

Title	TEFAT Data Protection Policy 2.0
Prepared by	Hugh Greenway
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Document History

Version	Author	Date	Comments
1.0	Hugh Greenway	May 2015	First version
2.0	Hugh Greenway	April 2017	Update following data protection support from RM

Purpose

This policy regulates the way in which The Elliot Foundation Academies Trust obtains, uses, holds, transfers and otherwise processes personal data about individuals and ensures all of its employees know the rules for protecting personal data. Further, it describes individuals' rights in relation to their personal data processed by TEFAT. For the avoidance of doubt, references to TEFAT shall be references to The Elliot Foundation Academies Trust and all TEFAT Academies.

TEFAT abides by UK data protection laws, including the Data Protection Act 1998 ("the DPA"), in its handling of personal information. We aim to ensure our employees are acting in accordance with these laws and the relevant regulatory guidance and best practice. Those requirements, together with this policy, ensure that all employees of TEFAT fully understand TEFAT's obligations to comply with the DPA and other privacy laws and regulations of the UK.

Where TEFAT controls other entities (whether by virtue of contract, partnership, ownership of shares or otherwise), those other entities will be required to abide by the principles set forth in this policy.

Responsibilities

The Elliot Foundation Academies Trust is the Data Controller for the purposes of the Act and therefore the Trustees have overall responsibility for compliance with the DPA.

The Trustees have delegated responsibility to Academy Principals in each Academy for ensuring compliance with the DPA and this policy within the day to day activities of the Academy.

Each Academy Principal shall appoint a Data Protection Officer for each Academy. The DPO is responsible for:

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- Notifying the Information Commissioner's Office (ICO) and renewing the Academy's registration annually
- Keeping the ICO up to date with changes in how the academy processes data
- Obtaining consent for disclosure of Personal Data including routine consent from parents and pupils for using photographs for general Academy purposes
- Ensuring data protection statements are included in all forms used to collect Personal Data
- Acting as a central point of advice for all staff on data protection matters
- Co-ordinating requests for personal data
- Arranging appropriate data protection training for staff
- Keeping up to date with latest data protection legislation
- Ensuring adequate systems are in place for compliance with this policy

The Data Protection Officer for the Trust Head Office and the Trust as an employer is the Governance & Policy Director

The Data Protection Officer for trust wide financial data is the Finance Director

What is Personal Data?

Personal Data is any information (for example, a person's name) or combination of information about a living person, which allows that living person to be identified from that information (for example a first name and an address).

Examples of Personal Data which may be used by TEFAT in its day to day business include names, addresses (e-mail and postal addresses), telephone numbers and other contact details, CVs, photos and images, performance reviews, payroll and salary information. The definition also includes opinions, appraisals or intent regarding individuals (eg. employees, job applicants, pupils, parents, personal contacts at suppliers and individual members of the public).

The laws governing how we can use Personal Data apply whether the Personal Data is stored electronically (for example, in e-mails, on IT systems, as part of a database or in a word processed document) or on paper records (for example, in paper files or filing cabinets).

What activities are regulated by this policy?

TEFAT processes Personal Data on its employees, pupils, students, parents, carers, agents, the employees of its suppliers and any other individuals, including job applicants and former employees, for a multitude of purposes, including:

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- Recruitment
- Employee performance management and professional development
- Payroll, fund management and accounting
- Business and market development
- Building and managing external relationships
- Research and development
- Planning and delivering of education and training (including, for example, pupil/student progression rates)
- Staff and student support and facilities management
- Knowledge management
- Research
- Sponsorship funding
- Other purposes required by law or regulation.

Other purposes for which TEFAT may process your personal information are set out in the public notification of TEFAT on the Register of Data Controllers which can be found on the website of the Information Commissioner's Office, at www.ico.gov.uk.

When we collect, store, use or erase Personal Data for any of these purposes, this is called **processing**. If you read, amend, copy, print, delete or send Personal Data to another entity (whether within your local academy or free school, within TEFAT as a whole or where that entity is not within TEFAT) this is a type of "processing" and is subject to the guidelines set out in this policy.

Why should I worry about complying with this policy?

Data protection laws are enforced in the UK by the Information Commissioner's Office ("the ICO"). The ICO can investigate complaints, audit TEFAT's processing of Personal Data and can take action against TEFAT (and you personally in some cases) for breach of the DPA and other relevant privacy laws. Such action may include making TEFAT pay a fine and/or stopping the use by TEFAT of the unlawfully processed Personal Data, which may prevent TEFAT carrying on its education activities. Entities which are found to be in breach of the DPA and other privacy laws also often receive negative publicity for the breaches which affects the reputation of TEFAT as a whole.

Each TEFAT staff member or Third Party is required to comply at all times with this TEFAT Data Protection Policy ("the Policy"). In this Policy a "Third Party" is anyone who is not an employee of TEFAT, for example agents, external organisations, consultants, contractors, and service providers.

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What does “fair and lawful use of Personal Data” mean?

One of the main data protection obligations requires TEFAT (and its employees) to process Personal Data fairly and lawfully. In practice, this means that TEFAT (and each employee) must comply with **at least one** of the following conditions when processing Personal Data:

- The individual to whom the Personal Data relates has consented to the processing;
- The processing is necessary for the performance of a contract between TEFAT and the individual;
- The processing is necessary to comply with a legal obligation placed on TEFAT;
- The processing is necessary to protect a vital interest of the individual; or
- The processing is necessary in order to pursue the legitimate interests of TEFAT and is not unfair to the individual or otherwise disproportionate to the benefits gained from the processing.

If in any doubt about the fair or lawful use of Personal Data, you should contact TEFAT Central Office.

If you want to make a new use of any details held by TEFAT, you must not do so unless that new use satisfies one of the lawful reasons for processing and it is described in the relevant privacy notice provided to an individual (see below). For example if someone provides their details as a parent / carer for student support purposes, you may not be able to start sending them marketing e-mails unless that is covered in an appropriate notice and consent from that individual.

What is a Privacy Notice?

For data processing to be considered “fair”, when an individual gives TEFAT any Personal Data about him or herself, TEFAT must make sure the individual knows who TEFAT is and what TEFAT intends to do with the Personal Data provided to it.

You should give individuals appropriate privacy notices when collecting their Personal Data. This means that TEFAT has to inform individuals about the processing of their Personal Data at (or before) the time the data is collected. You should therefore check whether there is an applicable notice, which covers the processing you intend to carry out for TEFAT. Personal Data should not be collected for one purpose and then used for a second purpose unless that is also set out in the relevant notice.

Privacy notices must, by law, include information about which data is being collected, who holds the Personal Data, who is the Data Controller, what is the purpose of processing the data, and information on any disclosure to third parties.

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Even with consent, or if one of the other lawful reasons for processing applies, TEFAT cannot make any use it wants of Personal Data. All the other rules explained in this Policy still have to be complied with. For example, TEFAT still has to satisfy the other requirements described below such as making sure the information collected is not excessive. Simply because a person has consented to giving you their information does not override the other requirements of this Policy, or the laws applicable to TEFAT. Similarly Personal Data must not be used in a way which would infringe another law. For example for bribery, or racial, age, sexual, or disability discriminatory purposes.

Where collecting personal data about an individual indirectly (eg from a published source), TEFAT must still inform the individual that it holds the data and the purposes for which that data will be used.

What is Sensitive Personal Data and what conditions need to be met when processing it?

Sensitive Personal Data is personal data about a person's race or ethnicity, their health (eg SEN data, child protection plans), their sex life, their religious beliefs, their political views or trade union membership, their physical or mental health or condition, their commission (or alleged) commission of any offence and any proceedings against them in this respect.

Sensitive Personal Data on staff or students should not be collected or otherwise processed unless essential to do so. Extra care must be taken with it (in addition to 6 the normal rules for Personal Data) and it must be kept more securely. Additional restrictions are placed on top of the lawful reasons for processing mentioned above. For example, consent of the individual has to be **explicit** (implied consent is not sufficient), and obtained prior to processing any Sensitive Personal Data.

TEFAT does not generally seek to obtain Sensitive Personal Data unless:

- (i) The individual concerned agrees in writing that TEFAT may do so, on the basis of a full understanding of why TEFAT is collecting the data;
- (ii) TEFAT needs to do so to meet its obligations or exercise its rights under employment law; or
- (iii) In exceptional circumstances such as where the processing is necessary to protect the vital interests of the individual concerned.

Employees should note that the "legitimate interest" criteria described above is not valid when processing Sensitive Personal Data.

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Obligations on processing relevant data and keeping it accurate?

The Personal Data (including any Sensitive Personal Data) you collect should be appropriate to, and sufficient for, the relevant purpose(s) you are collecting it for, but not excessive for that purpose(s). Only process the data, which is necessary for the task; minimise your use of Personal Data rather than maximising it. **Do not collect and process more Personal Data than you really need.** In the end, it simply adds to TEFAT's compliance burden. For example, if you will never telephone someone at home, you do not need their home telephone number.

In addition, you must take care to record and input Personal Data accurately. This is important. There can be serious problems if Personal Data is incorrect. Some Personal Data may change from time to time (such as addresses and contact details, bank accounts and the place of employment). It is important to keep current records up to date. If not there may be serious problems. For example, a renewal or termination notice for a contract may be sent to the wrong address and may not be valid.

Data retention: How long should I keep Personal Data?

TEFAT cannot keep or retain Personal Data forever. Some records have to be retained for minimum periods by law (such as records on employee payments and their taxation under tax laws). Other records must only be kept while in current use and for a reasonable period afterwards.

As a general rule, when Personal Data is no longer needed by TEFAT for the purposes for which it was collected, this Personal Data should be securely destroyed (eg shredded) as soon as practicable.

What are the Individuals' rights?

Individuals have certain rights in relation to their Personal Data:

- The right to access Personal Data held about themselves;
- The right to prevent processing of Personal Data for direct marketing purposes;
- The right to have Personal Data corrected;
- The right to compensation for any damage/distress suffered; and
- The right to be informed of automated decision making about them.

Individuals are allowed to withdraw their consent to TEFAT's use of their Personal Data at any time. If an individual contacts you to withdraw consent, inform TEFAT Central Office.

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Requests received for access to Personal Data

Individuals can also ask for copies of the Personal Data TEFAT holds about them and other details about how TEFAT uses their Personal Data.

On receipt of a written request from an individual for access to his/her Personal Data, TEFAT will:

- (i) Inform that individual whether TEFAT holds Personal Data about him or her;
- (ii) Describe the data it holds, the reason for holding the data and the categories of persons to whom it may disclose the data; and
- (iii) Provide the individual with copies of the personal data held about him or her, together with an indication of the source(s) of the data.

If you receive such an access request, there are special legal rules which must be followed as part of this process. Therefore, please pass the request on to TEFAT Central Office. You must not deal with such requests yourself.

If you receive a written request for other information about TEFAT, it may be a valid request for information under the Freedom of information Act 2000 or the Environmental Information Regulations 2004. In each case TEFAT is under a strict obligation to respond within a specific statutory deadline.

What kind of security measures might be appropriate?

TEFAT must keep all Personal Data (including Sensitive Personal Data) secure. This means that the Personal Data must be protected against being accessed by other companies or individuals (for example, via hacking), from being corrupted or being lost or stolen. The Personal Data must also be protected so the wrong people cannot read or use the details. This applies to details in IT systems, e-mails and attachments and paper files. This is why, for example, you have a password and controlled access rights to IT systems. You must comply with TEFAT's security procedures (including the ICT Information Services Policy and ICT Acceptable Use Policy) whenever you handle Personal Data. TEFAT relies on you to keep data secure and for data security. Otherwise, there can be serious problems; for example, pupil/student SEN data could be leaked causing significant damage and distress.

If you work away from TEFAT's premises, you must comply with any additional procedures and guidelines issued by TEFAT for home working and/or offsite working. You must read these procedures and guidelines before processing any Personal Data away from TEFAT premises.

Extra care is needed to secure Sensitive Personal Data because more damage is likely if it is lost. For example, if details of an individual student's medical conditions got into the wrong

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hands it would be very distressing for that student. Be especially careful if you want to send Sensitive Personal Data to another person - including where by fax or email - that it is sufficiently secure and can only be received and accessed by the intended recipient. **Do not load Sensitive Personal Data onto unencrypted storage devices such as memory sticks, flash drives or CDs.**

TEFAT also recognises that adequate security is important where it arranges for outside service providers to process Personal Data on its behalf. Where such arrangements are established by TEFAT, service providers must be bound by written contracts to protect the Personal Data provided to them. See the section “Can I disclose Personal Data to Third Parties?” below for more information.

What should I do if I lose Personal Data or I think there is a data security breach?

There are potentially significant repercussions for TEFAT and the individuals affected arising from a security breach. Where a security breach arises you must:

- Immediately report the details TEFAT Central Office providing them with as much information as you have available;
- Follow their guidance on dealing with the security breach and keep them up to date with any further information about it that you become aware of;
- Not approach any individual data subjects, customers, regulators or make any public announcements about the security breach incident without the prior agreement of TEFAT Central Office.

Can I disclose Personal Data to Third Parties?

A disclosure of Personal Data is a form of processing. That means that the rules described above for fair and lawful use have to be satisfied. **You must not disclose Personal Data to a Third Party outside TEFAT** unless that disclosure constitutes a lawful reason for processing and satisfies the information notice requirements.

There are some exceptions to deal with disclosures such as those requested lawfully by police where the information is necessary to prevent or detect a crime. If you receive a request for information about an individual from the government, police or other similar bodies or from journalists or other investigators you should pass that request immediately to TEFAT Central Office to be dealt with. The application of the relevant exceptions needs careful consideration. The burden is on TEFAT to determine whether these apply. Disclosure (however well-meaning and however seemingly authoritative the requestor) without checking risks placing TEFAT in breach of several obligations under data protection legislation.

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Access to Personal Data must be restricted to those employees of TEFAT and Third Parties who need to access it in order to perform their role. You must only process Personal Data where and to the extent you need to see and process it to carry out your job / role properly.

Can I send or transfer Personal Data overseas?

The DPA contains special rules on whether Personal Data collected in the UK can be transferred to another country. Within the UK, there are restrictions on the transfer of Personal Data outside of the European Economic Area (such a transfer can happen, for example, where Personal Data is e-mailed outside the EEA). This is to make sure the Personal Data remains safe and the individuals concerned do not lose the 10 protection and rights they have under local law in respect of their Personal Data when transferred.

Please note that any use of cloud computing technologies is likely to involve overseas transfers of personal data.

What about the use of Personal Data for marketing purposes?

As with other types of processing, the use of Personal Data for marketing purposes must satisfy the fair and lawful use requirements set out above. This means information notices must be given, and a lawful reason for processing has to be satisfied. Typically, this will have to be consent. You therefore should not use Personal Data to contact individuals for marketing purposes (including sole traders and individual members of business partnerships) by e-mail, text or similar unless the individual has consented to marketing use. Individuals have a right to decline postal marketing. Where marketing is to be by e-mail, text or similar, the consent must clearly cover marketing by e-mail, text or similar. Special rules apply to how consent is obtained (for example, whether individuals can “opt out” of or “opt in” to receiving marketing) depending on the type of marketing contemplated and the means of communication with the individual.

It is advisable to check the scope of any marketing consent you are relying upon, particularly if you are sending information relating to Third Parties or contemplating sharing the Personal Data with a Third Party to allow them to do so. If you are obtaining Personal Data from a Third Party for marketing use, then you should check that the consents they have obtained permit the intended processing by TEFAT.

You must comply with any request by an individual not to receive direct marketing (where it is addressed to them) or their choice not to receive marketing by a particular method (for example, post, fax, telephone, e-mail or text messaging).