

East Midlands Academy Trust

Special Category Data Policy

'Every child deserves to be the best they can be'

| Scope: East Midlands Academy Trust & Academies within the Trust | |
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| Version: V5 | Filename: Special Category Data Policy |
| Approval: April 2026 | Next Review: April 2027 |
| Owner: Head of Shared Services | This policy will be reviewed by the Owner and approved by the Trust CEO at least annually. |

| Policy type: | |
|--------------|-----------------------------------|
| Statutory | Replaces Academy's current policy |

Revision History

| RevisionDate | Revisor | Description of Revision |
|---------------|---------|---|
| V5 April 2026 | DU | Review. No Change. |
| V4 May 2025 | DU | Minor updates only |
| V3 May 2024 | DU | Major change to coincide with moving to new DPO provider new policy produced by new DPO to ensure compliance with GDPR (UK) |
| V2 April 2023 | DU | Minor revisions and review |
| V1 April 2022 | DU | Minor revisions and review |



The Everyone's Invited campaign has rightly served to focus our minds on the need to continue to work together to protect children.

We, at EMAT, believe that schools play a crucial role in teaching pupils about sex and relationships, equality and diversity and modern citizenship as well as preparing them for the modern world. This is enacted through each school's culture, its curriculum, and all policies. We aim to give all pupils and staff a voice to enable them to act in a protective manner towards themselves and others. This includes developing a robust whistleblowing culture as well as fostering a culture of integrity and mutual respect.

We recognise that we have the responsibility of tackling sexual violence and harassment, instilling values in our stakeholders and encourage all to be driven by their strong moral compass. Like so much of education, our work must complement that undertaken by parents and carers so that young people receive a consistent message, and they can go about their lives free from harassment and abuse.

All of our schools will continue to engage with their stakeholders, listen to their concerns and signpost necessary support and provision within and beyond its schools. We ask that anyone who has experienced such behaviour, or who is suffering because of it, to report it to an appropriate adult either in the school or within the EMAT team so they can be supported, and steps can be taken to address the issue.

A dedicated NSPCC helpline is now available to support anyone who has experienced sexual abuse in educational settings or has concerns about someone or the issues raised. The dedicated **NSPCC helpline number is 0800 136 663 or by emailing help@nspcc.org.uk**

Staff members can also seek support from **Vivup on 0330 380 0658** or by visiting their website www.vivup.co.uk

If you are troubled about possible wrongdoing at work, please don't keep it to yourself. Our Speak Up Policy is there to reassure you that it is safe and acceptable to speak up and to enable you to raise any concern you may have at an early stage and in the right way. If you feel unable to raise the matter with your manager, for whatever reason, please raise the matter with:

- **EMAT Head of Governance & Compliance** – Alexandra Rigler – alexandra.rigler@central.emat.uk
- **EMAT Head of People & Culture** – Vicky Donnelly – vicky.donnelly@central.emat.uk

If you are unsure about raising a concern you can get free and independent advice from **Protect helpline on 020 3117 2520 or by emailing whistle@protect-advice.org.uk**

CONTENTS

| | |
|--|----------|
| 1. Introduction..... | 1 |
| 2. Conditions for processing special category and criminal offence data | 1 |
| <u> </u> Personal Data | 1 |
| <u> </u> Criminal Offence Data | 2 |
| 3. Processing which requires an Appropriate Policy Document (“APD”) | 2 |
| <u> </u> Description of data processed | 2 |
| <u> </u> Schedule 1 conditions for processing..... | 3 |
| <u> </u> Procedures for ensuring compliance with the principles | 3 |

1. INTRODUCTION

As part of the School's statutory and corporate functions, we process special category data and criminal offence data in accordance with the requirements of Article 9 and 10 of the General Data Protection Regulation ('UK GDPR') and Schedule 1 of the Data Protection Act 2018 ('DPA 2018').

Special category data is defined at Article 9 of the UK GDPR as personal data revealing:

- Racial or ethnic origin
- Political opinions
- Religious or philosophical beliefs
- Trade union membership
- Genetic data
- Biometric data (where used for identification purposes)
- Data concerning physical or mental health, or
- Data concerning a natural person's sex life or sexual orientation.

In addition, we treat Pupil Premium/Free School Meal status as if it is Special Category data as recommended by the Department of Education, as we recognise that data subjects expect this information to be particularly private.

Article 10 of the UK GDPR covers processing in relation to criminal convictions and offences. This includes personal data relating to the alleged commission of offences or proceedings for an offence committed or alleged to have been committed, including sentencing. This is collectively referred to as 'criminal offence data'.

Some of the legal conditions for processing special category and criminal offence data require us to have an Appropriate Policy Document (APD) in place, setting out and explaining our procedures for securing compliance with the data protection principles and to have policies regarding the retention and erasure of such personal data.

This document satisfies that requirements of Schedule 1, Part 4 of the DPA 2018 and explains our processing of special category and criminal offence data.

In addition, it provides some further information about our processing of special category and criminal offence data where a policy document isn't a specific requirement. The information supplements our privacy notices (which are available on our website).

2. CONDITIONS FOR PROCESSING SPECIAL CATEGORY AND CRIMINAL OFFENCE DATA

Personal Data

We process special categories of personal data under the following UK GDPR Articles:

- Article 9(2)(a) – the data subject has given explicit consent to the processing (when none of the other lawful basis apply.)

When we seek consent, we make sure that the consent is unambiguous and for one or more specified purposes, is given by an affirmative action and is recorded as the condition for processing. Examples of our processing that require consent include pupil and staff dietary requirements or consent for pupil pastoral support.

- Article 9(2)(b) – processing is necessary in the field of employment law.
An example of this processing includes staff sickness absences.
- Article 9(2)(c) - processing is necessary to protect the vital interests of the data subject or of another natural person.
An example of this would be using health information about a member of staff in a medical emergency.
- Article 9(2)(f) – for the establishment, exercise or defence of legal claims.
Examples of our processing include processing relating to any employment tribunal or other litigation.
- Article 9(2)(g) - reasons of substantial public interest.
The school is a public authority. Our role includes the education and safeguarding of pupils. Our processing of personal data in this context is necessary for the carrying out of our role. An example of our processing includes processing pupil health information in order to ensure pupils receive appropriate education taking into account any additional health needs they have.
- Article 9(2)(h)- necessary to assess the working capacity of the employee.
An example of this would be the provision of occupational health services to our employees.
- Article 9(2)(j) – for archiving purposes in the public interest.
An example of this is that we maintain a school archive of photos and significant school events for historical purposes.

Criminal Offence Data

We process criminal offence data under Article 10 of the GDPR.

Examples of our processing of criminal offence data include pre-employment checks and declarations by an employee in line with contractual obligations or being informed about a parent’s criminal convictions where that may affect the safeguarding or wellbeing of relevant pupils. We also process CCTV data which may include footage of alleged criminal offence data. We process this under the Data Protection Act 2018 Schedule 1, Part 2 subsection 10 and Part 3 subsection 36 (substantial public interest in relation to any criminal category data).

3. PROCESSING WHICH REQUIRES AN APPROPRIATE POLICY DOCUMENT (“APD”)

Almost all processing of special categories of data for purposes of the substantial public interest, plus processing of special categories of data for purposes of employment law, social security law and social protection law, require an APD-

This document is the APD for the school. It demonstrates that the processing of special category and criminal offence data based on these specific conditions is compliant with the requirements of the UK GDPR data protection principles. It also outlines our retention policies with respect to this data.

Description of data processed

We process the special category data about our pupils that is necessary to fulfil our obligations as a school. This includes information about their health and wellbeing status and ethnicity. Further information about this processing can be found in our pupil and parent privacy notice.

We process the special category data about our employees, governors and volunteers that is necessary to fulfil our obligations as an employer. This includes information about their health and

wellbeing, ethnicity, sexual orientation and their membership of any trade union. Further information about this processing can be found in our workforce privacy notice.

We also maintain a record of our processing activities in accordance with Article 30 of the GDPR.

Schedule 1 conditions for processing

We process Special Category data for the following purposes outlined in DPA 2018 Schedule 1:

- Paragraph 1 employment law, social security law and social protection law
- Paragraph 2 health or social care purposes
- Paragraph 3 public health
- Paragraph 4 archiving purposes in the public interest.
- Paragraph 6 statutory purposes
- Paragraph 8 equality of opportunity or treatment
- Paragraph 10 preventing or detecting unlawful acts
- Paragraph 12 regulatory requirements relating to unlawful acts
- Paragraph 17 counselling
- Paragraph 18 safeguarding of children and of individuals at risk.

We process criminal offence data for the following purposes in Schedule 1:

- Paragraph 1 1 employment law, social security law and social protection law
- Paragraph 6 statutory purposes
- Paragraph 18 safeguarding of children and individuals at risk
- Paragraph 10 and paragraph 36 where criminal offences are captured by CCTV footage.

Procedures for ensuring compliance with the principles

Accountability principle

We have put in place appropriate technical and organisational measures to meet the requirements of accountability. These include:

- The appointment of a Data Protection Officer who reports directly to our highest management level.
- Taking a 'data protection by design and default' approach to our activities.
- Maintaining documentation of our data processing activities.
- Adopting and implementing data protection policies and ensuring we have appropriate written contracts in place with our data processors.
- Implementing appropriate security measures in relation to the personal data we process.
- Carrying out data protection impact assessments for our high-risk processing.

We regularly review our accountability measures and update or amend them when required.

Principle (a): lawfulness, fairness and transparency

Processing personal data must be lawful, fair and transparent. It is only lawful if and to the extent it is based on law and either the data subject has given their consent for the processing, or the processing meets at least one of the conditions in Schedule 1 of the DPA 2018.

We provide clear and transparent information about why we process personal data including our lawful basis for processing in our privacy notices, in our Data Protection Policy and this policy document.

Our processing for purposes of substantial public interest is necessary for the exercise of the functions conferred on the school by the legislation referred to in our main Data Protection Policy document.

Our processing for the purposes of employment relates to our obligations as an employer.

Principle (b): purpose limitation

We are authorised by law to process personal data for these purposes. We may process personal data collected for any one of these purposes (whether by us or another controller), for any of the other purposes here, providing the processing is necessary and proportionate to that purpose.

If we are sharing data with another controller, we will document that they are authorised by law to process the data for their purpose.

We will not process personal data for purposes incompatible with the original purpose it was collected for.

Principle (c): data minimisation

We collect personal data necessary for the relevant purposes and ensure it is not excessive. The information we process is necessary for and proportionate to our purposes. Where personal data is provided to us or obtained by us, but is not relevant to our stated purposes, we will erase it.

Principle (d): accuracy

Where we become aware that personal data is inaccurate or out of date, having regard to the purpose for which it is being processed, we will take every reasonable step to ensure that data is erased or rectified without delay. If we decide not to either erase or rectify it, for example because the lawful basis we rely on to process the data means these rights don't apply, we will document our decision.

Principle (e): storage limitation

All special category data processed by us for the purpose of employment or substantial public interest is, unless retained longer for archiving purposes, retained for the periods set out in our Retention Schedule. We determine the retention period for this data based on our legal obligations and the necessity of its retention for our business needs. Our retention schedule is reviewed regularly and updated when necessary.

Principle (f): integrity and confidentiality (security)

Electronic information is processed within our secure network. Hard copy information is processed in line with our security procedures. Our electronic systems and physical storage have appropriate access controls applied. The systems we use to process personal data allow us to erase or update personal data at any point in time where appropriate.