordance with the General Data Protection Regulation (GDPR) and the expected provisions of the Data Protection Act 2018 (DPA 2018) as set out in the Data Protection Bill. This policy applies to all personal data, regardless of whether it is in paper or electronic format.

Legislation and guidance

This policy meets the requirements of the GDPR and the expected provisions of the DPA 2018. It is based on guidance published by the Information Commissioner's Office (ICO) on the GDPR and the ICO's requests. It meets the requirements of the Protection of Freedoms Act 2012 when referring to our use of biometric data. It also reflects the ICO's code of practice for the use of surveillance cameras and personal information. In addition, this policy complies with our funding agreement and articles of association.

Term	Definition
Personal data	Any information relating to an identified, or identifiable, individual This may include the individual's: Name (including initials) Identification number Location data Online identifier, such as a username It may also include factors specific to the individual's physical, physiological, genetic, mental, economic, cultural or social identity.
Special categories of personal data	Personal data which is more sensitive and so needs more protection, including information about an individual's: Racial or ethnic origin Political opinions Religious or philosophical beliefs Trade union membership Genetics Biometrics (such as fingerprints, retina and iris patterns), where used for identification purposes Health – physical or mental Sex life or sexual orientation.
Processing	Anything done to personal data, such as collecting, recording, organising, structuring, storing, adapting, altering, retrieving, using, disseminating, erasing or destroying. Processing can be automated or manual.
Data subject	The identified or identifiable individual whose personal data is held or processed.
Data controller	A person or organisation that determines the purposes and the means of processing of personal data.
Personal data breach	A breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data.

The Data Controller

Partnership Services and each school within The Howard Partnership Trust (THPT) process personal data relating to parents, pupils, staff, Governors, Trustees, visitors and others, and therefore each is a data controller.

The Trust is registered as a data controller with the ICO and will renew this registration annually or as otherwise legally required.

Roles and Responsibilities

This policy applies to **all staff** employed by the Trust, and to external organisations or individuals working on our behalf. Staff who do not comply with this policy may face disciplinary action.

Trust Board

The Trust Board has overall responsibility for ensuring that our schools comply with all relevant data protection obligations.

Data Protection Officer

The Data Protection Officer (DPO) is responsible for overseeing the implementation of this policy, monitoring our compliance with data protection law, and developing related policies and guidelines where applicable. They will provide a report of their activities directly to the COO who reports to the Trust Board and, where relevant, report to the Board their advice and recommendations on school data protection issues. The DPO is also the first point of contact for individuals whose data the Trust processes, and for the ICO.
The Trust's DPO is **Janise Marillat** and is contactable via email: **dpo@thpt.org.uk**

Principal

The Principal of each THPT school acts as the representative of the data controller on a day-to-day basis. The Principal may delegate a senior member of staff to be the school Data Protection Lead and to liaise with the Trust's DPO.

All staff

Staff are responsible for:

- Collecting, storing and processing any personal data in accordance with this policy
- Informing the Trust of any changes to their personal data, such as a change of address
- Contacting the DPO in the following circumstances:
    - With any questions about the operation of this policy, data protection law, retaining personal data or keeping personal data secure
    - If they have any concerns that this policy is not being followed
    - If they are unsure whether or not they have a lawful basis to use personal data in a particular way
    - If they need to rely on or capture consent, draft a privacy notice, deal with data protection rights invoked by an individual, or transfer personal data outside the European Economic Area
    - If there has been a data breach
    - Whenever they are engaging in a new activity that may affect the privacy rights of individuals
    - If they need help with any contracts or sharing personal data with third parties
    - If they need guidance with a DPIA or a data sharing agreement.

Data Protection Principles

The Trust will comply with the data protection principles as set out in the GDPR.
The principles say that personal data must be:

- Processed lawfully, fairly and in a transparent manner

- Collected for specified, explicit and legitimate purposes
- Adequate, relevant and limited to what is necessary to fulfil the purposes for which it is processed
- Accurate and, where necessary, kept up to date
- Kept for no longer than is necessary for the purposes for which it is processed
- Processed in a secure manner

This policy sets out how the Trust and its schools aim to comply with these principles.

Conditions for Processing Personal Data Lawfully and Fairly

We will only process personal data where we have one of 6 'lawful bases' (legal reasons) to do so under data protection law:

- The data needs to be processed so that the Trust can **fulfil a contract** with the individual, or the individual has asked the Trust to take specific steps before entering into a contract
- The data needs to be processed so that the Trust can **comply with a legal obligation**
- The data needs to be processed to ensure the **vital interests** of the individual e.g. to protect someone's life
- The data needs to be processed so that the Trust, as a public authority, can perform a task **in the public interest,** and carry out its official functions
- The data needs to be processed for the **legitimate interests** of the Trust or a third party (provided the individual's rights and freedoms are not overridden)
- The individual (or their parent/carer when appropriate in the case of a pupil) has freely given clear **consent**

For special categories of personal data, we will also meet one of the special category conditions for processing which are set out in the GDPR and Data Protection Act 2018.

It is important to be aware of the data privacy implications when using generative AI tools, as is the case with any new technology. Personal and special category data must be protected in accordance with data protection legislation.

If it is strictly necessary to use personal and special category data in generative AI tools within our setting, the Trust must ensure that the products and procedures comply with data protection legislation and our existing data privacy policies to protect the data.

In our Primary schools

If we offer online services to pupils, such as classroom apps, and we intend to rely on consent as a basis for processing, we will get parental consent (except for online counselling and preventive services).

In our Secondary schools

If we offer online services to pupils, such as classroom apps, and we intend to rely on consent as a basis for processing, we will get parental consent where the pupil is under 12 (except for online counselling and preventive services).

Whenever we first collect personal data directly from individuals, we will provide them with the relevant information required by data protection law.

Limitation, Minimisation and Accuracy

We will only collect personal data for specified explicit and legitimate reasons. We will explain these reasons to the individuals when we first collect their data.

If we want to use personal data for reasons other than those given when we first obtained it, we will inform the individuals concerned before we do so and seek consent where necessary.

Staff must only process personal data where it is necessary in order to do their jobs.

When staff no longer need the personal data they hold, they must ensure it is deleted or anonymised. This will be done in accordance with our Record Retention Policy.

Sharing Personal Data

We will not normally share personal data with anyone else, but may do so where:

- There is an issue with a pupil or parent/carer that puts the safety of our staff at risk
- We need to liaise with other agencies – we will seek consent as necessary before doing this
- Our suppliers or contractors need data to enable us to provide services to our staff and pupils – for example, IT companies. When doing this, we will:
    - Only appoint suppliers or contractors which can provide sufficient guarantees that they comply with data protection law
    - Establish a data sharing agreement with the supplier or contractor, either in the contract or as a standalone agreement, to ensure the fair and lawful processing of any personal data we share
    - Only share data that the supplier or contractor needs to carry out their service, and information necessary to keep them safe while working with us
- We will also share personal data with law enforcement and government bodies where we are legally required to do so, including for:
    - The prevention or detection of crime and/or fraud
    - The apprehension or prosecution of offenders
    - The assessment or collection of tax owed to HMRC
    - In connection with legal proceedings
    - Where the disclosure is required to satisfy our safeguarding obligations
    - Research and statistical purposes, as long as personal data is sufficiently anonymised, or consent has been provided

We may also share personal data with emergency services and local authorities to help them to respond to an emergency situation that affects any of our pupils or staff.
Where we transfer personal data to a country or territory outside the European Economic Area, we will do so in accordance with data protection law.

Subject Access Requests and Other Rights of Individuals

Subject Access Requests

Individuals have a right to make a 'subject access request' to gain access to personal information that the Trust holds about them. This includes but is not limited to:

- Confirmation that their personal data is being processed
- Access to a copy of the data
- The purposes of the data processing
- The categories of personal data concerned
- Who the data has been, or will be, shared with
- How long the data will be stored for, or if this isn't possible, the criteria used to determine this period
- The source of the data, if not the individual
- Whether any automated decision-making is being applied to their data, and what the significance and consequences of this might be for the individual

Subject access requests can be submitted in writing, either by letter or email to any staff member. They should include:

- Name of individual
- Correspondence address
- Contact number and email address
- Details of the information requested

If staff receive a subject access request, they must immediately forward it to the school Data Protection Lead or Principal and the DPO via GDPRIS.

Children and Subject Access Requests

Personal data about a child belongs to that child, and not the child's parents or carers. For a parent or carer to make a subject access request with respect to their child, the child must either be unable to understand their rights and the implications of a subject access request or have given their consent.

In our Primary schools:

Children below the age of 12 are generally not regarded to be mature enough to understand their rights and the implications of a subject access request. Therefore, most subject access requests from parents or carers of pupils at our primary schools may be granted without the express permission of the pupil. This is not a rule and a pupil's ability to understand their rights will always be judged on a case-by case basis.

In our Secondary schools:

Children aged 12 and above are generally regarded to be mature enough to understand their rights and the implications of a subject access request. Therefore, most subject access requests from parents or carers of pupils at our secondary schools may not be granted without the express permission of the pupil. This is not a rule and a pupil's ability to understand their rights will always be judged on a case by-case basis.

Responding to Subject Access Requests

When responding to requests, we:

- May ask the individual to provide two forms of identification
- May contact the individual via phone to confirm the request was made
- Will acknowledge receipt
- Are obliged to respond within one month of receipt of the request. However, we may tell the individual we will comply within three months of receipt of the request, where a request is complex or numerous. We will inform the individual of this within one month, and explain why the extension is necessary

We will not disclose information if it:

- Might cause serious harm to the physical or mental health of the pupil or another individual
- Would reveal that the child is at risk of abuse, where the disclosure of that information would not be in the child's best interests
- Is contained in adoption or parental order records
- Is given to a court in proceedings concerning the child.

If the request is unfounded or excessive, we may refuse to act on it, or charge a reasonable fee which takes into account administrative costs. A request will be deemed to be unfounded or excessive if it is repetitive or asks for further copies of the same information. When we refuse a request, we will tell the individual why, and tell them they have the right to complain to the ICO.

Other Data Protection Rights of The Individual

In addition to the right to make a subject access request (see above), and to receive information when we are collecting their data about how we use and process it, individuals also have the right to:

- Withdraw their consent to processing at any time
- Ask us to rectify, erase or restrict processing of their personal data, or object to the processing of it (in certain circumstances)
- Prevent use of their personal data for direct marketing
- Challenge processing which has been justified on the basis of public interest
- Request a copy of agreements under which their personal data is transferred outside of the European Economic Area
- Object to decisions based solely on automated decision making or profiling (decisions taken with no human involvement, that might negatively affect them)
- Prevent processing that is likely to cause damage or distress
- Be notified of a data breach in certain circumstances
- Make a complaint to the ICO
- Ask for their personal data to be transferred to a third party in a structured, commonly used and machine-readable format (in certain circumstances).

Individuals should submit any request to exercise these rights to the DPO. If staff receive such a request, they must immediately forward it to the DPO.

Parental requests to see the Educational Record

While academies are not legally required to provide parents, or those with parental responsibility right to free access to their child's educational record (which includes most information about a pupil) we will endeavour to do so within 15 school days of receipt of a written request. There may be a small photocopying charge, which would be itemised before any such request is processed.

Biometric Recognition Systems

Where we use pupils' biometric data as part of an automated biometric recognition system (for example, pupils use finger prints to receive school dinners instead of paying with cash), we will comply with the requirements of the Protection of Freedoms Act 2012.
Parents/carers will be notified before any biometric recognition system is put in place or before their child first takes part in it. The school will get written consent from at least one parent or carer before we take any biometric data from their child and first process it.
Parents/carers and pupils have the right to choose not to use the school's biometric system(s). We will provide alternative means of accessing the relevant services for those pupils.
Parents/carers and pupils can object to participation in the school's biometric recognition system(s), or withdraw consent, at any time, and we will make sure that any relevant data already captured is deleted.

As required by law, if a pupil refuses to participate in, or continue to participate in, the processing of their biometric data, we will not process that data irrespective of any consent given by the pupil's parent(s)/carer(s).
Where staff members or other adults use the school's biometric system(s), we will also obtain their consent before they first take part in it and provide alternative means of accessing the relevant service if they object. Staff and other adults can also withdraw consent at any time, and the school will delete any relevant data already captured.

CCTV

We use CCTV in various locations around the Trust's school sites to ensure they remain safe. We will adhere to the ICO's code of practice for the use of CCTV. Since February 2022 there is additional guidance: Surveillance Camera Commissioner – GOV.UK (www.gov.uk) and we seek to meet these standards.

We do not need to ask individuals' permission to use CCTV, but we make it clear where individuals are being recorded. Security cameras are clearly visible and accompanied by prominent signs explaining that CCTV is in use. Any enquiries about the CCTV system should be directed to the school's Principal.

Photographs and Videos

As part of our Trust school activities, we may take photographs and record images of individuals within our schools.

In our Primary schools:

We will obtain written consent from parents/carers for photographs and videos to be taken of their child for communication, marketing and promotional materials. We will clearly explain how the photograph and/or video will be used to both the parent/carer and pupil.

In our Secondary schools:
We will obtain written consent from parents/carers, or pupils aged 12 and over, for photographs and videos to be taken of pupils for communication, marketing and promotional materials.

Where we need parental consent, we will clearly explain how the photograph and/or video will be used to both the parent/carer and pupil. Where we don't need parental consent, we will clearly explain to the pupil how the photograph and/or video will be used. Uses may include:

- Within school on notice boards and in school magazines, brochures, newsletters, etc.
- Outside of school by external agencies such as the school photographer, newspapers, campaigns
- Online on our school website or social media pages

Consent can be refused or withdrawn at any time. If consent is withdrawn, we will delete the photograph or video and not distribute it further.
When using photographs and videos in this way we will not accompany them with any other personal information about the child, to ensure they cannot be identified.
See our Child protection and safeguarding policy for more information on our use of photographs and videos.

Data Protection by Design and Default

We will put measures in place to show that we have integrated data protection into all of our data processing activities, including:

- Appointing a suitably qualified DPO, and ensuring they have the necessary resources to fulfil their duties and maintain their expert knowledge
- Only processing personal data that is necessary for each specific purpose of processing, and always in line with the data protection principles set out in relevant data protection law
- Completing data privacy impact assessments (DPIAs) where the Trust's processing of personal data presents a high risk to rights and freedoms of individuals, and when introducing new technologies (the DPO will advise on this process)
- Integrating data protection into internal documents including this policy, any related policies and privacy notices
- Regularly training members of staff on data protection law, this policy, any related policies and any other data protection matters; we will also keep a record of attendance
- Regularly conducting reviews and audits to test our privacy measures and make sure we are compliant
- Maintaining records of our processing activities, including:
    - For the benefit of data subjects, making available the name and contact details of our Trust and its schools and DPO and all information we are required to share about how we use and process their personal data (via our privacy notices)
    - For all personal data that we hold, maintaining an internal record of the type of data, data subject, how and why we are using the data, any third-party recipients, how and why we are storing the data, retention periods and how we are keeping the data secure.

Data Security and Storage of Records

As per the Trust's Record RetentionPolicy and its retention schedule we will protect personal data and keep it safe from unauthorised or unlawful access, alteration, processing or disclosure, and against accidental or unlawful loss, destruction or damage.

In particular:

- Paper-based records and portable electronic devices, such as laptops and hard drives that contain personal data are kept under lock and key when not in use
- Papers containing confidential personal data must not be left on office and classroom desks, on staffroom tables, pinned to notice/display boards, or left anywhere else where there is general access
- Where personal information needs to be taken off site, staff must sign it in and out from the school office
- Encryption software is used to protect all portable devices and removable media, such as laptops and USB devices
- Staff, pupils, Governors or Trustees who store personal information on their personal devices are expected to follow the same security procedures as for equipment owned by the Trust and/or its school (see our Online Safety Policy/Acceptable User Agreement)
- Where we need to share personal data with a third party, we carry out due diligence and take reasonable steps to ensure it is stored securely and adequately protected.

Disposal of Records

Personal data that is no longer needed will be disposed of securely. Personal data that has become inaccurate or out of date will also be disposed of securely, where we cannot or do not need to rectify or update it. For example, we will shred or incinerate paper-based records, and overwrite or delete electronic files. We may also use a third party to safely dispose of records on the Trusts' behalf. If we do so, we will require the third party to provide sufficient guarantees that it complies with data protection law.

Personal Data Breaches

The Trust will make all reasonable endeavours to ensure that there are no personal data breaches. In the unlikely event of a suspected data breach, we will follow the procedure set out in appendix 1.

When appropriate, we will report the data breach to the ICO within 72 hours. Such breaches in a school context may include, but are not limited to:

- A non-anonymised dataset being published on the Trust and/or school website which shows the exam results of pupils eligible for the pupil premium
- Safeguarding information being made available to an unauthorised person
- The theft of a Trust laptop containing non-encrypted personal data about pupils.

Training

All staff, Governors and Trustees are provided with data protection training as part of their induction process.

Data protection will also form part of continuing professional development, where changes to legislation, guidance or the Trust and/or its schools' processes make it necessary.

Monitoring Arrangements

The DPO is responsible for monitoring and reviewing this policy. This policy will be reviewed annually.

Appendix 1: Personal Data Breach Procedure

This procedure is based on guidance on personal data breaches produced by the ICO.

- On finding or causing a breach, or potential breach, the staff member or data processor must immediately notify the DPO or school Data Protection Lead
- The DPO will investigate the report and determine whether a breach has occurred. To decide, the DPO will consider whether personal data has been accidentally or unlawfully:
    - Lost, Stolen, Destroyed or Altered
    - Disclosed or made available where it should not have been. Made available to unauthorised people
- The DPO or school Data Protection Lead will alert the Principal, Head of Phase and the COO / CEO
- The DPO or school Data Protection Lead will make all reasonable efforts to contain and minimise the impact of the breach, assisted by relevant staff members or data processors where necessary. (Actions relevant to specific data types are set out at the end of this procedure)
- The DPO will assess the potential consequences, based on how serious they are, and how likely they are to happen
- The DPO will work out whether the breach must be reported to the ICO. This must be judged on a case-by-case basis. To decide, the DPO will consider whether the breach is likely to negatively affect people's rights and freedoms, and cause them any physical, material or non-material damage (e.g. emotional distress), including through:
    - Loss of control over their data, Discrimination, Identify theft or fraud, Financial loss
    - Unauthorised reversal of pseudonymisation (for example, key-coding), Damage to reputation, Loss of confidentiality
    - Any other significant economic or social disadvantage to the individual(s) concerned

  If it is likely that there will be a risk to people's rights and freedoms, the DPO must notify the ICO within 72 hours.
- The DPO or school Data Protection Lead will document the decision via GDPRIS (either way), in case it is challenged at a later date by the ICO or an individual affected by the breach.
- Where the ICO must be notified, the DPO will do this via the 'report a breach' page of the ICO website within 72 hours. As required, the DPO will set out:
    - A description of the nature of the personal data breach including, where possible:
        - ✦ The categories and approximate number of individuals concerned
        - ✦ The categories and approximate number of personal data records concerned. The name and contact details of the DPO
    - A description of the likely consequences of the personal data breach

- A description of the measures that have been, or will be taken, to deal with the breach and mitigate any possible adverse effects on the individual(s) concerned.

- If all the above details are not yet known, the DPO will report as much as they can within 72 hours. The report will explain that there is a delay, the reasons why, and when the DPO expects to have further information. The DPO will submit the remaining information as soon as possible
- The DPO will also assess the risk to individuals, again based on the severity and likelihood of potential or actual impact. If the risk is high, the DPO and relevant staff will promptly inform, in writing, all individuals whose personal data has been breached. This notification will set out:
    - ○ The name and contact details of the DPO
    - ○ A description of the likely consequences of the personal data breach
    - A description of the measures that have been, or will be, taken to deal with the data breach and mitigate any possible adverse effects on the individual(s) concerned
- The DPO will notify any relevant third parties who can help mitigate the loss to individuals – for example, the police, insurers, banks or credit card companies
- The DPO will document each breach, irrespective of whether it is reported to the ICO. For each breach, this record will include the:
    - Facts and cause.
    - Effects
    - Action taken to contain it and ensure it does not happen again (such as establishing more robust processes or providing further training for individuals)
    - Records of all breaches will be stored on the GDPRIS system.

  The DPO and Principal / COO will meet to review what happened and how it can be stopped from happening again. This meeting will happen as soon as reasonably possible

Actions to Minimise the Impact of Data Breaches

We will take the actions set out below to mitigate the impact of different types of data breach, focusing especially on breaches involving particularly risky or sensitive information. We will review the effectiveness of these actions and amend them as necessary after any data breach.

Sensitive Information Being Disclosed via Email (including safeguarding records)

- If special category data (sensitive information) is accidentally made available via email to unauthorised individuals, the sender must attempt to recall the email as soon as they become aware of the error

- Members of staff who receive personal data sent in error must alert the sender and the school Data Protection Lead / DPO as soon as they become aware of the error
- If the sender is unavailable or cannot recall the email for any reason, the school Data Protection Lead will ask the ICT support to recall it
- In any cases where the recall is unsuccessful, the school Data Protection Lead will contact the relevant unauthorised individuals who received the email, explain that the information was sent in error, and request that those individuals delete the information and do not share, publish, save or replicate it in any way
- The school Data Protection Lead will ensure we receive a written response from all the individuals who received the data, confirming that they have complied with this request.

The DPO via ICT team will carry out an internet search to check that the information has not been made public; if it has, we will contact the publisher/website owner or administrator to request that the information is removed from their web.