



# Ark Schools Data Protection Policy

## PURPOSE

This policy clarifies how personal information is dealt with properly and securely and in accordance with the UK General Data Protection Regulation (UK GDPR) and other related legislation. It applies to information regardless of the way it is used, recorded, and stored and whether it is held in paper files or electronically. It applies to all data held by Ark Schools as a multi-academy trust, each individual Ark school, and Ark Schools’ wholly owned subsidiary company Ark Academies Projects Ltd.

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## POSITIONING WITHIN ARK OPERATIONAL MODEL

Component	Element
<input type="checkbox"/> Strategic Leadership & Planning <input checked="" type="checkbox"/> Monitoring, Reporting & Data <input checked="" type="checkbox"/> Governance & Accountabilities <input type="checkbox"/> Teaching & Learning <input type="checkbox"/> Curriculum & Assessment <input type="checkbox"/> Culture, Ethos & Wellbeing <input type="checkbox"/> Pathways & Enrichment <input type="checkbox"/> Parents & Community <input type="checkbox"/> Finance, IT & Estates <input type="checkbox"/> Our People	Data Protection

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## 1. Introduction and Definitions

### 1.1

All academies within the Ark Schools network collect and use certain types of personal information about staff, pupils, parents, and other individuals who come into contact with Ark Schools in order to provide education and associated functions. Ark Schools may be required by law to collect and use certain types of information to comply with statutory obligations related to employment, education and safeguarding, and this policy confirms how that personal information is dealt with properly and securely, and in accordance with the UK GDPR and other legislation.

This Policy sets the Trust's obligations regarding the collection, processing, transfer, storage, and disposal of personal data. The procedures and principles set out within this policy must be followed at all times by the Trust, its employees, agents, contractors, or other parties working on behalf of Ark Schools.

Ark Schools is committed to the law and places high importance on the correct, lawful, and fair handling of all personal data, respecting the rights and privacy of all individuals who we work with and provide services to.

Ark Schools is a registered data controller. The Ark Schools Board is ultimately accountable for ensuring that Ark Schools complies with all relevant legislation including for data protection. Data protection sits under the remit of the Ark Schools Director of Risk and Corporate Governance.

The wider staff body are made aware of this policy and their duties under the UK GDPR as part of their induction to Ark Schools. In addition, regular training opportunities are made available to staff, in particular, those for whom data protection is of particular relevance to their role.

This policy will be updated as necessary to reflect best practice, or amendments made to data protection legislation, and shall be reviewed every three years.

### 1.2

The terms in this document have the meanings as set out in Article 4 of the UK GDPR unless amended by the Act. For clarity, the following have been listed below:

**'personal data'** means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

**'data controller'** means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law.

**'processing'** means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

**'special category personal data'** means personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the

processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation.

Data relating to criminal convictions shall only be held and processed where there is legal authority and basis to do so.

## **2. The Data Protection Principles**

Article 5 (1) and (2) of the UK GDPR sets out key data protection principles which must be followed by any organisation processing personal data. The UK GDPR states data must be:

- processed fairly, lawfully and in a transparent manner, and processing shall not be lawful unless one of the processing conditions can be met.
- collected for specific, explicit, and legitimate purposes, and shall not be further processed in a manner incompatible with those purposes.
- adequate, relevant, and limited to what is necessary for the purpose(s) for which it is being processed.
- accurate and, where necessary, kept up to date.
- Personal data processed for any purpose(s) shall not be kept in a form which permits identification of individuals for longer than is necessary for the original purpose(s).
- processed in such a way that ensures appropriate security of the data, including protection against unauthorised or unlawful processing and against accidental loss, destruction, or damage, using appropriate technical or organisational measures.
- Processed in such a way the demonstrates our accountability and responsibility to the first six principles of Article 5.

In addition to this, Ark Schools is committed to always ensuring that, anyone dealing with personal data shall be mindful of the individual's rights under the law.

Ark Schools is committed to always complying with the above principles. This means that Ark Schools will:

- Inform individuals about how and why we process their personal data through the privacy notices which we issue and available on school and trust websites.
- Be responsible for checking the quality and accuracy of the information.
- Regularly review the records held to ensure that information is not held longer than is necessary, and that it has been held in accordance with our data retention and disposal policy.
- Ensure that when information is authorised for disposal it is done appropriately.
- Ensure appropriate security measures to safeguard personal information, whether held in paper files or electronically, and always follow the relevant security policy requirements.
- Only share personal information with others when it is necessary and legally appropriate to do so.
- Set out clear procedures for responding to requests for access to personal information known as a subject access request (SAR).
- Report any breaches of the GDPR in accordance with the procedure in Section 21 below.

## **3. The Rights of the Data Subject**

The GDPR sets out the following rights applicable to data subjects (please refer to the parts of this policy indicated for further details):

1. The right to be informed (Part 10):
2. The right of access (Part 11):
3. The right to rectification (Part 12):
4. The right to erasure (also known as the ‘right to be forgotten’) (Part 13):
5. The right to restrict processing (Part 14):
6. The right to object (Part 15); and
7. The right to data portability (Part 16):
8. Rights with respect to automated decision-making and profiling (Part 17).

#### **4. Lawful, Fair, and Transparent Data Processing**

The UK GDPR seeks to ensure that personal data is processed lawfully, fairly, and transparently, without adversely affecting the rights of the data subject. The UK GDPR states that processing of personal data shall be lawful if at least one of the following applies:

1. The individual has given consent that is specific to the processing activity, and that consent is informed, unambiguous and freely given.
2. The processing is necessary for the performance of a contract, to which the individual is a party, or is necessary for the purpose of taking steps with regards to entering into a contract with the individual, at their request.
3. The processing is necessary for the performance of a legal obligation to which we are subject.
4. The processing is necessary to protect the vital interests of the individual or another.
5. The processing is necessary for the performance of a task carried out in the public interest, or in the exercise of official authority vested in us.
6. Outside of fulfilling our public task, the processing is necessary for a legitimate interest of Ark Schools or that of a third party, except where this interest is overridden by the fundamental rights and freedoms of the individual which require protection of personal data, in particular where the data subject is a child.

If the personal data being processed is “Special Category Data” (also known as “sensitive personal data”) processing is prohibited, unless one, or more, of the following exemptions applies:

1. The data subject has given their explicit consent to process such data for the specified purposes (unless EU or UK law prohibits them from doing so).
2. The processing is necessary for the purpose of carrying out the controller’s obligations and exercising specific rights of the data controller or of the data subject in the field of employment and social protection law.
3. The processing is necessary to protect the vital interests of the data subject or of another natural person where the data subject is physically or legally incapable of giving consent.
4. The data controller is a charity or other non-profit body with a political, philosophical, religious, or trade union aim, and the processing is carried out in accordance with its legitimate activities, ensuring that the processing relates solely to its members or former members of that body or to persons who have regular contact with the body in relation to its purposes and that the personal data is not disclosed outside the body without the consent of the data subjects.
5. The processing relates to personal data which is made public by the data subject.
6. The processing is necessary for conducting legal claims or whenever courts are acting in their legal capacity.
7. The processing is necessary for substantial public interest, on the basis of domestic law which shall be proportionate to the aim of collection, shall respect the principles of data protection, and provide suitable and specific measures to safeguard the fundamental rights and interests of the data subject.
8. The processing is necessary for preventative or occupational medicine, for the assessment of an employee’s working capacity, for medical diagnosis, for the provision of health or social care or treatment, or the management of health or social care systems or services on the basis of domestic law or pursuant to a contract with a health professional, subject to the conditions and safeguards referred to in Article 9(3) of the GDPR.

9. The processing is necessary for public interest reasons in the area of public health, for example, protecting against serious cross-border threats to health or ensuring high standards of quality and safety of health care and of medicinal products or medical devices, on the basis of domestic law which provides for suitable and specific measures to safeguard the rights and freedoms of the data subject (in particular, professional secrecy); or
10. The processing is necessary for archiving purposes in the public interest, scientific or historical research purposes, or statistical purposes in accordance with Article 89(1) of the GDPR based on domestic law which shall be proportionate to the aim pursued, respect the essence of the right to data protection, and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject.

## **5. Use of Personal Data by Ark Schools**

‘Personal data’ is information that identifies an individual and includes information that would identify an individual to the person it is disclosed to because of any special knowledge that they have or can obtain<sup>1</sup>. A sub-set of personal data is known as ‘special category personal data’ (previously known as sensitive personal data). This special category data is information that reveals:

- Race or ethnic origin.
- Political opinions.
- Religious or philosophical beliefs.
- Trade union membership.
- Physical or mental health.
- An individual’s sex life or sexual orientation.
- Genetic or biometric data for the purpose of uniquely identifying a natural person.

Special Category Data is given special protection, and additional safeguards apply if this information is to be collected and used.

Information relating to criminal convictions shall only be held and processed where we have a legal authority to do so.

Ark Schools does not intend to seek or hold Special Category Data about staff or pupils except where we have been notified of the information, or it comes to the attention of Ark Schools via legitimate means (e.g., a grievance) or needs to be sought and held in compliance with a legal obligation or as a matter of good practice. Staff or pupils are under no obligation to disclose to Ark Schools their race or ethnic origin, political or religious beliefs, whether they are a trade union member or details of their sexual life (save to the extent that details of marital status and/or parenthood are needed for other purposes, e.g., pension entitlements).

Ark Schools process personal data on pupils, staff, and other individuals such as visitors. In each case, the personal data must be processed in accordance with the data protection principles as outlined in Section 2 above.

### *Pupils*

1. The personal data held regarding pupils includes contact details, assessment/examination results, attendance information, characteristics such as ethnic group, special educational needs, any relevant medical information, and photographs.
2. The data is used to support the education of pupils, to monitor and report on their progress, to provide appropriate pastoral care, and to assess how well Ark Schools is doing, together with any other uses normally associated with this provision in a school environment. Personal data may also be used to maintain behaviour or safeguarding records.
3. Ark Schools may make use of limited personal data (such as contact details) relating to pupils, and their parents or guardians for fundraising, marketing or promotional purposes and to maintain relationships with pupils of Ark Schools, but only where

consent has been provided for this.

4. In particular, Ark Schools may:
  - Transfer information to any association society or club set up for the purpose of maintaining contact with pupils or for fundraising, marketing or promotional purposes relating to Ark Schools but only where consent has been obtained first.
  - Make personal data, including sensitive personal data, available to staff for planning curricular or extra-curricular activities.
  - Keep the pupil's previous school informed of their academic progress and achievements e.g., sending a copy of the school reports for the pupil's first year at Ark Schools to their previous school.
  - Use photographs of pupils in accordance with the Using Technology Safely policy and associated photography procedures.
  - Use pupil personal data to ensure necessary access to online resources can be maintained to facilitate both classroom and remote learning.
5. Any wish to limit or object to any use of personal data should be notified to the school Data Protection Lead and Ark School's Data Protection Officer in writing, which will be acknowledged by the relevant school in writing. If, in the view of the school Data Protection Lead and Ark School's Data Protection Officer the objection cannot be maintained, the individual will be given written reasons why Ark Schools cannot comply with their request. This decision can be appealed to the Ark School's Director of Governance or the ICO.

#### *Staff*

6. The personal data held about staff will include contact details, employment history, information relating to career progression, information relating to DBS checks and photographs, as well as information required to administer your terms and conditions of employment including occupational pensions.
7. The data is used to comply with legal obligations placed on Ark Schools in relation to employment, and the education of children in a school environment. Ark Schools may pass information to other regulatory authorities where appropriate and may use names and photographs of staff in publicity and promotional material. Personal data will also be used when giving references.
8. Staff should note that information about disciplinary action may be kept for longer than the duration of the sanction. Although treated as "spent" once the period of the sanction has expired, the details of the incident may need to be kept for a longer period.
9. Any wish to limit or object to the uses of personal data should be notified to the school Data Protection Lead and Ark School's Data Protection Officer who will ensure that this is recorded and adhered to if appropriate. If the school Data Protection Lead and Ark School's Data Protection Officer are of the view that it is not appropriate to limit the use of personal data in the way specified, the individual will be given written reasons why Ark Schools cannot comply with their request. This decision can be appealed to the Ark School's Director of Governance or the ICO.

#### *Information relating to DBS checks*

11. DBS checks are carried out based on Ark School's legal obligations in relation to the safer recruitment of staff as stipulated in the Independent School Standards Regulations and the DBS information (which will include personal data relating to criminal convictions and offences) is further processed in the substantial public interest, with the objective of safeguarding children. Retention of the information is covered by the Data Retention and Disposal policy.

Access to the DBS information is restricted to individuals who have a genuine need to have access to it for their job roles. In addition to the provisions of the UK GDPR and the Data Protection Act 2018, disclosure of this information is restricted by section 124 of the Police Act 1997 and disclosure to third parties will only be made if it is determined to be lawful.

## *Other Individuals*

12. Ark Schools may hold personal information in relation to other individuals who have contact with the school, such as volunteers and visitor. Such information shall be held only in accordance with the data protection principles and shall not be kept longer than necessary.

### **6. Accuracy of data and Keeping data up to date**

Ark Schools will take all reasonable steps to ensure that all personal data collected, processed, and held is kept accurate and up to date.

The accuracy of personal data shall be checked when it is collected and at regular intervals thereafter. If any personal data is found to be inaccurate or out-of-date, all reasonable steps will be taken to amend or erase that data without delay.

### **7. Data Retention**

Ark Schools shall not keep personal data for any longer than is necessary for the purpose(s) for which that personal data was originally collected, held, and processed.

When personal data is no longer required, all reasonable steps will be taken to erase or otherwise securely dispose of that data without delay.

For full details of Ark Schools's approach to data retention, including retention periods for specific personal data types held by the Trust, please refer to our Data Retention and Disposal Policy.

### **8. Accounting and record keeping**

The Data Protection Officer (DPO) with support of school Data Protection Leads, shall be responsible for overseeing the implementation of this Policy and for monitoring compliance with this Policy, the Trust's other data protection-related policies, and with the UK GDPR and other applicable data protection legislation.

Ark Schools shall keep written records of all personal data collections, where this is stored, and details of processing which shall incorporate the following information:

- The name and details of Ark Schools, its DPO and any applicable third-party data processors.
- The purposes for which the Trust collects, holds, and processes personal data.
- Details of the categories of personal data collected, held, and processed by Ark Schools, and the categories of data subject to which that personal data relates.
- Details of any transfers of personal data outside of the UK or European Economic Area (EEA) including details of how this data is shared and any safeguards to protect the data being shared.
- Details of how long personal data will be retained by Ark Schools (please refer to our Data Retention and Disposal policy); and
- Detailed descriptions of all technical and organisational measures taken by Ark Schools to ensure the security of personal data.

### **9. Data Protection Impact Assessments**

Ark Schools will carry out Data Protection Impact Assessments for any and all new projects and/or new uses of personal data which involve the use of new technologies and/ or the processing involved is likely to result in a high risk to the rights and freedoms of data subjects under the UK GDPR.

Data Protection Impact Assessments are overseen by the Data Protection Officer and shall address the following:



1. The trust's objectives for the collection and processing of personal data
2. The type(s) of personal data that will be collected, held, and processed
3. Describe the nature, scope, context and purposes of the processing
4. Access the necessity and proportionality of data processing
5. The parties (internal and/or external) who will be consulted about the processing
6. The Risks posed to data subjects and to Ark Schools
7. The proposed measures to minimise and mitigate the identified risks.

Where Ark Schools or any of its Ventures provide services, Ark Schools shall provide reasonable assistance to individuals, schools or organisations with any Data Protection Impact Assessments or regulatory consultation that the Customer is legally required to make under Data Protection Laws in relation to the processing of that Personal Data for the use of our services, (for example Ark Curriculum + Maths Mastery).

### **10. Keeping Data Subjects Informed**

Where personal data is collected directly from data subjects, those data subjects will be informed of its purpose at the time of collection.

Where personal data is obtained from a third party, the relevant data subjects will be informed:

1. of the purpose of the collection or sharing of personal data:
2. if the personal data is used to communicate with the data subject, when the first communication is made; or
3. if the personal data is to be transferred to another party, before that transfer is made; or
4. as soon as reasonably possible and in any event not more than one month after the personal data is obtained.

The following information shall be provided:

1. Details of the trust including the identity of its Data Protection Officer
2. The purpose(s) for which the personal data is being collected and processed (as detailed in Part 5 of this policy) and the legal basis for the collection and processing of personal data
3. Where applicable, the legitimate interests which the trust are using to justify collection and processing of personal data
4. Where the personal data is not obtained directly from the data subject, the categories of personal data shared and processed
5. Where the personal data is transferred to one or more third parties, details of those parties:
6. Where the personal data is to be transferred to a third party that is located outside of the EEA, details of that transfer, including the appropriate safeguards in place to protect this data (see Section 20 of this policy for further details)
7. How long the data will be processed and retained, including any anonymisation or long-term storage for statistical purposes
8. The data subject's rights under the UK GDPR including the right to withdraw their consent to the processing of their personal data at any time
9. Details of the data subject's right to complain to the Information Commissioner's Office (the "supervisory authority" under the UK GDPR)
10. Where applicable, details of any legal or contractual requirement or obligation necessitating the collection and processing of the personal data and details of any consequences of failing to provide it; and
11. Details of any automated decision-making or profiling that will take place using the personal data, including information on how decisions will be made, the significance of those decisions, and any consequences.

## **11. Data Subject Access Request**

Data subjects may make Subject Access Request (“SARs”) at any time to find out more about the personal data which the Trust holds about them, what it is doing with that personal data, and why. All (including staff, parents, and other stakeholder) are encouraged to make these requests by emailing [dataprotection@arkonline.org](mailto:dataprotection@arkonline.org)

When a request is made, all information relating to the individual, including that held in electronic or manual files should be considered for disclosure, provided that they constitute a “filing system.

Responses to SARs shall normally be made within one calendar month. However, where the retrieval or provision of information is particularly complex or is subject to a valid delay, the period may be extended by two further months where necessary. Extensions are only used in exceptional circumstances with the data subject being kept up to date throughout the process of any delays and the reasons for those delays.

Responses to SARs shall be dependent upon the terms of the UK GDPR, the Data Protection Act (2018) and associated ICO guidance.

Ark Schools does not charge a fee for the handling of normal SARs. We reserve the right to charge reasonable fees for additional copies of information that has already been supplied to a data subject, and for requests that are manifestly unfounded or excessive, particularly where such requests are repetitive.

Ark Schools has a defined process for handling SARs and other data subject requests. This process can be found in Appendices of this policy and all staff should be aware of this.

## **Freedom of Information Requests**

Ark Schools is subject to the Freedom of Information Act 2000 (FOI) as a public authority, and as such, must comply with any requests for information in accordance with the principles laid out in the Act.

This means that Ark Schools must hold and publish a FOI Publication Scheme, to communicate what information Ark Schools makes readily available to the public, and where it can be found. It also means that Ark Schools must have procedures in place to respond to FOI requests.

Ark Schools has a defined process for handling FOIs and this process can be found in Appendices of this policy.

## **12. Rectification of personal data**

An individual has the right to request the rectification of inaccurate data without undue delay. Where any request for rectification is received, it should be sent to the school’s Data Protection Lead or Ark School’s Data Protection Officer, and where adequate proof of inaccuracy is given, the data shall be amended as soon as reasonably practicable, and the individual notified within one month. This period can be extended by up to two months in the case of complex requests. If additional time is required, the data subject will be informed.

In the event that any inaccurate personal data has been disclosed to third parties, those parties shall be informed of any rectification that must be made to that personal data.

An individual also has a right to have incomplete information completed by providing the missing data, and any information submitted in this way shall be updated without undue delay.

### **13. Erasure of personal data**

Individuals have the right to request that Ark Schools permanently erases any personal data held about them in the following circumstances:

1. Where the personal data is no longer necessary for the purpose(s) for which it was collected and processed.
2. Where consent is withdrawn and there is no other legal basis for the processing.
3. Where a data subject objects to the processing of their personal data and there is no overriding legitimate interest to allow the charity to continue doing so.
4. Where personal data is being unlawfully processed.
5. Where there is a legal obligation on the Trust to delete the personal data held or
6. The personal data is being held and processed for the purpose of providing information society services to a child.

Ark School's Data Protection Officer will make the decision regarding any application for erasure of personal data and will balance the request against the exemptions provided by law.

All requests for erasure will be complied with and the individual notified within one month unless Ark Schools has reasonable grounds to refuse the request. This period can be extended by up to two months in the case of complex requests. If additional time is required, the data subject will be informed.

Where a decision is made to erase the data, and this data has been passed to other data controllers, and / or has been made public, reasonable attempts to inform those controllers of the request shall be made.

### **14. Restriction of personal data processing**

Data Subjects can request Ark Schools restrict the processing of the personal data it holds about them. If such a request is made, the trust shall reasonably ensure that the personal data is only stored, and no further processing occurs.

If Ark Schools is required to process the data for statutory purposes or for legal compliance, then the trust shall inform the Data Subject that this processing is expected to take place. This notice will be provided prior to processing.

Where the personal data has been disclosed to third parties, those parties will be informed of the applicable restrictions on processing that shared data (unless it is impossible or would require disproportionate effort to do so).

In the following circumstances, processing of an individual's personal data may be restricted:

- Where the accuracy of data has been contested, during the period when Ark Schools is attempting to verify the accuracy of the data.
- Where processing has been found to be unlawful, and the individual has asked that there be a restriction on processing rather than erasure.
- Where data would normally be deleted, but the individual has requested that their information be kept for the purpose of the establishment, exercise, or defence of a legal claim.
- Where there has been an objection made under Section 15 below, pending the outcome of any decision.

### **15. Objections to personal data processing**

An individual has the right to object to the processing of their personal data where such processing is for the purpose of a public interest or for Ark School's legitimate interest.

Where such an objection is made it will be treated as a request for the restriction of processing of personal data. All requests must be sent to Ark School's Data Protection Officer who will assess whether there are compelling legitimate grounds to continue processing which override the interests, rights, and freedoms of the individuals, or whether the information is required for the establishment, exercise or defence of legal proceedings.

Where a data subject objects to Ark Schools processing their personal data for direct marketing purposes, the trust shall cease such processing immediately.

Where a data subject objects to Ark Schools processing their personal data for scientific and/or historical research and statistical purposes, the data subject may only object to his or her own personal data being processed. Ark Schools is not required to comply if the research is necessary for the performance of a task carried out for reasons of public interest.

Ark School's Data Protection Officer shall be responsible for notifying the individual of the outcome of their assessment within twenty working days of receipt of the objection.

## **16. Other rights of individuals**

### ***Right to portability***

If an individual wants to send their personal data to another organisation, they have a right to request that Ark Schools provides their information in a structured, commonly used, and machine-readable format, which will be sent to the individual requesting their personal data.

As this right is limited to situations where Ark Schools is processing the information based on consent or performance of a contract, the situations in which this right can be exercised will be limited. If a request for this is made, it should be forwarded to Ark School's Data Protection Officer who will review and revert as necessary.

## **17. Profiling and automated decision making**

Data subjects have the right to not be subject to a decision based solely on automated processing, including profiling, of their personal data, which could significantly personally or legally affect them.

Automated processing can only be used if:

1. It is necessary for entering into or for the performance of a contract between the data subject and data controller
2. It is authorised by law
3. It is based on the individual's explicit consent

Where such decisions have a significant or legal effect on data subjects, those data subjects have the right to challenge to such decisions under the GDPR.

The Trust uses personal data for profiling purposes. These purposes relate to helping students maximise achievement and attendance.

When personal data is used for profiling purposes, the following shall apply:

1. Clear information explaining the profiling shall be provided to data subjects, including the significance and likely consequences of the profiling;
2. Appropriate mathematical or statistical procedures shall be used;
3. Technical and organisational measures shall be implemented to minimise the risk of errors. If errors occur, such measures must enable them to be easily corrected; and
4. All personal data processed for profiling purposes shall be secured in order to prevent discriminatory effects arising out of profiling (see Section 18 of this policy for more details on data security).

## **18. Security of personal data**

Ark Schools will take reasonable steps to ensure that employees will only have access to personal data where it is necessary for them to carry out their duties. Ark Schools will take all reasonable steps to ensure that all personal information is held securely and is not accessible to unauthorised persons.

### **Transferring Personal Data and Communications**

Personal data may be transmitted over secure networks only; transmission over unsecured networks is not permitted in any circumstances.

Ark Schools will ensure that where special category personal data or other sensitive information is sent in the post, that it shall be able to demonstrate that it was delivered, for example, by using a recorded or tracked delivery service.

Where personal data is to be sent by facsimile the recipient should be informed in advance of the transmission and should be waiting by the fax machine to receive the data.

Where special category personal data or other sensitive information is to be sent by e-mail the email will either be sent using a suitable encryption method or the data will be sent in an attached, encrypted document and not in the body of the e-mail.

Where personal data is to be transferred in removable storage devices, these devices shall be encrypted. The use of unencrypted removable storage devices is prohibited by Ark Schools.

The following list includes the most usual reasons that the trust will authorise disclosure of personal data to a third party:

1. To give a confidential reference relating to a current or former employee, volunteer or beneficiary.
2. For the prevention or detection of crime.
3. For the assessment of any tax or duty.
4. Where it is necessary to exercise a right or obligation conferred or imposed by law upon the charity (other than an obligation imposed by contract).
5. For the purpose of, or in connection with, legal proceedings (including prospective legal proceedings).
6. For the purpose of obtaining legal advice.
7. For research, historical and statistical purposes (so long as this neither supports decisions in relation to individuals, nor causes substantial damage or distress).
8. should concerns be raised by a beneficiary that must be disclosed for safeguarding reasons.

Ark Schools may receive requests from third parties (i.e., those other than the data subject, Ark Schools, and employees of Ark Schools) to disclose personal data it holds about beneficiaries, staff, clients or other individuals. This information will not generally be disclosed unless one of the specific exemptions under data protection legislation which allow disclosure applies; or where necessary for the legitimate interests of the individual concerned or Ark Schools.

All requests for the disclosure of personal data must be sent to Ark School's Data Protection Officer, who will review and decide whether to make the disclosure, ensuring that reasonable steps are taken to verify the identity of that third party before making any disclosure.

### **Storage**

Ark Schools shall ensure that the following measures are taken with respect to the storage of personal data:

1. All electronic copies of personal data will be stored securely using passwords, user access rights and where appropriate data encryption:

2. All hardcopies of personal data, along with any electronic copies stored on removable storage devices will be stored securely in a locked box, drawer, cabinet, or similar:
3. All personal data relating to Ark Schools's operations, stored electronically, will be backed up on a regular basis.

Where any employee stores personal data on a mobile device (computer, tablet, phone, or any other device) that employee must abide by the ICT Acceptable Use policy. The employee shall also ensure that they can provide a secure environment for that device to be used to minimise any risk to the confidentiality, security, or integrity of the information.

### **Disposal**

When any personal data is to be erased or otherwise disposed of for any reason (including where copies have been made and are no longer needed), it should be securely deleted and disposed of. For further information on the deletion and disposal of personal data, please refer to Ark School's Data Retention and Disposal policy.

### **Use of Personal Data**

Ark Schools shall ensure that the following measures are taken with respect to the use of personal data:

No personal data may be transferred to any employee, agent, contractor, or other party, whether such parties are working on behalf of the charity or not, without the initial authorisation of the Data Protection Officer.

Personal data must not be shared informally. If an employee, agent, sub-contractor, or other party working on behalf of the charity requires access to any personal data that they do not already have access to, such access should be formally requested from the Data Protection Officer.

Personal data must always be handled with care and should not be left unattended or available to view by unauthorised employees, agents, sub-contractors, or other parties at any time.

If personal data is being viewed on a computer screen and the computer in question is to be left unattended for any period of time, the user must lock the computer and screen before leaving it.

Where the personal data held is used for marketing purposes, it shall be the responsibility of Data Protection Officer and relevant team sending marketing materials to ensure that the appropriate consent is obtained, and that no data subjects have opted out.

### **IT Security**

For further details regarding the security of IT systems, please refer to our ICT Acceptable Use Agreement. Ark School's Incident Response Strategy outlines how data kept on our servers / cloud-based storage will be kept secure, and then recovered, in the event of a major incident.

Ark Schools shall ensure that the following measures are taken with respect to IT and information security:

Ark Schools requires that any passwords used to access personal data shall have a minimum of 8 characters, composed of a mixture of upper- and lower-case characters, numbers and symbols.

Passwords are not expected to be changed on a regular basis, but users will be expected to change their password if instructed by Ark Schools.

Under no circumstances should any passwords be written down or shared between any employees, agents, contractors, or other parties working on the trust's behalf, irrespective of seniority or department. If a password is forgotten, it must be reset using the applicable method. IT staff do not have access to passwords.

All software (including, but not limited to, applications and operating systems) shall be kept up to date. Our IT staff shall be responsible for installing any and all security-related updates as soon as reasonably and practically possible, unless there are valid technical reasons not to do so.

No software may be installed on any Ark owned computer or device without the prior approval of our IT and Systems team.

Where employees or others use online applications that require the use of personal data, the use of that application must be signed off by the Data Protection Officer.

### **19. Organisational measures**

Ark Schools will ensure that the following measures are taken with respect to the collection, holding, and processing of personal data:

All employees, agents, contractors, or other parties working on Ark School's behalf shall be made fully aware of their individual responsibilities and the trust's responsibilities under the UK GDPR and those detailed within policy and shall have free access to a copy of this policy.

Only employees, agents, sub-contractors, or other parties working on Ark School's behalf that need access to, and use of personal data in order to carry out their duties correctly shall have access to personal data held by the charity.

All employees, agents, contractors, or other parties working on Ark School's behalf handling personal data shall be required and encouraged to exercise care, caution, and discretion when discussing work-related matters that relate to personal data, whether in the workplace or elsewhere.

Methods of collecting, holding, and processing personal data shall be reviewed regularly and evaluated to ensure that information is not held longer than is necessary, and that it has been held in accordance with the data retention schedule.

All personal data held by Ark Schools shall be reviewed periodically, as set out in our Data Retention and Disposal policy.

Ark Schools shall ensure the effective training and understanding of the importance of compliance with Data Protection Laws for all its employees. Ark Schools shall further ensure refresher training is provided to all employees as necessary and, in any event, no less than once per year. All agents, contractors, or other parties working on behalf of the trust shall ensure that all personnel handling personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality and have undergone training in the law of data protection.

The contravention of these rules will be treated as a disciplinary matter.

All employees, agents, contractors, or other parties working on Ark School's behalf who handle personal data will be contractually bound to do so in accordance with the principles of the UK GDPR and this policy.

All agents, contractors, or other parties working on behalf of the trust handling personal data must ensure that any and all of their employees who are involved in the processing of personal data are held to the conditions of this policy and the UK GDPR regulations.

Where any agent, contractor or other party working on behalf of Ark Schools handles personal data and fails in their obligations under this policy, that party shall indemnify and will not hold Ark Schools legally responsible against any costs, liability, damages, loss, claims or proceedings which may arise out of that failure.

### **20. Disclosure of personal data to third parties**

The following list includes the most common reasons that Ark Schools will authorise disclosure of personal data to a third party:

- To give a confidential reference relating to a current or former employee, volunteer or pupil.
- For the prevention or detection of crime.

- For the assessment of any tax or duty.
- For administration of pensions and employee benefits.
- Where it is necessary to exercise a right or obligation conferred or imposed by law upon Ark Schools (other than an obligation imposed by contract).
- For the purpose of, or in connection with, legal proceedings (including prospective legal proceedings).
- For the purpose of obtaining legal advice.
- For research, historical and statistical purposes (so long as this neither supports decisions in relation to individuals, nor causes substantial damage or distress).
- To publish the results of public examinations or other achievements of pupils of Ark Schools.
- To disclose details of a pupil's medical condition where it is in the pupil's interests to do so and there is a legal basis for doing so, for example for medical advice, insurance purposes or to organisers of school trips. The legal basis will vary in each case but will usually be based on explicit consent, the vital interests of the child or reasons of substantial public interest (usually safeguarding the child or other individuals).
- To provide information to another educational establishment to which a pupil is transferring.
- To provide information to the Examination Authority as part of the examination process.
- To provide information to the relevant Government Department concerned with national education. At the time of the writing of this Policy, the Government Department concerned with national education is the Department for Education (DfE). The Examination Authority may also pass information to the DfE.

The DfE uses information about pupils for statistical purposes, to evaluate and develop education policy and to monitor the performance of the nation's education service as a whole. The statistics are used in such a way that individual pupils cannot be identified from them. On occasion the DfE may share the personal data with other Government Departments or agencies strictly for statistical or research purposes.

Ark Schools may receive requests from third parties (i.e., those other than the data subject, Ark Schools, and employees of Ark Schools) to disclose personal data it holds about pupils, their parents or guardians, staff or other individuals. This information will generally be disclosed, including where the information is necessary for the legitimate interests of the individual concerned or Ark Schools, unless one of the specific exemptions under data protection legislation applies.

All requests for the disclosure of personal data must be sent to the Ark School's Data Protection Officer, who will review and decide whether to make the disclosure, ensuring that reasonable steps are taken to verify the identity of that third party before making any disclosure.

### **Confidentiality of pupil concerns,**

Where a pupil seeks to raise concerns confidentially with a member of staff and expressly withholds their agreement to their personal data being disclosed to their parents or guardian, Ark Schools will maintain confidentiality unless it has reasonable grounds to believe that the pupil does not fully understand the consequences of withholding their consent, or where Ark Schools believes disclosure will be in the best interests of the pupil or other pupils. Disclosure for a safeguarding purpose will be lawful because it will be in the substantial public interest.

## **21. Transferring personal data to a country outside of the EEA**

Ark Schools may from time-to-time transfer personal data to countries outside of the European



Economic Area (EEA). The transfer of personal data to a country outside of the EEA shall only take place if one or more of the following applies:

1. The transfer is to a country, territory, or one or more specific sectors or international organisation, that the European Commission has deemed provides an adequate level of protection for personal data.
2. The transfer is to a country or international organisation which provides appropriate safeguards in the form of a legally binding agreement; binding corporate rules; standard data protection clauses adopted by the European Commission; compliance with an approved code of conduct approved by a supervisory authority (e.g. the Information Commissioner's Office); certification under an approved certification mechanism (as provided for in the UK GDPR); contractual clauses agreed and authorised by the competent supervisory authority; or provisions inserted into administrative arrangements between public authorities or bodies authorised by the competent supervisory authority.
3. The transfer is made with the informed and explicit consent of the relevant data subject(s)
4. The transfer is necessary for the performance of a contract between the data subject and Ark Schools (or for pre-contractual steps taken at the request of the data subject).
5. The transfer is necessary for important public interest reasons.
6. The transfer is necessary for the conduct of legal claims.
7. The transfer is necessary to protect the vital interests of the data subject or other individuals where the data subject is physically or legally unable to give their consent.

## **22. Personal Data Breaches**

All personal data breaches must be reported immediately to The Academy Trust's Data Protection Officer.

If a personal data breach occurs and that breach is likely to result in a risk to the rights and freedoms of data subjects (e.g. financial loss, breach of confidentiality, discrimination, reputational damage, or other significant social or economic damage), the Data Protection Officer must ensure that the Information Commissioner's Office (ICO) is informed of the breach without delay, and in any event, within 72 hours after having become aware of it.

In the event that a personal data breach is likely to result in a high risk to the rights and freedoms of data subjects, the Data Protection Officer must ensure that all affected data subjects are informed of the breach directly and without undue delay.

Data breach notifications shall include, a minimum, the following information:

- The categories and approximate number of data subjects concerned
- The categories and approximate number of personal data records concerned
- The name and contact details of the Trust's data protection officer (or other contact point where more information can be obtained);
- The likely consequences of the breach
- Details of the measures taken, or proposed to be taken, by the Trust to address the breach including, where appropriate, measures to mitigate its possible adverse effects.

The Trust has a detailed policy for managing personal data breaches which can be found in Appendices of this document.

## **23. Implementation of policy**

This Policy shall be deemed effective on **[DATE]**. No part of this Policy shall have retroactive effect and shall thus apply only to matters occurring on or after this date.

## **24. Contact and complaints**

Ark Schools aims to comply fully with its obligations under the GDPR. If you have any questions or concerns regarding Ark Schools' management of personal data including your subject rights, please contact our Data Protection Officer ([dataprotection@arkonline.org](mailto:dataprotection@arkonline.org)) who is responsible for ensuring Ark Schools is compliant with the UK GDPR and other relevant legislation.

Ark Schools is a registered data controller with the ICO and the Ark Schools Board is ultimately accountable for ensuring that Ark Schools complies with all relevant legislation including for data protection. Data protection sits under the remit of the Ark Schools Director of Risk and Corporate Governance.

A Subject Access Requests can be submitted to [dataprotection@arkonline.org](mailto:dataprotection@arkonline.org), and Freedom of Information Request to [foi@arkonline.org](mailto:foi@arkonline.org).

Concerns, questions, or complaints in relation to this policy or any other data protection policy linked within should be sent to the Ark School's Data Protection Officer using [dataprotection@arkonline.org](mailto:dataprotection@arkonline.org).

If Ark Schools holds inaccurate information about you, please contact Ark School's Data Protection Officer ([dataprotection@arkonline.org](mailto:dataprotection@arkonline.org)) explaining what the problem is and where appropriate provide any evidence to show what the information should say.

If you feel that your questions/concerns have not been dealt with adequately on any data protection matter please get in touch with Ark School's Data Protection Officer and the matter will be escalated to Ark Schools Director of Risk and Corporate Governance.

If you remain unhappy with our response or if you need any advice, you can contact the ICO. Please visit their [website](#) for information on how to make a data protection complaint.

Post addressed to: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5A,

Telephone: 0303 123 1113

## **Appendices**

- Ark Data Protection Subject Access Request policy
- Ark Data Protection Freedom of Information policy
- Guide on Freedom of Information Publication Scheme
- Ark Data Protection Breach policy
- Ark Data Retention and Disposal policy