

Date reviewed: June 2019

## DATA PROTECTION POLICY

### 1. POLICY STATEMENT

- 1.1. The Lycée acknowledges that all staff have rights with regard to how their personal information is handled. During the course of its activities, the Lycée will collect, store and process personal information about its staff, students, parents, suppliers and others and the Lycée recognises the need to treat it in an appropriate and lawful manner.
- 1.2. The types of information that it may be required to handle include details of current, past and prospective employees, students and parents and others that the Lycée communicates with. This information, which may be held on paper or on a computer or other media, is subject to certain legal safeguards specified in the Data Protection Act 1998 the General Data Protection Regulation ('GDPR') and other applicable laws relating to data protection (together 'Data Protection Laws'). The Data Protection Laws impose restrictions on how the Lycée may use that information.
- 1.3. This policy does not form part of any employee's contract of employment and it may be amended at any time. Data users are obliged to comply with this policy when processing personal data on our behalf. Any breach of this policy will be taken seriously and may result in disciplinary action.
- 1.4. The Lycée is registered as a data controller with the Information Commissioner's Office (ICO). Details are available on the ICO's website.
- 1.5. The Data Protection Laws impose significant fines for failing to lawfully process and safeguard personal data and failure to comply with this policy may result in those fines being applied.

### 2. STATUS OF THE POLICY

- 2.1. This policy has been approved by the Conseil d'Établissement. It sets out the Lycée's rules on data protection and the legal conditions that must be satisfied in relation to the obtaining, handling, processing, storage, transportation and destruction of personal information.
- 2.2. The Data Protection Compliance Manager (DPCM) is responsible for ensuring compliance with the Data Protection Laws and with this policy. That post is held by Mr Sebastien Rest, Financial & Administrative Director, 0207 590 6815, [daf@lyceefrancais.org.uk](mailto:daf@lyceefrancais.org.uk). 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 Compliance Manager.

### **3. DEFINITION OF DATA PROTECTION TERMS**

- 3.1.** Data is information which is stored electronically, on a computer, or in certain paper-based filing systems.
- 3.2.** Data subjects for the purpose of this policy include all living individuals about whom the Lycée holds personal data. A data subject need not be a UK national or resident. All data subjects have legal rights in relation to their personal data.
- 3.3.** Personal data means data relating to a living individual who can be identified, directly or indirectly, from that data (or from that data and other information openly available or in the Lycée's possession). Personal data can be factual (such as a name, address or date of birth) or it can be an opinion (such as an appraisal). It can include an identifier such as a name, an identification number, location data, an online identifier or one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.
- 3.4.** Data controllers are organisations which determine the purposes for which, and the manner in which, any personal data is processed. They have a responsibility to establish practices and policies in line with the Data Protection Laws. The Lycée is the data controller of all personal data used in the Lycée.
- 3.5.** Data users include employees whose work involves using personal data. Data users have a duty to protect the information they handle by following this Data Protection Policy at all times.
- 3.6.** Data processors include any person or organisation who processes personal data on behalf of a data controller. Employees of data controllers are excluded from this definition but it could include suppliers who handle personal data on the Lycée's behalf.
- 3.7.** Processing is any activity that involves use of the data. It includes obtaining, recording or holding the data, or carrying out any operation or set of operations on the data such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction. Processing also includes transferring personal data to third parties.
- 3.8.** Special category (sensitive) personal data includes information about a person's racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, physical or mental health or condition, sexual orientation or sex life. It also includes any genetic or biometric data for the purpose of identifying an individual. Data relating to the commission of, or proceedings for, any offence committed or alleged to have been committed by that person, the disposal of such proceedings or the sentence of any court in such proceedings receives similar protection to special category (sensitive) data. Special category (sensitive) personal data can only be processed under strict conditions (see clause 5 below).

#### **4. DATA PROTECTION PRINCIPLES**

**4.1.** Anyone processing personal data must comply with the six enforceable principles of good practice. These provide that personal data must be:

- 4.1.1. Processed fairly and lawfully, and transparently in relation to the data subject.
- 4.1.2. Processed for limited purposes and in an appropriate way.
- 4.1.3. Adequate, relevant and not excessive for the purpose.
- 4.1.4. Accurate and up to date.
- 4.1.5. Not kept longer than necessary for the purpose.
- 4.1.6. Processed securely using appropriate technical and organisational measures

**4.2.** Personal data must also:

- 4.2.1. be processed in line with data subjects' rights; and
- 4.2.2. not be transferred to people or organisations situated in other countries without adequate protection.

#### **5. FAIR AND LAWFUL PROCESSING**

**5.1.** The Data Protection Laws are not intended to prevent the processing of personal data, but to ensure that it is done fairly and without adversely affecting the rights of the data subject. The data subject must be provided with the following information:

- 5.1.1. the identity and contact details of the data controller (the Lycée);
- 5.1.2. the contact details of the DPCM;
- 5.1.3. the purposes of the processing and the legal basis of the processing;
- 5.1.4. where processing is carried out in the legitimate interests of the Lycée, details of that legitimate interest;
- 5.1.5. the recipients or categories of recipients of the personal data;
- 5.1.6. details of any transfers of the personal data to an international organisation or to a country outside the EEA;
- 5.1.7. the period for which the data will be stored or the criteria used to determine that period;
- 5.1.8. the existence of the right to request access to and rectification or erasure of personal data or to restrict processing of the personal data;
- 5.1.9. the existence of the right to data passed to another provider in an accessible format;
- 5.1.10. where processing is based on consent, the existence of the right to withdraw that consent at any time;
- 5.1.11. the right to complain to the Information Commissioner's Office ("ICO");

- 5.1.12. whether supply of the personal data is a legal requirement and the consequences of failing to supply the data;
  - 5.1.13. the existence of any automated decision making or profiling which produces legal (or similarly significant) effects on the data subject, along with information on the process, significance and envisaged effects of such processing.
- 5.2.** For personal data to be processed lawfully, certain conditions have to be met. For processing of staff personal data, these may include:
- 5.2.1. processing is necessary for the performance of a contract of employment or other contract between the staff member and the Lycée, or in order to take steps to enter into such a contract at the request of the staff member;
  - 5.2.2. processing is necessary to comply with a legal obligation;
  - 5.2.3. processing is necessary to protect the physical integrity or life of the staff member or others;
  - 5.2.4. processing is necessary for the purposes of the legitimate interests pursued by the Lycée except where those interests are overridden by the interests or fundamental rights and freedoms of the staff member; or
  - 5.2.5. the staff member has consented to the processing for the specific purposes data is to be processed for (such consent to be a freely given, specific, informed, unambiguous indication made by a statement or clear affirmative action signifying agreement).
- 5.3.** Personal data about staff may be processed for legal, personnel, administrative and management purposes and to enable the Lycée to meet its legal obligations, for example to pay staff, monitor their performance and to confer benefits in connection with their employment.
- 5.4.** When special category (sensitive) personal data is being processed, there are more limited conditions for processing. For processing of staff special category (sensitive) personal data, these include:
- 5.4.1. processing is necessary for the Lycée to carry out its obligations and exercise its rights, or the rights of individuals, in the fields of employment, social security and social protection law;
  - 5.4.2. the staff member has given explicit consent to the processing for the specific purposes data is to be processed for (such consent to be a freely given, specific, informed, unambiguous indication made by a statement or clear affirmative action signifying agreement);
  - 5.4.3. processing is necessary to protect the physical integrity or life of the staff member or others, where the staff member is not physically capable of giving consent.

**5.5.** Examples of when special category (sensitive) personal data of staff is likely to be processed are set out below:

- 5.5.1. information about an employee's physical or mental health or condition in order to monitor sick leave and take decisions as to the employee's fitness for work;
- 5.5.2. an employee's racial or ethnic origin or religious or similar information in order to monitor compliance with equal opportunities legislation; and
- 5.5.3. in order to comply with legal requirements.

**5.6.** For processing of students and parents/carers of students personal data, conditions for processing may include:

- 5.6.1. processing is necessary for the provision of educational and other school services to the individual by the Lycée, or in order to take steps to enter into provision of those services at the request of the individual;
- 5.6.2. processing is necessary to comply with a legal obligation;
- 5.6.3. processing is necessary to protect the physical integrity or life of the individual or others;
- 5.6.4. processing is necessary for the purposes of the legitimate interests pursued by the Lycée except where those interests are overridden by the interests or fundamental rights and freedoms of the individual; or
- 5.6.5. the individual has consented to the processing for the specific purposes data is to be processed for (such consent to be a freely given, specific, informed, unambiguous indication made by a statement or clear affirmative action signifying agreement).

**5.7.** Personal data about students and parents/carers of students may be processed in order to enable the Lycée to provide education and other associated functions. In addition, the Lycée will collect and use information to ensure compliance with statutory obligations.

**5.8.** For processing of student and parent/carer special category (sensitive) personal data, conditions for processing may include:

- 5.8.1. processing is necessary for the Lycée to carry out its obligations and exercise its rights, or the rights of individuals, in the field of social protection law;
- 5.8.2. the individual has given explicit consent to the processing for the specific purposes data is to be processed for (such consent to be a freely given, specific, informed, unambiguous indication made by a statement or clear affirmative action signifying agreement);
- 5.8.3. processing is necessary to protect the physical integrity or life of the individual or others, where the individual is not physically capable of giving consent.

**5.9.** Examples of when special category (sensitive) personal data of students and parents/carers of students is likely to be processed are set out below:

- 5.9.1. information about students' physical or mental health or condition in order to provide Special Educational Need support in line with the obligations and rights of the data subject and the Lycée in the field of social protection law;
- 5.9.2. for safeguarding purposes as required by law; and
- 5.9.3. in order to comply with any other legal requirements.

## **6. PROCESSING FOR LIMITED PURPOSES**

Personal data may only be processed for the specific purposes notified to the data subject when the data was first collected or for any other purposes specifically permitted by the Data Protection Laws. This means that personal data must not be collected for one purpose and then used for another purpose which is incompatible with the purpose for which it was collected. If it becomes necessary to process the data for a purpose which is incompatible with the purpose for which the data is processed, the data subject must be informed of the new purpose before any processing occurs.

## **7. ADEQUATE, RELEVANT AND NON-EXCESSIVE PROCESSING**

Personal data should only be collected to the extent that it is required for the specific purpose notified to the data subject. Any data which is not necessary for that purpose should not be collected in the first place and if it has been collected it should not be retained.

## **8. ACCURATE DATA**

Personal data must be accurate and kept up to date. Information which is incorrect or misleading is not accurate and steps should therefore be taken to check the accuracy of any personal data at the point of collection and at regular intervals afterwards. Inaccurate or out-of-date data should be destroyed.

## **9. TIMELY PROCESSING**

Personal data should not be kept longer than is necessary for the purpose. This means that data should be destroyed or erased from our systems when it is no longer required.

## **10. PROCESSING IN LINE WITH DATA SUBJECT'S RIGHTS**

Data must be processed in line with data subjects' rights. Data subjects have a right to:

- 10.1.** transparency of data processing by being informed of how their data is processed (see our Fair Processing Notice on our website);
- 10.2.** request access to any data held about them by a data controller;
- 10.3.** prevent the processing of their data for direct-marketing purposes;
- 10.4.** ask to have inaccurate data amended;
- 10.5.** object to any decision that significantly affects them being taken solely by a computer or another automated process;
- 10.6.** ask for personal data not to be processed where it is processed on the basis of the Lycée's legitimate interest unless there are compelling legitimate grounds which override the interests, rights and freedoms of the data subject;
- 10.7.** ask for personal data in a structured and machine readable format and to transfer it to another data controller without hindrance from the Lycée (data portability) if the processing is carried out by automated means and the legal basis for processing is consent or contract;
- 10.8.** ask for personal data to be erased provided that the personal data is no longer necessary for the purposes for which it was collected, consent is withdrawn (if the legal basis for processing is consent), and there are no overriding legitimate ground for processing, the personal data is unlawfully processed, the data needs to be erased to comply with a legal obligation or the personal data is children's data and was collected in relation to an offer of information society services;
- 10.9.** to ask for the processing of that information to be restricted if the accuracy of that data is contested, the processing is unlawful, the personal data is no longer necessary for the purposes for which it was collected or if the right to object is exercised (pending verification of whether there are legitimate grounds for processing); and
- 10.10.** ask for the personal data not to be processed for scientific or historical research purposes, where relevant, unless the processing is necessary in the public interest.

## **11. DATA SECURITY**

**11.1.** The Lycée will ensure 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.

**11.2.** The Data Protection Laws require the Lycée to put in place procedures and technologies to maintain the security of all personal data from the point of collection to the point of destruction. Personal data may only be transferred to a third-party data processor if he agrees to comply with those procedures and policies, or if he puts in place adequate measures himself.

**11.3.** Maintaining data security means guaranteeing the confidentiality, integrity and availability of the personal data, defined as follows:

11.3.1. **Confidentiality** means that only people who are authorised to use the data can access it.

11.3.2. Integrity means that personal data should be accurate and suitable for the purpose for which it is processed.

11.3.3. **Availability** means that authorised users should be able to access the data if they need it for authorised purposes. Personal data should therefore be stored on the Lycée's central computer system instead of individual devices.

**11.4.** Security procedures include:

11.4.1. **Entry controls.** Any stranger seen in entry-controlled areas should be reported.

11.4.2. **Secure lockable desks and cupboards.** Desks and cupboards should be kept locked if they hold confidential information of any kind. (Personal information is always considered confidential.)

11.4.3. **Methods of disposal.** Paper documents should be shredded. Physical storage media should be physically wiped and/or destroyed when they are no longer required. Personal data stored electronically by data processors on the Lycée's behalf (such as cloud service providers) should be irreversibly deleted.

11.4.4. Equipment. Data users should ensure that individual screens do not show confidential information to passers-by and that they log off from their devices when they are left unattended.

## **12. DEALING WITH SUBJECT ACCESS REQUESTS**

The Lycée's procedures for responding to formal requests from a data subject for information that the Lycée hold about them is set out in the Appendix.

### **13. PROVIDING INFORMATION TO THIRD PARTIES**

Any member of staff dealing with enquiries from third parties should be careful about disclosing any personal information held by us.

In particular they should:

- 13.1.** Check the identity of the person making the enquiry and whether they are legally entitled to receive the information they have requested.
- 13.2.** Suggest that the third party put their request in writing so the third party's identity and entitlement to the information may be verified.
- 13.3.** Refer to the DPCM and Head Teacher or any Deputy Head for assistance in difficult situations.
- 13.4.** Where providing information to a third party, do so in accordance with the six data protection principles.

### **14. PROVIDING INFORMATION OVER THE TELEPHONE**

Any member of staff dealing with telephone enquiries should be careful about disclosing any personal information held by us. In particular they should:

- 14.1.** Check the caller's identity to make sure that information is only given to a person who is entitled to it.
- 14.2.** Suggest that the caller put their request in writing if they are not sure about the caller's identity and where their identity cannot be checked.
- 14.3.** Request assistance in difficult situations. No-one should be bullied into disclosing personal information.

### **15. COMPLAINTS**

Complaints will be notified to the DPCM and dealt with in accordance with the School's procedure for handling complaints. The consent of complainants should be sought to the distribution of their complaint as necessary for the purposes of investigating that complaint. Complaints relating to information handling may be referred to the Information Commissioner.

### **16. MONITORING AND REVIEW OF THE POLICY**

- 16.1.** This policy is reviewed from time to time by the DPCM and the Lycée's senior management team.
- 16.2.** The Lycée will continue to review the effectiveness of this policy to ensure it is achieving its stated objectives.

## APPENDIX

### Procedure for Subject Access Requests

#### 1. MAKING A SUBJECT ACCESS REQUEST

- 1.1.** An individual is only entitled to access their own personal data, and not to information relating to other people. Individuals with parental responsibility may make requests for personal information relating to their child, unless the Lycée determines that the child has the capacity to make their own decisions about their personal information. In these circumstances, staff will discuss the request with the child and take their views into account when making a decision. A child with competency to understand can refuse to consent to the request for their personal data.
- 1.2.** There are no formal requirements for a subject access request. It is helpful if the person requesting the information makes the request in writing, identifies the request as a subject access request and addresses the request to the DPCM, Head Teacher or any Deputy Head, but this is not a formal requirement of a subject access request. Where a subject access request has been made by electronic means then the information shall be provided by electronic means where possible unless otherwise requested by the individual.
- 1.3.** An individual has the right to request any and all personal data held (subject to the exclusions set out below). If a request is broad, staff can request further information to narrow the personal data requested, however the individual has no obligation to narrow the request. The time limit for providing a response shall run from the time of the original request and is not affected by staff requests to narrow the information requested in the subject access request.
- 1.4.** The subject access request must be dealt with free of charge unless it is manifestly unfounded or excessive or requests multiple copies of the same information, in which case a reasonable fee may be charged taking into account administrative costs of providing the information.
- 1.5.** The Lycée are also entitled to request information to judge whether the person making the request is the individual to whom the personal data relates and/or is a person with parental responsibility for a child whose data is the subject of the request. This is to avoid personal data about one individual being sent to another, accidentally or as a result of deception. Evidence of identity may be established by production of:
- passport
  - driving licence
  - utility bills with the current address
  - birth / marriage certificate
  - P45/P60
  - credit card or mortgage statement

## **2. RESPONDING TO A SUBJECT ACCESS REQUEST**

**2.1.** The response time for subject access requests, once officially received, is 1 calendar month. However, if a request is sent to the school during a school holiday the school will be closed and the request will not be received until the first day after the school holiday. If the request is received within a month prior to a school holiday and it is not possible for the request to be dealt with before the school holiday commences, the school will inform the requester that the 1 month deadline for the request will be extended by the length of the school closure. As set out above, the 1 calendar month will not commence until after receipt of evidence of identity where the Lycée has reasonable doubts as to the identity of the requesting individual. That period may be extended by two further calendar months where necessary taking into account the complexity and number of the requests. Where the period is extended, the Lycée will inform the data subject of the extension and the reasons for the extension within 1 calendar month of receipt of the request. The Lycée shall always endeavour to respond to subject access requests without utilising this extension period.

**2.2.** When responding to a subject access request, the Lycée will:

2.2.1. notify the DPCM;

2.2.2. acknowledge receipt of the request and provide an indication of the likely timescale for a response within 5 working days;

2.2.3. take all reasonable and proportionate steps to identify and disclose the data relating to the request;

2.2.4. never delete information relating to a subject access request, unless it would have been deleted in the ordinary course of events;

2.2.5. consider whether to seek consent from any third parties which might be identifiable from the data being disclosed;

2.2.6. seek legal advice, where necessary, to determine whether we are required to comply with the request or supply the information sought;

2.2.7. provide a written response, including an explanation of the types of data provided and whether and for what reasons any data has been withheld; and

2.2.8. ensure that information disclosed is clear and technical terms are clarified and explained.

## **3. CIRCUMSTANCES WHEN WE MAY REFUSE OR LIMIT A SUBJECT ACCESS REQUEST**

**3.1.** The Lycée is not required to comply with a subject access request in relation to:

3.1.1. confidential references given by the Lycée for employment or educational purposes;

3.1.2. personal data processed in connection with management forecasting or planning if it would prejudice the conduct of the business of the Lycée;

- 3.1.3. personal data subject to legal professional privilege;
- 3.1.4. information which may cause serious harm to the physical or mental health or emotional condition of a child or another, or which would reveal that a child is at risk of abuse, or information relating to court proceedings.

**3.2.** The Lycée is also not required to supply the information requested if:

- 3.2.1. the data requested is not available;
- 3.2.2. the information is subject to legal professional privilege;
- 3.2.3. an identical or similar request has been made by the same individual previously, unless a reasonable interval has elapsed between the previous and the current request; in determining whether a 'reasonable interval' has elapsed, the Lycée will have regard to the nature of the data, the purpose for which the data is processed and the frequency with which the data is altered;
- 3.2.4. the Lycée cannot comply with the request without disclosing information relating to another individual who can be identified from that information, unless:
  - (a) the other individual has consented to the disclosure of the information, or
  - (b) it is reasonable in all the circumstances to comply with the request without the consent of the other individual; in determining whether it is reasonable in all the circumstances to comply with the request without the consent of the other individual concerned, the Lycée shall have regard to any duty of confidentiality owed to the other individual and any express refusal of consent by the other individual.

**3.3.** In order to provide the whole or some of the information requested, the Lycée may undertake redaction (information blacked out/removed) of one or more documents. An explanation of why information has been redacted will be provided.