

**The Yare Education Trust
Data Protection Policy**

Including:

Privacy Notice – Students

Privacy Notice – School Workforce

September 2016



**THE
YARE EDUCATION
TRUST**

Data Protection Policy

Context

This Policy and Guidance attempts to clearly state:

- The nature of the information and data held by each school with respect to students
- Where such information and data is kept within each school
- Who has access to the information and data, and for what purposes
- The conditions under which the information and data will be shared with other public agencies
- The rights of students and parents to access the information and data, under current legislation.

This policy will be continually reviewed to ensure that improvements are made and that good practice is maintained consistent with legislation (Data Protection Act 1998) and compliance advice.

Legislation

Relevant Legislation:

- The Education (Student Information) (England) Regulations 2000
- The Data Protection Act 1998
- Data Protection (Subject Access Modification) (Education) Order 2000
- The Children's Act 1989.

Registration

The Yare Education Trust, and through it each school, is registered under the Data Protection Act 1998, and the Notification shall be renewed as required. Details of the Notification to the Register may be obtained from each school, and are implicit within the Policy and Guidelines contained within this policy document. The schools within the Trust comply fully with the Data Protection principles, which state that personal information must be:

- Adequate, relevant and not excessive
- Accurate
- Not kept longer than is necessary
- Processed in accordance with an individual's rights
- Kept secure
- Not transferred without adequate protection
- Fairly and lawfully processed
- Processed for limited purposes.

Such principles shall be reflected in records and information kept with respect to both electronic and manual systems.

Information Collected

Staff and students shall be made aware of:

- The nature of the information collected about them
- The purpose(s) for which personal information will be held
- What such information will be used for
- Unless the information is subject to other enabling legislation, or the possibility of the sharing such information has been made explicit, informed consent must be obtained before such information is passed to another organisation or individual.

The nature and sources of information:

The transfer of a student's educational record when a student changes school. Each school will fully comply with guidance contained in DfE Circular 17/89: *The Education (School Records) Regulations 1989*; and, Department for Education Circular 17/99: *Reports on Student Achievement*. The Common Transfer Form will be utilised.

At transfer between schools, such as Year 6 to Year 7 or Reception to Year 1, information is collected, largely through discussion with relevant staff, on such issues as medical knowledge; Special Educational Needs; learning aptitude and characteristics; and behavioural characteristics. This information is noted and forms part of the information contained in the student's record.

The completion of each School Entry Form provides such information as name, address, contact data, emergency contact information, medical, ethnicity and religious information. This information is kept within the school's student database.

The results of screening tests, baseline data testing and diagnostic tests are kept, together with regular assessment and achievement results.

Statutory information such as attendance, punctuality, Key Stage assessment data (including SATs and Post-14 achievement data – GCSE; BTEC; NVQ).

Behavioural data and information relating to rewards and sanctions deployed by the school (including exclusion data).

Any relevant data and information that allows the school to discharge its statutory responsibilities, including the care and welfare of students. Such information may include changed family circumstances (for example divorce, bereavement, financial hardship) and Child Protection documentation, and may be obtained from a number of sources including teaching and associate staff, and other agencies.

Data Storage

Data and information on students is kept in up to five different locations in each school:

1. Centrally in each school held electronic information
2. Centrally in each school held manual records
3. Safeguarding information
4. Electronic and manual records held by the SENCO or Special Educational Needs Department
5. Individual Teacher and Learning Support Assistant records.

1. Centrally Held Electronic Information:

Each school records data and information on students within the Management Information System student database on the Administrative IT Network.

Such information includes that relating to:

- name
- gender
- date of birth
- Unique Student Number
- address
- contact information
- legal guardianship
- medical information
- emergency contact information
- ethnicity
- religion
- doctor
- method of travel to school
- attendance
- punctuality
- achievement
- photograph.

2. Centrally Held Manual Records

Within each school an identified member of staff is responsible for the upkeep and updating of the student records which, in addition to much of the information listed above, may also include documentation relating to the individual student arising from their time in school.

Such information includes:

- Student information notes
- Copies of letters sent to parents
- Copies of Individual Education Plans or similar

- Copies of Pastoral Support Plans or similar
- Medical details and guidance
- Copies of reports
- Copies of Certificates and Achievement Awards made
- Subject option information (Key Stage 4 or A Level)
- Information collected for specific purposes, such as referrals to the Short Stay School
- Support or notes from Learning Support Assistants
- Student target sheets completed
- Letters from parents and others acting for the student
- Copies of letters sent home from the school
- Special Educational Needs documentation including reviews
- Contact with other agencies such as Social Services or the Young Offenders Team
- Incident witness statements
- Exclusion/reintegration forms
- Serious incidents log
- Norfolk Racist Incident Forms.

3. Safeguarding Information

Sensitive safeguarding information is not stored in the centrally held manual records above. Instead such information is securely held in the office of the Lead Designated Safeguarding Officer. It can only be accessed by trained members of the Safeguarding Team in each school.

4. Electronic and Manual Records Held by the Special Educational Needs Department or SENCO

The SENCO or the Special Educational Needs Department (under the direction of the Special Educational Needs Manager) maintain records that relate specifically to students with Special Educational Needs or Disabilities. Such information is maintained either electronically, or in manual form and includes such information as:

- Statements of Special Educational Needs or EHCPs
- Individual Education Plans or similar
- Pastoral Support Plans or similar
- Medical details and guidance
- Letters from parents and others acting for the student
- Review documentation
- Screening and diagnostic test data
- Achievement data relating to programmes undertaken
- Copies of relevant letters from parents and others acting for the student
- Target information and Learning Support Assistant logs
- Record of contacts made in respect to an individual student (for example, *telephone calls or letters*).

5. Individual Teacher and Learning Support Assistant Records

Individual teachers and Learning Support Assistants are required to maintain records in order that they may adequately teach and support students relevant to their ability and circumstances. It is expected that they shall maintain records that detail:

- attendance at lessons
- baseline and diagnostic data, including where relevant IEPs
- achievement data relevant to their teaching and learning activities
- target data
- completion, and behavioural support plans.

Processing of Information

The Data Protection Act came into force on 1 March 2000. It regulates the holding and processing of personal data, that is, information and data relating to students within each school.

To ensure compliance with the Data Protection Act non-sensitive personal data shall be processed fairly and lawfully, and shall not be processed unless at least one of the following conditions is met:

- The individual whose records are kept by the school must provide consent
- The school must have a legal requirement or basis to hold information about them
- Have a need to hold it for the performance of a contract, or for the taking of steps with a view to entering into a contract
- Have a reason to hold it in the legitimate interests of the organisation, unless the processing may prejudice the rights and freedoms or legitimate interests of the individual
- To protect the individual's vital interests
- For the administration of justice
- Information is processed in circumstances specified by order of Government.

For sensitive information personal data shall be processed fairly and lawfully only if at least one of the following conditions is also met (in addition to those listed above):

- The individual has provided their explicit consent
- The information is required to be held in compliance with employment law
- To protect the individual's vital interests in cases where consent cannot be given, or to protect the interests of another person where consent has been unreasonably withheld
- The processing is carried out by a not-for-profit organisation or a body that exists for political, philosophical, religious or trade union purposes
- The information has been made public as a result of steps deliberately taken by the individual
- The processing is necessary with respect to legal proceedings, for obtaining legal advice, or for establishing, exercising or defending legal rights
- For the administration of justice
- Have a legal requirement or basis to hold information (for example, to carry out statutory functions)

- The processing is necessary for medical purposes
- Information that consists of racial or ethnic origin can be held to ensure and monitor equality of opportunity or treatment
- Information is processed in circumstances specified by Government.

Sensitive Information

Sensitive information, as defined by the Data Protection Act, is information that relates to:

- Racial or ethnic origin
- Physical or mental health condition
- Sexual life
- Religious or other beliefs
- Commission or alleged commission of offences
- Any proceedings for any offence committed (or alleged), the disposal of such proceedings or the sentence of any court in such proceedings
- Political opinions
- Trade union membership.

Within the School and Trust

Between those employed by the Trust in each school, and accountable to the relevant Headteacher, it is recognised that the fullest sharing of data and information between those responsible for the teaching, welfare and care of the student leads to the most benefit for the student.

(For example, information about the bereavement of a close family member should be shared by all those likely to come into responsible contact with the student in order for appropriate care and support to be established.)

It is however inherent that any and all such information should be kept confidential between members of staff within the school and not shared with others.

It is a matter of professional judgement as to whether information disclosed by a student is of necessity shared by all within the school or shared more widely in the Trust, if uncertain members of staff should consult with their line manager.

However, any information disclosed relating to physical, sexual or emotional abuse, or neglect of students will be fully subject to the Trust's Safeguarding (Child Protection) Policy and Guidelines.

Any and all manual records kept by the school relevant to individual students, no longer required, must be shredded.

Student records held centrally, on the student's departure from the school, will be archived and stored for a minimum of ten years. The Headteacher (who may delegate this role to an identified member of staff) will be responsible for the upkeep of the archive of paper documents; similarly the Headteacher (who may delegate the role to a Data Manager or similar) will be responsible for the upkeep of the archive of electronic records.

Teachers and Learning Support Assistants will maintain records for the students that they taught and supported, whether manual or electronic, for a minimum of five years. They should also be maintained for this period if the member of staff concerned leaves the employment of the school.

At times individual student level information is required for illustrative purposes by processes that the school is subjected to by other legislation, guidance or practice. Examples include Ofsted Inspection; Threshold Assessment; Performance Appraisal and Target Setting. The school will be explicit to students and parents in this respect, though individual students should not be named in any publication or report resulting from such processes.

Information with respect to named individual students should not be produced for any audience whereby the information may thereby enter into the public domain, without the express permission of the student involved. School based examples include:

- Newsletters to parents and the community
- Reports to the Local Governing Body or Members / Trustees
- Review and evaluation documentation for other than internal use
- Any and all documentation used for training or illustrative purposes to persons outside of the school or Trust.

Student teachers, supply staff and other professionals working on a temporary basis as a member of staff within the school, accountable to the Headteacher, will be required to adhere to the principles of data and information protection outlined.

With Outside Organisations Agencies and Individuals

Unless the information is subject to other enabling legislation, or the possibility of the sharing of such information has been made explicit, informed consent must be obtained before such information is passed, by the school, to another organisation, agency or individual.

Students and parents will be made explicitly aware that it is practice to share student level information, which may include personal information, with respect to:

Feeder Primary Schools or Secondary Schools Fed Into

Achievement data and the results of benchmark testing.

Department for Education

Assessment, achievement and attendance data at non-specific student level.

The Relevant County Council Children's Services

Any information relating to the student's health, care and welfare both within the school and in his / her life that could affect the quality of life and achievement of the young person.

Post-16 Institutions and Organisations

Information and data with respect to achievement, actual and predicted / target data, together with essential core personal data, with Post-16 educational institutions or training establishments. This information will normally be contained within their Record of Achievement / Progress File.

Cashless Caterers (where used)

Student names are shared with outside cashless catering organisations, and accounts are accessed and loaded from home by parents using secure internet services. Altered data recorded from finger or thumb print images are used to identify students and to link to a specific account.

Medical Service

Any information relating to the student's health, care and welfare both within the school and in his / her life that could affect the quality of life and achievement of the young person.

Social Services

Any information disclosed relating to physical, sexual or emotional abuse, or neglect of students subject to the Children's Act 1989 using the procedures specified in the school's Safeguarding (Child Protection) Policy and Guidelines.

Police

Requests for the disclosure of information for purposes, such as the prevention or detection of crime, prosecution or apprehension of offenders, must be authorised by a senior member of staff, and only when they have verified that it is a genuine request.

Children Services Educational Welfare Service

Attendance data and information relating to family circumstances pertaining to the student's ability to attend regularly and to effect.

Children Services Careers Service

Information and data with respect to achievement, actual and predicted / target data, together with essential core personal data to enable effective careers guidance to take place.

Careers Advisor

Information and data contained on the school MIS database, and any relevant data or information required for the Advisor to discharge their responsibilities as an advocate of the student and his / her interests.

The Principles of Exchanging and Sharing Data and Information with another Organisation, Agency or Individual with Respect to The Yare Education Trust Students

When exchanging or sharing data and information with other institutions, organisations, agencies or individuals the following principles should be observed:

- The school is to assume that all students are competent in their own right to make decisions and provide consent for the sharing and exchange of data and information with other institutions, organisations, agencies or individuals. However, parents and or carers should be made aware of the exchange or sharing of data and information with other institutions, organisations, agencies or individuals both through the school prospectus and by clear statements on data capture forms.
- When sharing and exchanging data and information with other institutions, organisations, agencies or individuals the minimum amount of data or information should be provided, exchanged or shared, its purpose clearly identified and any further processing of such data or information by that institution, organisation, agency or individual reported to the school.
- School staff should be aware that verbal exchange of data or information can be misunderstood, misinterpreted, or misrepresented, and it should be avoided.
- The institutions, organisations, agencies or individuals receiving information from the school will undertake not to disclose, share or exchange such information with other institutions, organisations, agencies or individuals without first obtaining further informed consent from the student unless the original consent covered such eventualities.
- Information and data shared or exchanged with other institutions, organisations, agencies or individuals should be first checked for accuracy and reliability by the school. Any information not based upon established fact should be clearly identified as opinion or hearsay.
- It is the responsibility of the receiving institution, organisation, agency or individual to inform the school of any and all information and data that is discovered to be out of date, inaccurate or unreliable
- Institutions, organisations, agencies or individuals that have disclosed to them data or information relevant to the care and welfare, or the effective teaching and management of The Yare Education Trust students, should take the necessary steps to achieve the consent of the young person to share such information with the school, which they should then undertake.
- Institutions, organisations, agencies or individuals receiving information or data from the school must take all reasonable precautions to protect such personal information or data from unauthorised or unlawful processing or use, and against its accidental loss, destruction or damage.
- Institutions, organisations, agencies or individuals unable to agree to these principles will not be made party to personal information concerning The Yare Education Trust students except where this is covered by enabling legislation or associated Orders.

Access to Data and Information Held by Each School

Every student, or where appropriate a person legally acting on their behalf, has the right to access the personal data and information which relates to them, either computerised or paper records.

Requests to see, or receive copies of school records, should be made in writing to the relevant Headteacher. A charge may be made to cover the cost of copying the records, according to the number of pages. Students may be required to supply information to verify their identity, or to provide information necessary to locate the data and information held about them (for example, in the case of former students the dates between which he / she attended the school).

Examples of fees that may be charged:

- 1 to 19 pages £1
- 20 to 49 pages £2
- 50 to 99 pages £5
- 100 to 149 pages £10
- 150 to 199 pages £15
- 200 to 249 pages £20

Some information may be withheld from the student. For instance, if it may cause harm to the physical or mental health of the student or a third party; information, which may identify third parties (for example, other students), and information that forms part of court reports.

Information may also be withheld if in that particular case it would hinder the prevention or detection of crime or the prosecution or apprehension of offenders to provide it.

In addition, students are also entitled to be given a description of the personal data and information which makes up the school record, together with details of the purposes for which the data is processed, the sources of the data and information, and the institutions, organisations, agencies or individuals to which the data and or information may be disclosed to.

Parents also have their own independent right of access to the official educational records of their children. In essence the information to which parents are entitled and the exemptions are the same as for students.

A parent seeking access to an educational record does not however have a right of redress under the Data Protection Act unless he / she is acting on behalf of their child. As parents have an independent right to access student records the students themselves have no right to prevent it.

If a request for information by a student under the Act is ignored the matter may be referred to the Information Commissioner, or an application for disclosure can be made to the courts. Parents requesting the information, unless acting on behalf of their child, in the first instance should contact the Governing Body, after that the Department for Education, or, as a last resort, the courts.

Further information about the Data Protection Act (1998) can be obtained

- from the Information Commissioner's web site (www.dataprotection.gov.uk)
- requested from an information line (01625 545745)
- or by post from:

The Office of the Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire. SK9 5AF.

Students, or where appropriate a person legally acting on their behalf, may make a complaint about the way in which information about them is held, processed or disclosed by writing to the Headteacher, after that the Local Governing Body, the Department for Education, or as a last resort, the courts.

APPENDIX 1 - Privacy Notice – Students - Data Protection Act 1998

The Yare Education Trust is the Data Controller for the purposes of the Data Protection Act. We collect and hold personal information relating to our students and may also receive information about them from their previous school, local authority and/or the Department for Education (DfE). We use this personal data to:

- support students' teaching and learning
- monitor and report on their progress
- provide appropriate pastoral care
- assess how well the school and the Trust, as a whole, is doing
- support transition to Post-16 education / training.

This information will include contact details, national curriculum assessment results, attendance information, any exclusion information, where students go after they leave us and personal characteristics such as ethnic group, any special educational needs a student may have as well as relevant medical information. For students enrolling for Post 14 qualifications, the Learning Records Service supply us with the unique learner number (ULN) and may also give us details about learning or qualifications.

Once our students reach the age of 13, the law requires us to pass on certain information to the Local Authority (LA) who have responsibilities in relation to the education or training of 13-19 year olds. We may also share certain personal data relating to children aged 16 and over with Post-16 education and training providers in order to secure appropriate services for them. A parent/guardian can request that **only** their child's name, address and date of birth be passed to the LA and Youth Support Services by informing the Company Secretary. This right is transferred to the child once he/she reaches the age 16. For more information about services for young people, please go to the Local Authority's website.

In Addition for Secondary Schools - Youth Services Information Only (formerly Connexions)

The LA has a statutory duty 'to encourage, enable or assist young people's participation in education or training' (Section 68(1) of the Education and Skills Act 2008). The LA therefore has a key role in ensuring that all 16 and 17 year olds are made aware that they should be offered a place in Post-16 education or training, to work with partners to shape education and training provision to meet young people's needs and to collect and record the offers made to young people to help target resources on those who have still to find a suitable place.

Once a student is aged 13 or over, the school is legally required to pass on certain information to the LA to enable them to carry out this duty. This information contains the name, address and date of birth of the student and any further information relevant to the support services' role.

Youth Support Services pass on some of the information they collect to the DfE to enable them to assess local authorities' performance and determine the destinations of young people after they have left compulsory education.

Online information, advice and support on a range of issues affecting young people can be found on the Gov.uk education and learning pages at <https://www.gov.uk/browse/education>.

Post-16 Providers (for Year 11 students)

Sharing data relating to young people between schools and Post-16 providers is key to ensuring the successful transition of young people from a Pre-16 to Post-16 learning/training setting. To support young people's transition we will share information directly with Post-16 providers. This will include information collected as part of the statutory School Census return, such as but not limited to:

- free school meal eligibility
- special educational needs
- language information
- exclusions information
- attendance information.

You can ask that no information be passed to Post-16 providers. If you do not wish your information to be shared in this way please send a signed letter to:

EET 11-19 Commissioning Team
Norfolk County Council Children's Services
Room 117 - 1st Floor
County Hall
Martineau Lane
Norwich
NR1 2DH

Information may be shared with other agencies where we have a duty to work together in the best interests of the child or young person. Such information sharing is in line with the law and the information sharing guidance issued by the DfE. Further information can be found on the DfE's website - <http://www.education.gov.uk/childrenandyoungpeople/strategy/integratedworking/a0072915/information-sharing>.

In addition, The Yare Education Trust may pass such data as is necessary to contractors operating our payments, and any other online systems to enable accounts for students to be set up and operated.

We will not give information about our students to anyone without your consent unless the law and our policies allow us to do so. If you want to receive a copy of the information about your son/daughter that we hold, please contact The Company Secretary on 01603 497711.

We are required, by law, to pass some information about our students to the DfE. This information will, in turn, then be made available for use by the LA.

The DfE may also share student level personal data that we supply to them, with third parties. This will only take place where legislation allows it to do so and it is in compliance with the Data Protection Act 1998.

Decisions on whether the DfE releases this personal data to third parties are subject to a robust approval process and are 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 student level data, requestors must comply with strict terms and conditions covering the confidentiality and handling of data, security arrangements and retention and use of the data.

For more information on how this sharing process works, please visit: <https://www.gov.uk/guidance/national-pupil-database-apply-for-a-data-extract>

For information on which third party organisations (and for which project) student level data has been provided to, please visit: <https://www.gov.uk/government/publications/national-pupil-database-requests-received>

If you need more information about how the LA and/or DfE collect and use your information, please visit:

- the LA at <http://www.schools.norfolk.gov.uk/School-administration/Legal/Privacy-notice/index.htm>;
- or
- the DfE website at <https://www.gov.uk/data-protection-how-we-collect-and-share-research-data>

APPENDIX 2 - Privacy Notice – Staff - Data Protection Act 1998

School Workforce: those employed or otherwise engaged to work at a school

We The Yare Education Trust are the Data Controller for the purposes of the Data Protection Act.

Personal data is held by the school about those employed or otherwise engaged to work at the school or Local Authority. This is to assist in the smooth running of the school and/or enable individuals to be paid. The collection of this information will benefit both national and local users by:

- Improving the management of school workforce data across the sector
- Enabling a comprehensive picture of the workforce and how it is deployed to be built up
- Informing the development of recruitment and retention policies
- Allowing better financial modeling and planning
- Enabling ethnicity and disability monitoring
- Supporting the work of the School Teacher Review Body and the School Support Staff Negotiating Body.

This personal data includes some or all of the following - identifiers such as name and National Insurance Number and characteristics such as ethnic group; employment contract and remuneration details, qualifications and absence information.

We will not give information about you to anyone outside the school or Local Authority (LA) without your consent unless the law and our rules allow us to.

We are required by law to pass on some of this data to:

- the LA
- the Department for Education (DfE)

If you require more information about how the LA and/or DfE store and use this data please go to the following websites:

- <http://www.schools.norfolk.gov.uk/School-administration/Census/School-workforce-census/index.htm>
- and
- <https://www.gov.uk/data-protection-how-we-collect-and-share-research-data>

If you are unable to access these websites, please contact the LA or DfE as follows:

Information Compliance Manager
County Hall
Room B18
Martineau Lane
Norwich
NR1 2DL
teresa.burdett@norfolk.gov.uk
01603 223839

Public Communications Unit
Department for Education
Sanctuary Buildings
Great Smith Street
London
SW1P 3BT
www.gov.uk/government/organisations/department-for-education
info@education.gsi.gov.uk
0370 000 2288