

Rights of Individuals Policy

2018 - 2020

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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. All individuals have rights over their Personal Data and the College recognises the importance of having an effective Policy in place to allow individuals to exercise those rights in a way that is clear and easy for them. The College has therefore implemented this Rights of Individuals Policy to ensure all College Personnel are aware of what rights individuals have over their Personal Data and how the College makes sure those rights can be exercised.

A copy of this Policy is available for all staff and they may receive periodic revisions of this Policy. This Policy does not form part of any College Personnel's contract of employment and the College reserves the right to change this Policy at any time. All College Personnel are obliged to comply with this Policy at all times.

2. ABOUT THIS POLICY

The College's Data Protection Policy is the College's fundamental policy which sets out the types of Personal Data that the College may be required to handle, as well as the College's legal purposes for doing so, and it sets out how the College complies with its obligations under Data Protection Laws.

This Policy explains how the College complies with its legal obligations to allow individuals to exercise their rights over their Personal Data. The College has a corresponding Rights of Individuals Procedure that sets out the process the College follows to deal with individuals exercising the rights set out in this Policy.

3. SCOPE

This Policy applies to all College Personnel who collect and/or use Personal Data relating to individuals.

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

4. DEFINITIONS

- 4.1. **College** – Burton and South Derbyshire College.
- 4.2. **College Personnel** – Any College employee or contractor who has been authorised to access any of Our Personal Data and will include employees, consultants, contractors, and temporary personnel hired to work on behalf of the College.
- 4.3. **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.
- 4.4. **Data Protection Officer** – The Data Protection Officer is Mark Harding, and can be contacted at: 01283 494449, DP.Officer@bsdc.ac.uk.
- 4.5. **ICO** – the Information Commissioner's Office, the UK's data protection regulator.
- 4.6. **Personal Data** – Any information about an individual which identifies them or allows them to be identified in conjunction with other information that is held. Personal data is defined very broadly and covers both ordinary personal data from personal contact details and business contact details to special categories of personal data such as trade union membership, genetic data and religious beliefs. It also covers information that allows an individual to be identified indirectly for example an identification number, location data or an online identifier.
- 4.7. **Processing** – Any collection, use of storage of Personal Data whether on the College's information security systems or in paper form.
- 4.8. **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.

5. COLLEGE PERSONNEL'S OBLIGATIONS

5.1. This Policy sets out the rights that individuals have over their Personal Data under Data Protection Laws. If a member of the College Personnel receives a request from an individual to exercise any of the rights set out in this Policy, that member of the College Personnel must:

- 5.1.1. inform the Data Protection Officer as soon as possible and, in any event, within 24 hours of receiving the request;
- 5.1.2. tell the Data Protection Officer what the request consists of, who has sent the request and provide the Data Protection Officer with a copy of the request;
- 5.1.3. not make any attempt to deal with, or respond to, the request without authorisation from the Data Protection Officer.

6. WHAT RIGHTS DO INDIVIDUALS HAVE OVER THEIR PERSONAL DATA?

6.1. Right of access (subject access requests)

6.1.1. Individuals have the right to ask the College to confirm the Personal Data about them that the College is holding, and to have copies of that Personal Data (commonly known as a **Subject Access Request** or **SAR**) along with the following information:

6.1.1.1. the purposes that the College has their Personal Data for;

6.1.1.2. the categories of Personal Data about them that the College has;

6.1.1.3. the recipients or categories of recipients that their Personal Data has been or will be disclosed to;

6.1.1.4. how long the College will keep their Personal Data;

6.1.1.5. that they have the right to request that the College corrects any inaccuracies in their Personal Data or deletes their Personal Data (in certain circumstances, please see below for further information); or restrict the uses the College is making of their Personal Data (in certain circumstances, please see below for further information); or to object to the uses the College is making of their Personal Data (in certain circumstances, please see below for further information);

6.1.1.6. that they have the right to complain to the ICO if they are unhappy about how the College has dealt with this request or in general about the way the College is handling their Personal Data;

6.1.1.7. where the Personal Data was not collected from them, where the College got it from; and

6.1.1.8. the existence of automated decision-making, including profiling (if applicable).

6.1.2. The College is not entitled to charge individuals for complying with this request. However, if the individual would like a further copy of the information requested, the College can charge a reasonable fee based on its administrative costs of making the further copy.

- 6.1.3. There are no formality requirements to making a SAR and it does not have to refer to data protection law, or use the words Subject Access Request or SAR. The College will monitor its incoming communications, including post, email, its website and social media pages to ensure that the College can recognise a SAR when it receives it.
- 6.1.4. The College is required to respond to a SAR within one month from the date the College receives it. If the SAR is complex or there are multiple requests at once, the College may extend this period by two further months provided that the College tells the individual who has made the SAR about the delay and the College's reasons for the delay within the first month.
- 6.1.5. The Data Protection Officer will reach a decision as to the complexity of the SAR and whether the College is entitled to extend the deadline for responding.

6.2. Right to rectification

- 6.2.1. Individuals have the right to ask the College to correct any Personal Data about them that the College is holding that is incorrect. The College is then obliged to correct that Personal Data within one month (or two months if the request is complex).
- 6.2.2. Where the individual tells the College their Personal Data is incomplete, the College is obliged to complete it if the individual asks the College to do so. This may mean adding a supplementary statement to their personal file for example.
- 6.2.3. If the College has disclosed the individual's inaccurate Personal Data to any third parties, the College is required to tell the individual who those third parties are and to inform the third parties of the correction where the College can.
- 6.2.4. When an individual asks the College to correct their Personal Data, the College is required to do so and to confirm this in writing to the individual within one month of them making the request.

6.3. Right to erasure (right to be forgotten)

- 6.3.1. Individuals have the right to ask the College to delete the Personal Data the College has about them in certain circumstances but this right is limited in scope and does not apply to every individual. The right to be forgotten applies when:
 - 6.3.1.1. the Personal Data is no longer necessary for the purpose the College collected it for;
 - 6.3.1.2. the individual withdraws consent and the College has no other legal basis to use their Personal Data;
 - 6.3.1.3. the individual objects to the College's processing and there is no overriding legitimate interest for continuing the processing;
 - 6.3.1.4. the Personal Data was unlawfully processed; and/or
 - 6.3.1.5. the Personal Data has to be erased to comply with a legal obligation.
- 6.3.2. If the College has disclosed the individual's deleted Personal Data to any third parties, the College is required to tell the individual who those third parties are and to inform the third parties to delete the Personal Data where the College can.
- 6.3.3. When an individual asks the College to delete their Personal Data, the College is required to do so and to inform the individual in writing within one month of them making the request that this has been done.

6.4. Right to restrict processing

- 6.4.1. Individuals have the right to “block” or “suppress” the College’s processing of their Personal Data when:
 - 6.4.1.1. they contest the accuracy of the Personal Data, for a period enabling the College to verify the accuracy of the Personal Data;
 - 6.4.1.2. the processing is unlawful and the individual opposes the deletion of the Personal Data and requests restriction instead;
 - 6.4.1.3. the College no longer needs the Personal Data for the purposes the College collected it for, but the College is required by the individual to keep the Personal Data for the establishment, exercise or defence of legal claims;
 - 6.4.1.4. the individual has objected to the College’s legitimate interests, for a period enabling the College to verify whether its legitimate interests override their interests.
- 6.4.2. If the College has disclosed the individual’s restricted Personal Data to any third parties, the College is required to tell the individual who those third parties are and to inform the third parties about the restriction where the College can.
- 6.4.3. When an individual asks the College to restrict its processing of their Personal Data, the College is required to do so and to confirm to the individual in writing within one month of them making the request that this has been done.

6.5. Right to data portability

- 6.5.1. Individuals have the right to obtain from the College a copy of their own Personal Data in a structured, commonly-used and machine-readable format (such as CSV files). The aim of this right is to facilitate the ability of individuals to move, copy or transmit their Personal Data easily from one IT environment to another.
- 6.5.2. The right to data portability only applies when:
 - 6.5.2.1. the individual provided the College with the Personal Data;
 - 6.5.2.2. the processing the College is carrying out is based on the individual’s consent or is necessary for the performance of a contract; and
 - 6.5.2.3. the processing is carried out by automated means.
- 6.5.3. This means that the right to data portability does not apply to personal data the College is processing on another legal basis, such as its legitimate interests.
- 6.5.4. The College is obliged to provide this information free of charge within one month of the individual making the request (or two months where the request is complex provided that the College explains to the individual why it needs more time).
- 6.5.5. The individual also has the right to ask the College to transmit the Personal data directly to another organisation if this is technically possible.

6.6. Right to object

- 6.6.1. Individuals have the right to object to the College’s processing of their Personal Data where:

6.6.1.1.the College's processing is based on its legitimate interests or the performance of a task in the public interest and the individual has grounds relating to his or her particular situation on which to object;

6.6.1.2.the College is carrying out direct marketing to the individual; and/or

6.6.1.3.the College's processing is for the purpose of scientific/historical research and statistics and the individual has grounds relating to his or her particular situation on which to object.

6.6.2. If an individual has grounds to object to the College's legitimate interests, the College must stop processing their Personal Data unless the College has compelling legitimate grounds for the processing which override the interests of the individual, or where the processing is for the establishment, exercise or defence of legal claims.

6.6.3. If an individual objects to direct marketing, the College must stop processing their Personal Data for these purposes as soon as the College receives the request. The College cannot refuse their request for any reason and cannot charge them for complying with it.

6.6.4. Before the end of one month from the date the College gets the request, the College must notify the individual in writing that the College has complied or intends to comply with their objections or that the College is not complying and the reasons why.

6.7. **Rights in relation to automated decision making**

6.7.1. Individuals have the right not to be subject to a decision based solely on automated processing, including profiling, which produces legal effects concerning him or her or similarly significantly affects him or her unless the decision is:

6.7.1.1.necessary for entering into or performing a contract between the College and the individual;

6.7.1.2.required or authorised by Data Protection Laws; or

6.7.1.3.based on the individual's explicit consent.

Automated decision making happens where the College makes a decision about an individual solely by automated means without any human involvement; and

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