

SOUTH DEVON COLLEGE

DATA PROTECTION POLICY

Document control

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1.4	March 2017	Dan Hallam	Appendix 2: Updated with link to online shop.
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1. OVERVIEW

The College’s reputation and future growth are dependent on the way the College manages and protects Personal Data. Protecting the confidentiality and integrity of Personal Data is a key responsibility of everyone within the College.

As an organisation that collects, uses and stores Personal Data about its employees, suppliers (sole traders, partnerships or individuals within companies), students, governors, parents and visitors, the College recognises that having controls around the collection, use, retention and destruction of Personal Data is important in order to comply with the College’s obligations under Data Protection Laws and in particular its obligations under Article 5 of GDPR.

The College has implemented this Data Protection Policy to ensure all College Employees are aware of what they must do to ensure the correct and lawful treatment of Personal Data. This will maintain confidence in the College and will provide for a successful working and learning environment for all.

College Employees will receive a copy of this Policy when they start and may receive periodic revisions of this Policy. This Policy does not form part of any of the College employee’s contract of employment and the College reserves the right to change this Policy at any time. All members of College staff are obliged to comply with this Policy at all times.

If you have any queries concerning this Policy, please contact our Data Protection Officer, who is responsible for ensuring the College's compliance with this Policy.

2. ABOUT THIS POLICY

This Policy (and the other policies and documents referred to in it) sets out the basis on which the College will collect and use Personal Data either where the College collects it from individuals itself, or where it is provided to the College by third parties. It also sets out rules on how the College handles uses, transfers and stores Personal Data.

It applies to all Personal Data stored electronically, in paper form, or otherwise.

3. DEFINITIONS

- 3.1. **College** – South Devon College
- 3.2. **College Employees** – Any College employee, worker or contractor who accesses any of the College's Personal Data and will include employees, consultants, contractors, and temporary Employees hired to work on behalf of the College.
- 3.3. **Controller** – Any entity (e.g. company, organisation or person) that makes its own decisions about how it is going to collect and use Personal Data.
- 3.4. **Data Protection Laws** – The General Data Protection Regulation (Regulation (EU) 2016/679) and all applicable laws relating to the collection and use of Personal Data and privacy and any applicable codes of practice issued by a regulator including in the UK, the Data Protection Act 2018.
- 3.5. **Data Protection Officer** – Our Data Protection Officer is Kelly Sooben, Vice Principal People & Resources and can be contacted at kellysooben@southdevon.ac.uk
- 3.6. **EEA** – Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the UK.
- 3.7. **ICO** – the Information Commissioner's Office, the UK's data protection regulator.
- 3.8. **Individuals** – Living individuals who can be identified, *directly or indirectly*, from information that the College has. For example, an individual could be identified directly by name, or indirectly by gender, job role and office location if you can use this information to work out who they are. Individuals include employees, students, parents, visitors and potential students. Individuals also include partnerships and sole traders.
- 3.9. **Personal Data** – Any information about an Individual (see definition above) which identifies them or allows them to be identified in

conjunction with other information that is held. It includes information of this type, even if used in a business context.

Personal data is defined broadly and covers things such as name, address, email address (including in a business context, email addresses of Individuals in companies such as firstname.surname@organisation.com), IP address and also more sensitive types of data such as trade union membership, genetic data and religious beliefs. These more sensitive types of data are called “Special Categories of Personal Data” and are defined below. Special Categories of Personal Data are given extra protection by Data Protection Laws.

- 3.10. **Processor** – Any entity (e.g. company, organisation or person) which accesses or uses Personal Data on the instruction of a Controller.

A Processor is a third party that processes Personal Data on behalf of a Controller. This is usually as a result of the outsourcing of a service by the Controller or the provision of services by the Processor which involve access to or use of Personal Data. Examples include: where software support for a system, which contains Personal Data, is provided by someone outside the business; cloud arrangements; and mail fulfilment services.

- 3.11. **Special Categories of Personal Data** – Personal Data that reveals a person’s racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic data (i.e. information about their inherited or acquired genetic characteristics), biometric data (i.e. information about their physical, physiological or behavioural characteristics such as facial images and fingerprints), physical or mental health, sexual life or sexual orientation and criminal record. Special Categories of Personal Data are subject to additional controls in comparison to ordinary Personal Data.

4. **COLLEGE EMPLOYEES’S GENERAL OBLIGATIONS**

- 4.1. All College employees must comply with this policy.
- 4.2. College employees must ensure that they keep confidential all Personal Data that they collect, store, use and come into contact with during the performance of their duties.
- 4.3. College employees must not release or disclose any Personal Data:
- 4.3.1. outside the College; or
 - 4.3.2. inside the college - to College employees not authorised to access the Personal Data,

without specific authorisation from their manager or the Data Protection Officer; this includes by phone calls or in emails.

- 4.4. College employees must take all steps to ensure there is no unauthorised access to Personal Data whether by other College employees who are not authorised to see such Personal Data or by people outside the College.

5. DATA PROTECTION PRINCIPLES

- 5.1. When using Personal Data, Data Protection Laws require that the College complies with the following principles. These principles require Personal Data to be:

- 5.1.1. processed lawfully, fairly and in a transparent manner;

- 5.1.2. collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes;

- 5.1.3. adequate, relevant and limited to what is necessary for the purposes for which it is being processed;

- 5.1.4. accurate and kept up to date, meaning that every reasonable step must be taken to ensure that Personal Data that is inaccurate is erased or rectified as soon as possible;

- 5.1.5. kept for no longer than is necessary for the purposes for which it is being processed; and

- 5.1.6. processed in a manner that ensures appropriate security of the Personal Data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

- 5.2. These principles are considered in more detail in the remainder of this Policy.

- 5.3. In addition to complying with the above requirements the College also has to demonstrate in writing that it complies with them. The College has a number of policies and procedures in place, including this Policy and the documentation referred to in it, to ensure that the College can demonstrate its compliance.

6. LAWFUL USE OF PERSONAL DATA

- 6.1. In order to collect and/or use Personal Data lawfully the College needs to be able to show that its use meets one of a number of legal grounds. Please click here to see the detailed grounds [\https://ico.org.uk/for-

[organisations/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing](https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing)]

- 6.2. In addition when the College collects and/or uses Special Categories of Personal Data, the College has to show that one of a number of additional conditions is met. Please click here to see the detailed additional conditions [<https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/special-category-data>].
- 6.3. The College has carefully assessed how it uses Personal Data and how it complies with the obligations set out in paragraphs 6.1 and 6.2. If the College changes how it uses Personal Data, the College needs to update this record and may also need to notify Individuals about the change. If College employees therefore intend to change how they use Personal Data at any point they must notify the Data Protection Officer who will decide whether their intended use requires amendments to be made and any other controls which need to apply.

7. TRANSPARENT PROCESSING – PRIVACY NOTICES

- 7.1. Where the College collects Personal Data directly from Individuals, the College will inform them about how the College uses their Personal Data. This is in a privacy notice. The College has adopted the following privacy notices: Employee Privacy Notice and Student Privacy Notice.
- 7.2. If the College receives Personal Data about an Individual from other sources, the College will provide the Individual with a privacy notice about how the College will use their Personal Data. This will be provided as soon as reasonably possible and in any event within one month.
- 7.3. If the College changes how it uses Personal Data, the College may need to notify Individuals about the change. If College employees therefore intend to change how they use Personal Data please notify the Data Protection Officer who will decide whether the College employee's intended use requires amendments to be made to the privacy notices and any other controls which need to apply.

8. DATA QUALITY – ENSURING THE USE OF ACCURATE, UP TO DATE AND RELEVANT PERSONAL DATA

- 8.1. Data Protection Laws require that the College only collects and processes Personal Data to the extent that it is required for the specific purpose(s) notified to the Individual in a privacy notice (see paragraph 7 above) and as set out in the College's record of how it uses Personal Data. The College is also required to ensure that the Personal Data the College holds is accurate and kept up to date.

- 8.2. All College employees that collect and record Personal Data shall ensure that the Personal Data is recorded accurately, is kept up to date and shall also ensure that they limit the collection and recording of Personal Data to that which is adequate, relevant and limited to what is necessary in relation to the purpose for which it is collected and used.
- 8.3. All College employees that obtain Personal Data from sources outside the College shall take reasonable steps to ensure that the Personal Data is recorded accurately, is up to date and limited to that which is adequate, relevant and limited to what is necessary in relation to the purpose for which it is collected and used. This does not require College employees to independently check the Personal Data obtained.
- 8.4. In order to maintain the quality of Personal Data, all College employees that access Personal Data shall ensure that they review, maintain and update it to ensure that it remains accurate, up to date, adequate, relevant and limited to what is necessary in relation to the purpose for which it is collected and used. Please note that this does not apply to Personal Data which the College must keep in its original form (e.g. for legal reasons or that which is relevant to an investigation).
- 8.5. The College recognises the importance of ensuring that Personal Data is amended, rectified, erased or its use restricted where this is appropriate under Data Protection Laws.

9. PERSONAL DATA MUST NOT BE KEPT FOR LONGER THAN NEEDED

- 9.1. Data Protection Laws require that the College does not keep Personal Data longer than is necessary for the purpose or purposes for which the College collected it.
- 9.2. The College has assessed the types of Personal Data that it holds and the purposes it uses it for and has set retention periods for the different types of Personal Data processed by the College, the reasons for those retention periods and how the College securely deletes Personal Data at the end of those periods. These are set out in the Data Retention Policy.
- 9.3. If College employees feel that a particular item of Personal Data needs to be kept for more or less time than the retention period set out in the Data Retention Policy, for example because there is a requirement of law, or if College employees have any questions about this Policy or the College's Personal Data retention practices, they should contact the Data Protection Officer for guidance.

10. DATA SECURITY

The College takes information security very seriously and the College has security measures against unlawful or unauthorised processing of Personal Data and against the accidental loss of, or damage to, Personal Data. The College has in place procedures and technologies to maintain the security of all Personal Data from the point of collection to the point of destruction.

11. DATA BREACH

11.1. Whilst the College takes information security very seriously, unfortunately, in today's environment, it is possible that a security breach could happen which may result in the unauthorised loss of, access to, deletion of or alteration of Personal Data. If this happens there will be a Personal Data breach and College employees must comply with the College's Data Breach Notification Policy. Please see paragraphs 11.2 and 11.3 for examples of what can be a Personal Data breach. Please familiarise yourself with it as it contains important obligations which College employees need to comply with in the event of Personal Data breaches.

11.2. Personal Data breach is defined very broadly and is effectively any failure to keep Personal Data secure, which leads to the accidental or unlawful loss (including loss of access to), destruction, alteration or unauthorised disclosure of Personal Data. Whilst most Personal Data breaches happen as a result of action taken by a third party, they can also occur as a result of something someone internal does.

11.3. There are three main types of Personal Data breach which are as follows:

11.3.1. **Confidentiality breach** - where there is an unauthorised or accidental disclosure of, or access to, Personal Data e.g. hacking, accessing internal systems that a College employee is not authorised to access, accessing Personal Data stored on a lost laptop, phone or other device, people "blagging" access to Personal Data they have no right to access, putting the wrong letter in the wrong envelope, sending an email to the wrong student, or disclosing information over the phone to the wrong person;

11.3.2. **Availability breach** - where there is an accidental or unauthorised loss of access to, or destruction of, employee Data e.g. loss of a memory stick, laptop or device, denial of service attack, infection of systems by ransom ware, deleting Personal Data in error, loss of access to Personal Data stored on systems, inability to restore access to Personal Data from back up, or loss of an encryption key; and

11.3.3. **Integrity breach** - where there is an unauthorised or accidental alteration of Personal Data.

11.4 The Governing Body of the College will receive an annual report from the College's Data Protection Officer (DPO) regarding data breaches that have been reported to the ICO in the past year. Data breaches that are reported to the ICO and result in specific action/fines will be immediately reported to the Chair of the Governing Body and then formally reported at the next full Governing Body meeting.

12. APPOINTING CONTRACTORS WHO ACCESS THE COLLEGE'S PERSONAL DATA

12.1. If the College appoints a contractor who is a Processor of the College's Personal Data, Data Protection Laws require that the College only appoints them where the College has carried out sufficient due diligence and only where the College has appropriate contracts in place.

12.2. One requirement of GDPR is that a Controller must only use Processors who meet the requirements of the GDPR and protect the rights of individuals. This means that data protection due diligence should be undertaken on both new and existing suppliers. Once a Processor is appointed they should be audited periodically to ensure that they are meeting the requirements of their contract in relation to Data Protection.

12.3. Any contract where an organisation appoints a Processor must be in writing.

12.4. You are considered as having appointed a Processor where you engage someone to perform a service for you and as part of it they may get access to your Personal Data. Where you appoint a Processor you, as Controller remain responsible for what happens to the Personal Data.

12.5. GDPR requires the contract with a Processor to contain the following obligations as a minimum:

12.5.1. to only act on the written instructions of the Controller;

12.5.2. to not export Personal Data without the Controller's instruction;

12.5.3. to ensure staff are subject to confidentiality obligations;

12.5.4. to take appropriate security measures;

- 12.5.5. to only engage sub-processors with the prior consent (specific or general) of the Controller and under a written contract;
- 12.5.6. to keep the Personal Data secure and assist the Controller to do so;
- 12.5.7. to assist with the notification of Data Breaches and Data Protection Impact Assessments;
- 12.5.8. to assist with subject access/individuals rights;
- 12.5.9. to delete/return all Personal Data as requested at the end of the contract;
- 12.5.10. to submit to audits and provide information about the processing; and
- 12.5.11. to tell the Controller if any instruction is in breach of the GDPR or other EU or member state data protection law.

12.6. In addition the contract should set out:

- 12.6.1. The subject-matter and duration of the processing;
- 12.6.2. the nature and purpose of the processing;
- 12.6.3. the type of Personal Data and categories of individuals; and
- 12.6.4. the obligations and rights of the Controller.

12.7. Right of Erasure (Right to be Forgotten)

12.7.1. This is a limited right for individuals to request the erasure of Personal Data concerning them where:

- 12.7.1.1. the use of the Personal Data is no longer necessary;
- 12.7.1.2. their consent is withdrawn and there is no other legal ground for the processing;
- 12.7.1.3. the individual objects to the processing and there are no overriding legitimate grounds for the processing;
- 12.7.1.4. the Personal Data has been unlawfully processed; and
- 12.7.1.5. the Personal Data has to be erased for compliance with a legal obligation.

12.7.2. In a marketing context, where Personal Data is collected and processed for direct marketing purposes, the individual has a right to object to processing at any time. Where the individual objects, the Personal Data must not be processed for such purposes.

12.8. Right of Data Portability

12.8.1. An individual has the right to request that data concerning them is provided to them in a structured, commonly used and machine readable format where:

12.8.1.1. the processing is based on consent or on a contract; and

12.8.1.2. the processing is carried out by automated means

12.8.2. This right isn't the same as subject access and is intended to give individuals a subset of their data.

12.9. The Right of Rectification and Restriction

12.9.1. Finally, individuals are also given the right to request that any Personal Data is rectified if inaccurate and to have use of their Personal Data restricted to particular purposes in certain circumstances.

12.10. The College will use all Personal Data in accordance with the rights given to Individuals' under Data Protection Laws and will ensure that it allows Individuals to exercise their rights in accordance with the College's Rights of Individuals Policy and Rights of Individuals Procedure. Please familiarise yourself with these documents as they contain important obligations which College employees need to comply with in relation to the rights of Individuals over their Personal Data.

13. MARKETING AND CONSENT

13.1. The College will sometimes contact Individuals to send them marketing or to promote the College. Where the College carries out any marketing, Data Protection Laws require that this is only done in a legally compliant manner.

14. AUTOMATED DECISION MAKING AND PROFILING

14.1. Under Data Protection Laws there are controls around profiling and automated decision making in relation to Individuals.

Automated Decision Making happens where the College makes a decision about an Individual solely by automated means without any

human involvement and the decision has legal or other significant effects; and

Profiling happens where the College automatically uses Personal Data to evaluate certain things about an Individual.

14.2. Any Automated Decision Making or Profiling which the College carries out is only done once the College is confident that it is complying with Data Protection Laws. If College Employees therefore wish to carry out any Automated Decision Making or Profiling College Employees must inform the Data Protection Officer.

14.3. College Employees must not carry out Automated Decision Making or Profiling without the approval of the Data Protection Officer.

14.4. The College does not carry out Automated Decision Making or Profiling in relation to its employees.

15. DATA PROTECTION IMPACT ASSESSMENTS (DPIA)

15.1. The GDPR introduce a new requirement to carry out a risk assessment in relation to the use of Personal Data for a new service, product or process. This must be done prior to the processing via a Data Protection Impact Assessment (“**DPIA**”). A DPIA should be started as early as practical in the design of processing operations. A DPIA is not a prohibition on using Personal Data but is an assessment of issues affecting Personal Data which need to be considered before a new product/service/process is rolled out. The process is designed to:

15.1.1. describe the collection and use of Personal Data;

15.1.2. assess its necessity and its proportionality in relation to the purposes;

15.1.3. assess the risks to the rights and freedoms of individuals; and

15.1.4. the measures to address the risks.

15.2. A DPIA is completed where the use of Personal Data is likely to result in a high risk to the rights and freedoms of individuals. The ICO’s standard DPIA template is available from www.ico.org.uk.

15.3. Where a DPIA reveals risks which are not appropriately mitigated the ICO must be consulted.

15.4. Where the College is launching or proposing to adopt a new process, product or service which involves Personal Data, the College considers whether it needs to carry out a DPIA as part of the project initiation process. The College will carry out a DPIA at an early stage in the

process so that the College can identify and fix problems with its proposed new process, product or service at an early stage, reducing the associated costs and damage to reputation, which might otherwise occur.

15.5. Situations where the College may have to carry out a Data Protection Impact Assessment include the following (please note that this list is not exhaustive):

15.5.1. large scale and systematic use of Personal Data for the purposes of Automated Decision Making or Profiling (see definitions above) where legal or similarly significant decisions are made;

15.5.2. large scale use of Special Categories of Personal Data, or Personal Data relating to criminal convictions and offences e.g. the use of high volumes of health data; or

15.5.3. systematic monitoring of public areas on a large scale e.g. CCTV cameras.

15.6. All DPIAs must be reviewed and approved by the Data Protection Officer.

16. TRANSFERRING PERSONAL DATA TO A COUNTRY OUTSIDE THE EEA

16.1. Data Protection Laws impose strict controls on Personal Data being transferred outside the EEA. Transfer includes sending Personal Data outside the EEA but also includes storage of Personal Data or access to it outside the EEA. It needs to be thought about whenever the College appoints a supplier outside the EEA or the College appoints a supplier with group companies outside the EEA which may give access to the Personal Data to staff outside the EEA.

16.2. So that the College can ensure it is compliant with Data Protection Laws College Employees must not export Personal Data unless it has been approved by the Data Protection Officer.

16.3. College Employees must not export any Personal Data outside the EEA without the approval of the Data Protection Officer.