



Equality and Diversity UK

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# Data Protection Policy

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# Document information and revision history

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1.0	March 2018	EDUK Data Protection Officer	Further revisions will be required following the implementation of GDPR Regulations 2018

# Part 1: Introduction

## Introduction

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The Data Protection Act (the “Act”) regulates the processing of information relating to individuals. During the course of its activities Equality and Diversity UK (“EDUK”) will obtain, hold, use and disclose personal data about its stakeholders, clients, suppliers, staff and other third parties. EDUK recognises that the correct and lawful treatment of this data is important.

The types of personal data that EDUK may be required to handle include information about staff (past and present which includes employees, agency staff and consultants), stakeholders, suppliers, and others that it works with, advises or supports. The personal data, which may be held as computerised records as well as manual filing systems, card indexes or other media, is subject to certain legal safeguards specified in the Act and other regulations. This policy sets out how EDUK will process that personal information to enable us to perform its functions in accordance with the Act.

## Responsibilities

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The Data Protection Officer (DPO) has overall responsibility for the Data Protection Policy. The DPO is responsible for making sure the policy and procedures for handling requests and complaints are followed. It is the responsibility of the DPO that all computer and manual systems within their respective service areas that contain personal data must be identified and the Managing Director is informed for notification purposes. The DPO is responsible for developing and enforcing information and records management practices.

All EDUK staff are responsible for ensuring:

- They comply with this policy, the Security Policies and internal procedures for handling access requests.
- Any personal data held in either electronic or paper format, is kept securely and in line with the procedures in the Security Policies.
- Personal information is not disclosed deliberately or accidentally either orally or in writing to any unauthorised third party.
- They promptly forward all initial requests for personal data (known as subject access requests) to the Data Protection Department and when asked to do so, they provide responses promptly to requests and reviews.
- Retention in line with corporate records retention policy.
- Processing in line with intended purposes.
- That the information provided to EDUK in connection with their employment is accurate and as up to date as possible.
- Details of people they deal with are as up to date as possible.

It is the responsibility of the individual collectors, keepers and users of personal data to apply the provisions of the Act, such as keeping records up to date and accurate.

The DPO is the senior manager accountable to EDUK for security arrangements.

The Data Protection Department deals with requests under the Data Protection Act (DPA) for personal data held by EDUK (subject access requests or section 10 requests).

The DPO provides advice and guidance, supports risk assessments and is the primary contact for all security incidents.

# Part 2: Summary of data protection principles and processing

## Summary of data protection principles

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The Data Protection Act 1998 (the Act) covers both computerised and manual records which contain personal data, and sets out a number of rights and principles which those who use personal information, such as EDUK, must follow. Data users must comply with the data protection principles of good practice which underpin the Act. These state that personal data shall:

1. Be obtained and processed fairly and lawfully (that the subject of the data has consented to its collection and use).
2. Be held only for specified purposes.
3. Be adequate, relevant but not excessive.
4. Be accurate and kept up to date.
5. Be held for no longer than necessary.
6. Be processed in line with data subjects' rights (including being accessible to data subjects).
7. Be subject to the appropriate security measures.
8. Not be transferred to people or organisations situated in countries without adequate protection (for example, outside of the EEA).

## Fair and lawful processing

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The Act is not intended to prevent the processing of personal data, but to ensure that it is done fairly and without adversely affecting the rights of the data subject.

For personal data to be processed lawfully, they must be processed on the basis of one of the legal grounds set out in the Act. These include, among other things, the data subject's consent to the processing, or that the processing is necessary for the performance of a contract with the data subject, for the compliance with a legal obligation to which the data controller is subject, or for the legitimate interest of the data controller or the party to whom the data is disclosed. When sensitive personal data is being processed, additional conditions must be met. When processing personal data as data controllers in the course of its business, EDUK will ensure that those requirements are met.

In the course of EDUK's work, it may collect and process personal data to enable it to:

- carry out its regulatory duties including but not limited to the consideration and investigation of complaints and policy issues, formal enforcement actions, providing advice and information
- maintain accounts and records
- support and manage staff
- send promotional communications about the services provided
- undertake research
- administration of licenses
- internal and external support functions
- corporate administration
- the use of CCTV systems for crime prevention.

EDUK may process data received directly from a data subject (for example, by completing forms or by corresponding with us by mail, phone, email or otherwise) and data received from other sources (including, for example, in Court proceedings, business partners, sub-contractors and others).

EDUK will only process personal data for the specific purposes collected or for any other purposes specifically permitted by the Act. EDUK will notify those purposes to the data subject when it first collects the data or as soon as possible thereafter.

EDUK may also from time to time process sensitive personal data regarding staff or other individuals that it deals with, including:

- physical or mental health details
- racial or ethnic origin
- religious or other beliefs
- political opinions, sexual life
- trade union membership
- offences (including alleged offences)
- criminal and legal proceedings, outcomes and sentences.

This information may be processed for a number of reasons, including but not limited to:

- equal opportunity monitoring
- to meet the needs of individuals with disabilities
- for disciplinary or grievance proceedings
- to fulfil a legal obligation
- and/or to fulfil EDUK's role and function including for purposes of litigation.

Any personal or sensitive data that EDUK holds will only be held for the purposes for which it was gathered. In other circumstances where sensitive personal data is being processed or held, EDUK will seek the explicit consent of the individual involved unless one of the limited exemptions applies. All EDUK staff must be aware and respect their obligations in relation to the confidentiality of sensitive personal data.

## **Notifying data subjects**

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If EDUK collects personal data directly from data subjects, it will inform them about:

- the purpose or purposes for which it intends to process that personal data
- the types of third parties, if any, with which it will share or to which it will disclose that personal data
- the means, if any, with which data subjects can limit use and disclosure of their personal data.

EDUK will also inform data subjects whose personal data is processed where EDUK is the data controller with regard to that data (unless this falls within the remit of certain data that can be processed for particular purposes without the consent of the individual data subject).

The Act also allows for certain third parties to have access to personal data without the consent of the individual concerned. However, it is EDUK's policy to seek consent wherever practicable of the individual data subject where EDUK may hold or process data relating to them. This allows individuals an opportunity to raise any concerns or objections. EDUK will consider any such objections but reserves the right to process personal data in order to carry out its functions as permitted by law.

## **Adequate, relevant and non-excessive processing**

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EDUK will only collect personal data to the extent that it is required for the specific purpose notified to the data subject.

## **Accurate data**

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EDUK will ensure that personal data it holds is accurate and kept up to date. EDUK will check the accuracy of any personal data at the point of collection and at regular intervals afterwards. EDUK will take all reasonable steps to destroy or amend inaccurate or out-of-date data.



## Timely Processing

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EDUK will not keep personal data longer than is necessary for the purpose or purposes for which they were collected. EDUK will take all reasonable steps to destroy, or erase from systems, all data which is no longer required.

## Processing in line with data subject's rights

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EDUK will process all personal data in line with data subjects' rights. All data subjects (including Directors, staff (past and present), members of the public and individuals) who have dealings with EDUK have a right to access personal data that is being held about them in so far as it falls within the scope of the Act and to request the correction of such data where it is incorrect.

The Act gives rights to individuals in respect of personal data held about them by others. The rights are:

- a) Right to subject access
- b) Right to prevent processing likely to cause damage or distress
- c) Right to prevent processing for the purpose of direct marketing
- d) Right in relation to automated decision making
- e) Right to take action for compensation if the individual suffers damage or distress in contravention of the Act by the data controller
- f) Right to take action to rectify, block, erase or destroy inaccurate data
- g) Right to make a request to the Information Commissioner's Office for an assessment to be made as to whether the provisions of the Act have been contravened
- h) Right to compensation- compensation can be claimed by the data subject from a data controller for damage or damage and distress caused by any breach of the Act. Compensation for distress alone can only be claimed in limited circumstances.

## How to make a data access request

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All requests for access to data held by EDUK must be formally requested in writing (email or letter) to:

Postal address:

Data Protection Department  
Equality and Diversity UK  
Warwick House  
14 Lowes Road  
Bury  
BL9 6PJ

Email: [dp@equalityanddiversity.co.uk](mailto:dp@equalityanddiversity.co.uk)

EDUK has created a form which may make it easier for EDUK to locate information and prevent the requester receiving large amounts of information they do not want or expect. The form should ideally be completed and can be found at <https://www.equalityanddiversity.co.uk/docs/subject-data-request-form.docx>

This form should be completed and then sent to the above.

If someone is unable to contact EDUK in writing and requires a reasonable adjustment because they are a disabled person, they may contact EDUK on 0161 763 4783

## Fee

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EDUK's policy is to charge a fee of £10, as permitted under the Act, on each occasion that access is requested. Payment can be made by cheque made payable to 'Equality and Diversity UK' or postal order for the sum of £10 sent to:

Data Protection Department  
Equality and Diversity UK  
Warwick House  
14 Lowes Road  
Bury  
BL9 6PJ

Alternatively, if you would like to pay by BACS, please contact us for bank details.

## Identity

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The data subject should supply evidence of their identity. This should comprise two forms of identification, for example, a copy of driving license, birth certificate, passport (copy of the page giving personal details), national insurance card, national identity card and/or recent utilities bill (within the last 3 months) as evidence of address. If sending original documents, EDUK will aim to return them by special delivery within 5 working days.

Once EDUK receives a request, it will write an acknowledgement letter. Once full details of a request has been received with the relevant fee and identity has been confirmed, EDUK will provide a full response within 40 calendar days. EDUK does not need to comply with a request where it has received an identical or similar request from the same individual unless a reasonable interval has elapsed between compliance with the original request and the current request.

### **How to make a request for EDUK to delete or to stop processing personal data**

All requests for EDUK to delete inaccurate data or stop processing the requester's personal data because it is causing unwarranted and substantial damage or distress should be put in writing and include details of what EDUK should do to avoid causing damage or distress. Individuals should send these in hard copy or electronically to the Data Protection Department at:

Postal address:

Data Protection Department  
Equality and Diversity UK  
Warwick House  
14 Lowes Road  
Bury  
BL9 6PJ

Email: [dp@equalityanddiversity.co.uk](mailto:dp@equalityanddiversity.co.uk)

If someone is unable to contact EDUK in writing and requires a reasonable adjustment because they are a disabled person, they may contact EDUK on 0161 763 4783

An individual has no right to object to processing if:

- they have consented to the processing
- the processing is necessary in relation to a contract that the individual has entered into or because the individual has asked for something to be done so they can enter into a contract
- the processing is necessary because of a legal obligation that applies to EDUK (other than a contractual obligation)
- the processing is necessary to protect the individual's 'vital interests'.

Once full details of an objection have been received, EDUK will provide a response within 21 calendar days after the date of receipt. The response will state what EDUK intends to do and, if it does not intend to comply with the objection, give reasons for the decision.

## **Complaints**

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If the requester is not happy with the response that they receive following either of the above, they should first complain to EDUK in writing (appropriate assistance will be provided to requesters with access requirements which may include non-disability related needs) to the Data Protection Department at the above postal address.

If someone is unable to contact EDUK in writing and requires a reasonable adjustment because they are a disabled person, they may contact EDUK on 0161 763 4783

Complaints will be acknowledged within 5 working days of receipt and a response will be provided within 20 working days of receipt. Requesters who remain dissatisfied may complain to the Information Commissioner at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF.

The Information Commissioner will not normally deal with a complaint unless EDUK's internal complaints process has been exhausted.

## Part 3: Data security

EDUK will process all personal data it holds in accordance with its Security Policies. EDUK will put in place procedures and technologies to maintain the security of all personal data from the point of collection to the point of destruction. Personal data will only be transferred to a data processor if they agree to comply with those procedures and policies, or if they put in place adequate measures themselves.

EDUK will maintain data security by protecting the confidentiality, integrity and availability of the personal data, defined as follows:

- **Confidentiality:** that only people who are authorised to use the data can access it.
- **Integrity:** personal data should be accurate and suitable for the purpose for which it is processed.
- **Availability:** authorised users should be able to access the data if they need it for authorised purposes. Personal data should therefore be stored on EDUK's central computer system instead of individual PCs.
- **Safety:** by protecting people and premises.

# Part 4: Transferring personal data to a country outside of the EEA

EDUK may transfer any personal data it holds to a country outside the European Economic Area (EEA), provided that one of the following conditions applies:

- The country to which the personal data is transferred ensures an adequate level of protection for the data subjects' rights and freedoms
- The data subject has given his consent
- The transfer is necessary for one of the reasons set out in the Act, including the performance of a contract between EDUK and the data subject, or to protect the vital interests of the data subject
- The transfer is legally required on important public interest grounds or for the establishment, exercise or defence of legal claims
- The transfer is authorised by the relevant data protection authority where EDUK have adduced adequate safeguards with respect to the protection of the data subjects' privacy, their fundamental rights and freedoms, and the exercise of their rights.

Subject to the requirements outlined above, personal data held may also be processed by staff operating outside the EEA who work for EDUK or for one of its suppliers. Those staff may be engaged in, among other things, the fulfilment of contracts with the data subject, the processing of payment details or the provision of support services.

# Part 5: Disclosure and sharing of personal information

EDUK sometimes needs to share information with other organisations, for example, if:

- it is under a duty to disclose or share a data subject's personal data in order to comply with any legal or regulatory requirements
- to enforce or apply any contract with the data subject or other agreements
- to protect rights, property, or safety of staff, Directors, stakeholders, suppliers or others (including those that it works with, advises or supports).

Where necessary or required EDUK may also share information with:

- data subjects
- family, associates and representatives of the person whose personal data it is processing
- professional advisers and consultants
- services providers/suppliers
- police forces
- examining bodies
- central government
- financial organisations
- persons making an enquiry or complaint
- organisation subject to a complaint or assessment
- prosecuting authorities
- courts
- ombudsman or regulatory authorities

## **Restrictions on disclosing certain information**

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Some legislation restricts disclosure of information, for example, the Gender Recognition Act 2004 and the Equality Act 2010:

### **Gender Recognition Act 2004**

The Gender Recognition Act makes it an offence for a person who has acquired protected information in an official capacity to disclose that information to any other person. The legislation does permit disclosure in certain circumstances.

### **The Equality Act 2010**

The Equality Act limits information that can be shared externally where EDUK has obtained it by undertaking its functions, in particular where information has been gathered in the course of an inquiry under section 16, an investigation under section 20, an assessment under section 31, an agreement under section 23 or a notice under section 32. The legislation does permit disclosure in certain circumstances.



## Part 6: Retention of data

EDUK holds different types of information for different lengths of time, depending on the legal and operational requirements. EDUK will keep some forms of information longer than others in line with financial, legal or archival requirements.

A retention and disposal policy will be prepared and maintained which will require a list of retention periods, for which different types of personal data records can be held for.

# Glossary of terms

## Definitions

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The following definitions are used in this policy and shall mean the following:

**Data** is information which is stored electronically, on a computer, or in certain paper-based filing systems.

**Data subjects** for the purpose of this policy include all living individuals about whom it holds personal data. A data subject need not be a UK national or resident. All data subjects have legal rights in relation to their personal information.

**Data controllers** are the people who or organisations which determine the purposes for which, and the manner in which, any personal data is processed. They are responsible for establishing practices and policies in line with the Act. EDUK is the data controller of most of the personal data used by EDUK.

**Data users** are those staff whose work involves processing personal data. Data users must protect the data they handle in accordance with this data protection policy and the Security Policies.

**Data processors** include any person or organisation that is not a data user that processes personal data on EDUK's behalf and on its instructions. Staff of data controllers are excluded from this definition but it could include suppliers which handle personal data on EDUK's behalf.

**Security policies** include: Information and IT Security Policy.

**Personal data** means data relating to a living individual who can be identified from that data (or from that data and other information in its possession). Personal data can be factual (for example, a name, address or date of birth) or it can be an opinion about that person, their actions and behaviour.

**Processing** is any activity that involves use of the data. It includes obtaining, recording or holding the data, or carrying out any operation or set of operations on the data including organising, amending, retrieving, using, disclosing, erasing or destroying it. Processing also includes transferring personal data to third parties.

**Sensitive personal data** includes information about a person's racial or ethnic origin, political opinions, religious or similar beliefs, trade union membership, physical or mental health or condition or sexual life, or about EDUK of, or proceedings for, any offence committed or alleged to have been committed by that person, the disposal of such proceedings or the sentence of any court in such proceedings. Sensitive personal data can only be processed under strict conditions, including a condition requiring the express permission of the person concerned.

# Format

For a copy in another format (such as Braille, audio CD, large print or Easy Read) please contact the Data Protection Department using the contact details above. EDUK will take reasonable steps to accommodate the access requirements brought to its attention.

# Changes to the Policy

EDUK reserves the right to change this policy at any time. Where appropriate, it will notify the data subject.