

## Individual Rights Policy

The Link Academy Trust is a company limited by guarantee and an exempt charity, regulated by the Education & Skills Funding Agency (ESFA). All Members of the Board of Trustees of the exempt charity are also Directors of the company; the term 'Trustee' used in this Policy also means Director. This Policy applies to all academies within the Link Academy Trust

### Context

Under the General Data Protection Regulations (GDPR) that came into force in May 2018, organisations are required to ensure that provision of individual rights are made. This policy outlines individual rights and will be updated when the legislation comes into force to ensure it accurately reflects the regulations.

The Link Academy Trust (the 'Trust') is committed to ensuring provision of an outstanding education to its pupils. In order to carry out its legal obligations it is required to collect personal data about the pupils and specific information about their parents.

### 1. The right to be informed

The 'right to be informed' encompasses the Academy's obligation to provide 'fair processing information'. We meet our obligation by issuing Privacy Notices to staff and parents [Appendix 1 and 2]. Information supplied by the Trust is:-

- Concise, transparent, intelligible and easily accessible. The Privacy Notice adopted by the Trust was recommended by the Department for Education (DfE) to ensure it is compliant. It is concise and outlines the purpose of data collection along with details of third parties with whom we may share that information
- Issued to parents at the start of the academic year and on enrolment
- Written in clear, plain English
- Free of charge

### 2. The right of access (Subject Access Requests)

Staff at the Trust and parents of children attending the Academy has the right to obtain:-

- Confirmation that their data is being processed
- Access to their personal data
- Other supplementary information

The GDPR clarifies that the reason for allowing individuals to access their personal data is so that they are aware of, and can verify the lawfulness of, the processing. Requests for access are referred to as *Subject Access Requests* and the Trust's Subject Access Requests Policy and Procedures document outlines the Trust's approach to such requests.

### 3. The right to rectification

The GDPR gives individuals the right to have personal data rectified if it is inaccurate or incomplete.

### **3.1 Right to rectification timeframe**

The Trust will respond to individuals within one month. Where the request for rectification is complex, the Trust reserves the right to extend this timeline to two months.

In the event that the Trust is not taking action in response to a request for rectification we will explain to the individual, in writing, and outline the reasons for this along with their right to complain.

### **3.2 Right to rectification – third parties**

Where a third party has information about an individual that requires rectification, the Trust will inform those parties without undue delay.

## **4. The right to erasure**

The right to erasure is also known as the ‘right to be forgotten’. The broad principle underpinning this right is to enable an individual to request the deletion or removal of personal data where there is no compelling reason for its continued processing.

### **4.1 When the right to erasure applies**

Individuals have the right to have personal data erased and to prevent further processing in specific circumstances:

- Where the personal data is no longer necessary in relation to the purpose for which it was originally collected/processed.
- When the individual withdraws consent.
- When the individual objects to the processing and there is no overriding legitimate reason for continuing the processing.
- The personal data was unlawfully processed (ie in breach of GDPR).
- The personal data has to be erased in order to comply with a legal obligation.
- The personal data is processed in relation to information society services to a child.

Under GDPR the right to erasure is not limited to processing that causes unwarranted and substantial damage or distress. However, if the processing does cause unwarranted and substantial damage or distress the case for erasure will be strengthened.

### **4.2 Refusal to comply with right to erasure request**

In accordance with data protection legislation, the Trust has the right to refuse to comply with requests for erasure where the personal data is processed for the following reasons:-

- To exercise the right of freedom of expression and information.
- To comply with a legal obligation for the performance of a public interest task or exercise of official authority.
- For public health purposes in the public interest.
- Archiving purposes in the public interest, scientific research, historical research or statistical purposes.
- The exercise or defence of legal claims.

#### **4.3 The right to erasure of children's data**

Academies have the right to collect pupil data in order to carry out its legal obligation for the performance of a public interest task. However, the GDPR enhances protection of children's data particularly in relation to online environments. Where consent has been given and a request for erasure is later received the Academy will remain mindful that the initial consent may have been given without full awareness of the impact of its use.

#### **4.4 Informing third parties of erasure**

Where the Trust has disclosed personal data to third parties, the Trust will inform those parties, without undue delay, about the personal data erasure unless it is impossible or involves disproportionate effort to do so.

The Trust does not share personal data in any online environment.

### **5. The right to restrict processing**

Individuals have the right to block or suppress processing of personal data. In these instances the Trust shall be permitted to store data but not to process it further.

#### **5.1 When the right to restrict processing applies**

The Trust shall be required to restrict processing in the following circumstances:-

- Where an individual contests the accuracy of the personal data the Trust will restrict further processing until the accuracy of the personal data has been verified.
- Where an individual has objected to the processing (where it was necessary for the performance of a public interest task or purpose of legitimate interests), and the Trust is considering whether it's legitimate reasons override those of the individual.
- When processing is unlawful and the individual opposes erasure and requests restriction instead.
- If the Trust no longer needs the data but the individual requires it to establish, exercise or defend a legal claim.

#### **5.2 Informing third parties of restriction of processing**

Where personal data becomes subject to restriction of processing and has been disclosed to a third party, the Trust will inform the third party, without undue delay, unless it is impossible or involves disproportionate effort to do so.

When the Trust decides to lift a restriction on processing it must inform the individual.

### **6. The right to object**

Individuals have the right to object to:-

- Processing based on legitimate reasons or the performance of a task in the public interest/exercise of official authority
- Direct marketing
- Processing for purposes of scientific/historical research and statistics

## **6.1 Compliance with the right to object for the performance of a legal task**

Individuals must have an objection on 'grounds relating to his or her particular situation'.

The Trust will stop the processing of personal data unless:-

- We can demonstrate compelling legitimate grounds for the processing, which overrides the interests, rights and freedoms of the individual; or
- The processing is for the establishment, exercise or defence of legal claims.

Individuals are informed of their right to object within the Trust's privacy notices. We will also inform individuals of their right to object at the point of the first communication and will be 'explicit and presented clearly'.

### **Reference Guide**

Related documents include:-

- Data Protection Policy
- Privacy Notices
- Subject Access Requests Policy and Procedures
- Access to information held in complaints files
- Information Data Security Policy

## **Appendix 1: Privacy Notice to parents**

### **Privacy Notice – How we use pupil information**

#### **Why do we collect and use pupil information**

We collect and use pupil information under section 537A of the Education Act 1996, and section 83 of the Children Act 1989. We also comply with Article 6(1)(c) and Article 9(2)(b) of the General Data Protection Regulation (GDPR) 2018.

We use the pupil data:

- to support pupil learning
- to monitor and report on pupil progress
- to provide appropriate pastoral care
- to assess the quality of our services
- to comply with the law regarding data sharing
- to support you to decide what to do after you leave Academy

#### **Categories of pupil information that we collect, hold and share include:**

- Personal information (such as name, unique pupil number and contact details)
- Characteristics (such as ethnicity, language, nationality, country of birth and free Academy meal eligibility)
- Attendance information (such as sessions attended, number of absences and absence reasons)
- National curriculum assessment results
- Special educational needs information
- Relevant medical information

#### **Collecting pupil information**

Whilst the majority of pupil information you provide to us is mandatory, some of it is provided to us on a voluntary basis. In order to comply with the General Data Protection Regulation, we will inform you whether you are required to provide certain pupil information to us or if you have a choice in this.

#### **Storing pupil information**

The Link Academy Trust keep information about your child(ren) on computer systems and also sometimes on paper.

We hold their education records securely until you change Academy. Your records will then be transferred to your new Academy, where they will be retained until you reach the age of 25, after which they are safely destroyed.

There are strict controls on who can see your information. We will not share your data if you have advised us that you do not want it shared unless it is the only way we can make sure you stay safe and healthy or we are legally required to do so.

#### **Who do we share pupil information with?**

We routinely share pupil information with:

- Academics or colleges that the pupils attend after leaving us
- our local authority (Devon County Council) and their commissioned providers of local authority services
- the Department for Education (DfE)

- our Academies within the Trust

### **Why we share pupil information**

We do not share information about our pupils with anyone without consent unless the law and our policies allow us to do so.

We share pupils' data with the Department for Education (DfE) on a statutory basis. This data sharing underpins Academy funding and educational attainment policy and monitoring.

To find out more about the data collection requirements placed on us by the DfE (for example; via the Academy census) go to <https://www.gov.uk/education/data-collection-and-censuses-for-Academys>

We are required to share information about our pupils with the DfE under regulation 5 of The Education (Information About Individual Pupils) (England) Regulations 2013.

### **The National Pupil Database (NPD)**

The NPD is owned and managed by the Department for Education and contains information about pupils in Academics in England. It provides invaluable evidence on educational performance to inform independent research, as well as studies commissioned by the Department. It is held in electronic format for statistical purposes. This information is securely collected from a range of sources including Academics, local authorities and awarding bodies.

We are required by law, to provide information about our pupils to the DfE as part of statutory data collections such as the Academy census and early years' census. Some of this information is then stored in the NPD. The law that allows this is the Education (Information About Individual Pupils) (England) Regulations 2013.

To find out more about the pupil information we share with the department, for the purpose of data collections, go to <https://www.gov.uk/education/data-collection-and-censuses-for-Academys>.

To find out more about the NPD, go to <https://www.gov.uk/government/publications/national-pupil-database-user-guide-and-supporting-information>.

The department may share information about our pupils from the NPD with third parties who promote the education or well-being of children in England by:

- conducting research or analysis
- producing statistics
- providing information, advice or guidance

The Department has robust processes in place to ensure the confidentiality of our data is maintained and there are stringent controls in place regarding access and use of the data. Decisions on whether DfE releases data to third parties are subject to a strict approval process and based on a detailed assessment of:

- who is requesting the data
- the purpose for which it is required
- the level and sensitivity of data requested: and

- the arrangements in place to store and handle the data

To be granted access to pupil information, organisations must comply with strict terms and conditions covering the confidentiality and handling of the data, security arrangements and retention and use of the data.

For more information about the department's data sharing process, please visit:  
<https://www.gov.uk/data-protection-how-we-collect-and-share-research-data>

For information about which organisations the department has provided pupil information, (and for which project), please visit the following website:  
<https://www.gov.uk/government/publications/national-pupil-database-requests-received>

### **Requesting access to your personal data**

Under data protection legislation, parents and pupils have the right to request access to information about them that we hold. To make a request for your personal information, or be given access to your child's educational record, contact the relevant Academy office or Executive/Academy Head. The Academy will, on an annual basis, share individual Data Collection Sheets with you in order to ensure that our records are accurate and up to date.

You also have the right to:

- object to processing of personal data that is likely to cause, or is causing, damage or distress
- prevent processing for the purpose of direct marketing
- object to decisions being taken by automated means
- in certain circumstances, have inaccurate personal data rectified, blocked, erased or destroyed; and
- claim compensation for damages caused by a breach of the Data Protection regulations

If you have a concern about the way we are collecting or using your personal data, you should raise your concern with us in the first instance or directly to the Information Commissioner's Office at <https://ico.org.uk/concerns/>

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### Declaration

I, Parent of Child(ren) \_\_\_\_\_, declare that I understand:

- The Link Academy Trust has a legal and legitimate interest to collect and process my personal data in order to meet statutory requirements.
- How my data is used.
- The Link Academy Trust may share my data with the DfE, and subsequently the LA.
- The Link Academy Trust will not share my data to any other third parties without my consent, unless the law requires the Academy to do so.
- The Link Academy Trust will always ask for explicit consent where this is required, and I must provide this consent if I agree to the data being processed.
- My data is retained in line with the Academy's GDPR Data Protection Policy.
- My rights to the processing of my personal data.
- Where I can find out more information about the processing of my personal data.

- I am content for the Trust or Academy to continue contacting me via all forms of current communication including email, telephone and text messages.

## **Appendix 2: Privacy Notice to Staff**

### **Privacy Notice – Academy Workforce**

This privacy notice explains how we collect, process and manage information for the Academy workforce. That includes employed members of staff, volunteers, including trustees and governors, trainee teachers, apprentices and work experience/ workplace placements.

#### **The legal grounds for using your information**

This is common for all personal and sensitive data we collect and process about staff, volunteers, pupils, parents, carers and any other individuals.

Some data is more sensitive than other types of data. These special categories are as follows: personal information revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic information, biometric information, health information, and information about sex life or orientation.

The Academy will process data under one or more of the following legal grounds:

##### **1. Consent**

The Academy will ask for consent to process certain data about you or a pupil. The type of data that is to be used, and how it is to be used will be specified on the consent forms.

You have the choice to opt in for certain types of data usage, and this is made clear. However, some data that is collected and processed in Academics is not optional.

##### **2. Legitimate interests**

This means that the processing is necessary for legitimate interests except where the processing is unfair to you. The Academy relies on legitimate interests for many of the ways in which it uses information. Specifically, the Academy has a legitimate interest in:

- Providing educational services to pupils
- Safeguarding and promoting the welfare of pupils and staff
- Promoting the objects and interests of the Academy
- Ensuring the efficient operation of the Academy
- Compliance with all relevant legal obligations of the Academy
- Keeping the whole Academy community informed about events, news and activities

##### **3. Necessary for a contract**

Information about individuals may be necessary to perform our obligations under our contracts. For example, maintaining the Academy Management Information System database.

##### **4. Legal obligation**

Much of Academy life is governed by legal obligations to supply information to organisations such as the Department for Education or Local Authority or HMRC. We may also have to disclose information to third parties such as the courts, Disclosure and Barring Service or the police where legally obliged to do so.

5. Vital interests

For example, to prevent someone from being seriously harmed or killed.

6. Public interest

The Academy considers that it is acting in the public interest when providing education. Certain regulations, DfE and Local Authority, health and other guidance may require the Academy to process data in the public interest.

7. Legal claims:

The processing is necessary for the establishment, exercise or defence of legal claims. This allows us to share information with our legal advisors and insurers.

**The categories of Academy workforce information that we collect, process, hold and share include:**

- personal information (such as name, employee or teacher number, national insurance number)
- special categories of data including characteristics information such as gender, age, ethnic group
- contract information (such as start dates, hours worked, post, roles and salary information)
- work absence information (such as number of absences and reasons)
- qualifications (and, where relevant, subjects taught)
- medical information
- other personal information
- references

**We use and share information to comply with statutory, regulatory, practice and contractual obligations. These may include, but are not limited to:-**

- improving the management of workforce data across the sector
- enabling development of a comprehensive picture of the workforce and how it is deployed
- pay salaries and pension contributions
- informing the development of recruitment and retention policies
- allowing better financial modelling and planning
- enabling ethnicity and disability monitoring
- supporting the work of the Academy Teachers' Review Body
- comply with guidance such as 'Working Together' and safeguarding obligations
- facilitating good governance
- internal reviews and quality monitoring
- CPD and staffing issues

If we are required to comply with other legal obligations not listed above we will share data only when it is lawful to do so.

## **The lawful basis on which we collect and process this information**

We must make sure that information we collect and use about pupils is in line with the GDPR and Data Protection Act. This means that we must have a lawful reason to collect the data, and that if we share that with another organisation or individual we must have a legal basis to do so.

The lawful basis for Academics to collecting and processing information comes from a variety of sources, such as the Article 6 and Article 9 of the GDPR 2018, the Safeguarding of Vulnerable Groups Act 2006. We also have obligations to organisations such as HMRC and the Department of Work and Pensions.

## **Collecting this information**

Whilst the majority of information you provide to us is mandatory, some of it is provided to us on a voluntary basis. In order to comply with data protection legislation, we will inform you whether you are required to provide certain Academy workforce information to us or if you have a choice in this.

## **Storing this information**

We hold Academy workforce data for in accordance with our HR and Retention Policy

## **Who we share this information with**

We may share this information with organisations such as:

- our local authority
- the Department for Education (DfE)
- Safeguarding and protection for children and vulnerable adults
- HR and Payroll service providers (EPM)
- Legal Advisers
- Insurance providers
- HMRC
- Teacher Pension Scheme and the Local Government Pension Scheme (and other pension providers)
- Health professionals

## **Why we share Academy workforce information**

We do not share information about workforce members with anyone without consent unless the law and our policies allow us to do so.

### **Local authority**

We are required to share information about our workforce members with our local authority (LA) under section 5 of the Education (Supply of Information about the Academy Workforce) (England) Regulations 2007 and amendments.

### **Department for Education (DfE)**

We share personal data with the Department for Education (DfE) on a statutory basis. This data sharing underpins workforce policy monitoring, evaluation, and links to Academy funding / expenditure and the assessment educational attainment. We are required to

share information about our Academy employees with the Department for Education (DfE) under section 5 of the Education (Supply of Information about the Academy Workforce) (England) Regulations 2007 and amendments.

### **Data collection requirements**

The DfE collects and processes personal data relating to those employed by Academies (including Multi Academy Trusts) and local authorities that work in state funded Academics (including all maintained Academics, all academies and free Academics and all special Academics including Pupil Referral Units and Alternative Provision). All state funded Academics are required to make a census submission because it is a statutory return under sections 113 and 114 of the Education Act 2005

To find out more about the data collection requirements placed on us by the Department for Education including the data that we share with them, go to <https://www.gov.uk/education/data-collection-and-censuses-for-Academics>.

The department may share information about Academy employees with third parties who promote the education or well-being of children or the effective deployment of Academy staff in England by:

- conducting research or analysis
- producing statistics
- providing information, advice or guidance

The department has robust processes in place to ensure that the confidentiality of personal data is maintained and there are stringent controls in place regarding access to it and its use. Decisions on whether DfE releases personal data to third parties are subject to a strict approval process and based on a detailed assessment of:

- who is requesting the data
- the purpose for which it is required
- the level and sensitivity of data requested; and
- the arrangements in place to securely store and handle the data

To be granted access to Academy workforce information, organisations must comply with its strict terms and conditions covering the confidentiality and handling of the data, security arrangements and retention and use of the data.

For more information about the department's datasharing process, please visit:

<https://www.gov.uk/data-protection-how-we-collect-and-share-research-data> To

contact the department: <https://www.gov.uk/contact-dfe>

### **Your rights – What decisions can you make about your information?**

From May 2018, data protection legislation gives you a number of rights regarding your information. Some of these are new rights whilst others build on your existing rights.

Your rights are as follows:

- you can ask what information we hold about you and be provided with a copy. Sometimes we are not able to share all the information, but this is set out in our Subject Access Policy

- if information is incorrect you can ask us to correct it you can ask us to delete the information that we hold about you or your child in certain circumstances. For example, where we no longer need the information;
- you can ask us to send you, or another organisation, certain types of information about you in a format that can be read by computer – this does not apply to pupil records as these are transferred by a DfE process called the Common Transfer File
- our use of information about you may be restricted in some cases. For example, if you tell us that the information is inaccurate we can only use it for limited purposes while we check its accuracy

If you disagree with any decision we make about your data you can use our complaints policy, you also have the right to make a complaint to the Information Commissioner, and sometimes to the Information Tribunal or through the court process. Our complaints policy is available on the website.

### **Requesting access to your personal data**

Under data protection legislation, you have the right to request access to information about you that we hold. To make a request for your personal information, contact the Academy Business Manager. You also have the right to:

- object to processing of personal data that is likely to cause, or is causing, damage or distress
- prevent processing for the purpose of direct marketing
- object to decisions being taken by automated means
- in certain circumstances, have inaccurate personal data rectified, blocked, erased or destroyed; and
- claim compensation for damages caused by a breach of the Data Protection regulations

More details about how we use and manage data can be found in the Data Protection Policy and other relevant policies.

### Declaration

I, \_\_\_\_\_, declare that I understand:

- The Link Academy Trust has a legal and legitimate interest to collect and process my personal data in order to meet statutory requirements.
- How my data is used.
- The Link Academy Trust may share my data with the DfE, and subsequently the LA.
- The Link Academy Trust will not share my data to any other third parties without my consent, unless the law requires the Academy to do so.
- The Link Academy Trust will always ask for explicit consent where this is required, and I must provide this consent if I agree to the data being processed.
- My data is retained in line with the Academy's GDPR Data Protection Policy.
- My rights to the processing of my personal data.
- Where I can find out more information about the processing of my personal data.
- I am content for the Trust or Academy to continue contacting me via all forms of current communication including email, telephone and text messages.

Signature: \_\_\_\_\_

Reviewed by the Audit Committee: 20.01.21  
 Approved by the Board of Trustees: 08.02.21