

# SWINDON COLLEGE

## Institutional Policies, Procedures, Practices

**Title:** DATA PROTECTION POLICY

**Document Ref:** PP05

**Issue Version:** 1

**Review Date:** July 2013

**Approval Reference:** RR

**Date:** 26<sup>th</sup> October 2010

### 1. Introduction

The 1998 Data Protection Act regulates how organisations may use personal data and protects the rights of individuals with regard to the use of their personal data. The Act establishes 8 principles that apply to their use. These require that personal data shall be

- Processed fairly and lawfully and shall not be processed unless certain conditions are met
- Processed for specified and lawful purposes and not further processed in a manner that is incompatible with that purpose
- Adequate, relevant and not excessive
- Accurate and where necessary kept up to date
- Kept for no longer than necessary
- Processed in accordance with data subjects' rights
- Kept secure, with adequate security precautions in place to prevent the loss, destruction or unauthorised disclosure of the information;
- Not transferred to countries outside the European Economic Area without adequate protection in place.

The use of personal data is also governed by other statutory and common law requirements, including the laws of confidence and defamation. Swindon College is committed to ensuring that its use of personal data is fully compliant with the law and best practice and to this end has approved this Data Protection Policy.

### 2. Policy Statement

We will make every effort to ensure personal data are well-managed, and that the rights of individuals are respected. We are committed to maintaining the best possible security and integrity of personal data held on our computers and manual information systems.

### 3. Data Protection Policy

The College recognises that good practice in handling personal data will not be achieved simply by agreeing a policy and allocating responsibilities. This policy is supported by a commitment to ensure that those who are given responsibilities under the Policy are provided with the resources, training and guidance that they need to fulfil those responsibilities. The College recognises that this will take time.

Data Protection has implications both for those who provide personal data to the College (staff, students and others) and those who may use it in the course of their duties to enable the College to carry out its functions. Some of the requirements are complex and detailed, particularly for those members of staff who are responsible for deciding what personal data are kept and how it is used. For this reason the Policy does not attempt to give detailed guidance. Instead its purpose is to identify how Data Protection issues will be managed. It does this by describing responsibilities of College employees and students and explaining how to make a data protection access request as shown at appendix 1.

## **4. Misuse of Data**

Disciplinary action, including dismissal, may be taken against any employee who contravenes any instruction contained in, or following from, this Data Protection Policy and Guidelines issued by Swindon College. Upon discovering that this Policy is not being complied with or if an intentional breach of the Data Protection Principles has taken place, the Data Protection Manager, in consultation the Senior Management Team, shall have full authority to take such immediate steps as considered necessary.

## **5. HOW SWINDON COLLEGE WILL MANAGE DATA PROTECTION**

This part of the Policy identifies the Data Protection responsibilities of various members of staff and students.

### **Senior Management Team**

The Senior Management Team is committed to ensuring that the College is fully compliant with the law and best practice for handling personal information. To this end the SMT will:-

- Approve College policies & procedures for handling personal data;
- Review developments in good practice and in particular, any Codes of Practice issued by the Information Commissioner having a bearing on College activities, updating College policies and procedures, as appropriate;
- A member of the SMT will develop a Data Protection Action Plan identifying weaknesses and improvements that can be made. The Action Plan will cover matters such as changes to policies and procedures, training and compliance monitoring. Priorities will be determined on the basis of risk. Performance against the Action Plan will be managed through SMT meetings.
- Allocate resources (staff time and budget) to enable the Data Protection Action Plan to be delivered
- Determine the College's Records Management and Information Strategies concerning how information, including personal data, is organised, categorised, stored and retrieved.

### **Data Protection Manager**

- The Data Protection Manager will be responsible for maintaining the College's Data Protection system (its policies and procedures) and co-ordinating the Action Plan. The Data Protection Manager will
- Maintain the College's Data Protection notification and undertake an information audit;

- Make recommendations to the Management Team on good practice and Data Protection policy;
- Formulate the Data Protection Action Plan, and report progress;
- Provide a Data Protection Training Programme;
- Provide general guidance and disseminate information and advise on any specific Data Protection problem;
- Deal with Subject Access requests (see appendix 1) and co-ordinate responses to complaints that have a bearing on other data subjects rights (unwarranted substantial damage or distress; direct marketing; rectifying, blocking, erasing & destroying inaccurate personal data and disputed cases of inaccuracy or other alleged breaches);
- Co-ordinate and advise on all non-routine requests for disclosure of personal information
- Monitor and report on compliance

## Responsible Managers

Personal data are processed across the breadth of the College's normal everyday activities. Good personal data handling is one aspect of what employees need to do to deliver excellent services to students and internal customers. The key to achieving high standards in handling personal data is recognising that the primary responsibility for complying with legislation and good practice lies with those staff and managers who are responsible for deciding how in practice personal data will be used.

To help it decide where these responsibilities should lie the College has carried out an audit identifying where and for what purposes personal data are processed. For each data set it has identified a 'responsible manager'.

Responsible Managers will

- Complete a Notification for each of the different data sets on which they hold personal data and ensure that the Data Protection Manager is informed promptly of any changes;
- Ensure that they are satisfied with the legality of holding the information and how it is used;
- Ensure that they have written documentation assessing & identifying legitimate grounds for processing personal data and sensitive personal data;
- Undertake a risk assessment and make appropriate provision for the security of both manual and computerised personal data where held locally (Back-up, contingency plans for catastrophic failure/migration of data to new systems, access to physical environment, locked files, guidelines on processing off-site, secure disposal etc). The security arrangements for computerised personal data must comply with the College's IT Security Policy;
- Ensure that documentation and procedures comply with the Guidelines for Responsible Managers issued by the Data Protection Manager. In particular, ensure that staff with access to personal data receive appropriate guidance covering:
  - The security arrangements for the data
  - How personal data is to be collected and recorded including approved sources
  - How consent is to be obtained where this is the ground for processing personal

information

- The information data subjects are entitled to receive under the Fair Processing Code and that application forms etc include this information
  - Any permitted routine disclosures of the data and how to respond to other requests for disclosure;
  - Procedures for regularly reviewing personal data to check that it is adequate, accurate, up to date, not excessive and deleted when no longer needed;
- Refer any non-routine requests for disclosure to the Data Protection Manager (other than in cases of emergency as defined in the Guidelines);
  - Promptly inform the Data Protection Manager of any requests for
    - (a) Subject access
    - (b) Halting processing likely to cause unwarranted substantial damage or distress
    - (c) Preventing direct marketing
    - (d) Preventing decisions based solely on automated processing

so that they can be responded to within the appropriate time limits.

- Be aware of data subjects' rights to compensation in certain cases and their right to rectify, block, erase & destroy inaccurate personal data and inform the Data Protection Manager of any complaints alleging breaches of the Act or any cases where the data subject's complaint of inaccuracy is disputed;
- Ensure that personal data are not transferred outside the EEA other than in accordance with the Act;
- Ensure that any processing of personal data that is carried out by a contractor on behalf of the College is subject to a written contract that requires the data processor to act only on instructions and makes appropriate provision for the security of the data.

## **IT Services**

All staff and users of personal data have some responsibility for the security of that data. IT services have an important role in ensuring the security of computerised data. In particular they will

- Be responsible for advising the College on the state of technological development with regard to IT security
- Back up data on the College's servers and IT systems
- Implement virus detection software and measures to prevent malicious software spyware, and hacking;
- Place restrictions on access so that individuals only have access to personal data in which they have a legitimate interest;
- Require the use of passwords and ensure that they are changed regularly;
- Promote and police policies for use of College systems and IT facilities including e-mail, intra and Internets that ensure compliance with the College's Data Protection obligations

and investigate breaches of IT security

## **Human Resources Section**

An important aspect of security is ensuring the reliability of staff. The Human Resources Section can contribute to this aim in a number of ways. They will

- Ensure that the College's Employment Practices are consistent with the Information Commissioner's Employment Practices Code of Practice;
- Ensure that the Data Protection obligations of staff are reflected in the College's Disciplinary Procedures and contracts of employment;
- Ensure that all staff are aware of the types of personal information that the College will routinely make public (e.g. name, post, academic qualifications, College telephone and e-mail) and that individuals have the right to object to that disclosure where they consider it may cause them substantial damage or distress;
- Provide advice to responsible managers and others on the application of the Criminal Records Bureau Code of Practice to pre-employment vetting;

## **Other Staff**

All staff are likely to use and have access to some personal data in the course of their duties, for example other staff, students or members of the public. They will:-

- Respect the privacy and confidentiality rights of all data subjects. In particular they should be careful that personal data are not disclosed either orally or in writing, accidentally or otherwise, to any unauthorised third party. (Unauthorised disclosure will usually be a disciplinary matter, and may be considered gross misconduct in some cases). This includes making sure that casual access to data is not possible, (for example by members of the general public seeing computer screens or printouts).
- Only use personal data for approved purposes and ensure that they comply with any instructions and guidelines they are given about the use of personal data
- Inform the 'Responsible Manager' of any proposed new uses of personal data
- Keep all personal data secure and not remove it from College premises without the permission of the appropriate 'Responsible Manager'
- Comply with all College policies regarding the use of IT facilities, e-mail and Inter/Intranets
- Check that the information they provide to the College in connection with their employment is accurate and up to date and inform the College of changes to or errors in information held.

## **Students**

Students will not normally process personal data in the course of their studies or in other ways on behalf of the College. However, where from time to time this happens, they will need to inform their tutor and comply with the Guidelines and any other instructions given to them. At all times students will

- Respect the privacy and confidentiality rights of all data subjects;

- Not seek to use or gain unauthorised access to personal information;
- Comply with all College policies regarding the use of IT facilities, e-mail and Inter/Intranets
- Check that the information they provide to the College in connection with their studies is accurate and up to date and inform the College of changes to or errors in information held

## 6. Purposes for which the College Holds Information

The full notification for Swindon College may be viewed from the Information Commissioner's website at:

<http://www.ico.gov.uk/ESDWebPages/search.asp>

and entering the College's registration number Z751570X in the registration number box and clicking the Search button. This appendix summarises the main purposes.

Swindon College collects and uses data about its staff and students for the following purposes:

### Staff

- organisation and management of Swindon College
- payment of salaries and wages
- membership of a trade union and/or of professional body or society to facilitate payment of subscriptions
- medical history to ensure suitability for appointment
- staff identification
- CCTV monitoring of the College campuses
- seeking improvements in health and safety
- staff development
- recording of ethnic origin and disability. This information is requested on a voluntary basis and is used to enable Swindon College to evaluate the operation of its equal opportunities policy
- recording of periods of sickness to enable payment of statutory sick pay
- Providing employment references

### Students

- central and departmental administration (includes personal and academic details) and management of academic processes (e.g. academic quality audits and examination boards)
- provision of advice and support to students (through the Admissions, the Financial Advice Service (Learner support and Hardship Fund), the Counselling Service and the Careers Service)
- student identification
- seeking improvements in health and safety
- CCTV monitoring of the College campuses
- monitoring recording of ethnic origin and disability. This information is requested on a voluntary basis and is used to enable Swindon College to evaluate the operation of its equal opportunities policy. This information is also requested by the Learning and Skills Council, to ensure that provision and support reflects the multi-cultural community.
- tracking student careers following completion of studies, to establish the adequacy and relevance of courses in preparing students for post-College life.
- photographic images, both individual and incidental for publicity purposes.

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## 7. DISCLOSURE OF INFORMATION

Swindon College discloses information about its staff and students to the following:

### Staff

- Relevant government departments and other bodies to whom we have a statutory obligation to release information, including:
  - Department for Education
  - Funding bodies
  - HM Revenue and Customs
  - Department for Work and Pensions
- potential employers of our staff
- potential providers of education to our staff
- external agents employed by Swindon College in the conduct of its business

### Students

- Relevant government departments and other bodies to whom we have a statutory obligation to release information, including:
- Funding bodies
- Quality Assurance Agency
- Student Loans Company
- Local Education Authorities
- Local Authority Council Tax Offices
- Employment Services
- Connexions

The following organisations will be required to request data in writing to the Data Protection Manager and information will be released at the discretion of the Data Protection Manager in compliance with the law.

- Social Services
- HM Revenue and Customs and Immigration services
- Police

The following organisations can only request data with the express written consent of the student.

- Students' Association
- Current or potential employers of our students
- Current or potential providers of education to our students
- Students' former schools/colleges, for College marketing purposes
- External agents employed by Swindon College in the conduct of its business
- Marketing Media

## 8. RESTRICTIONS ON DISCLOSURE

Disclosures to persons or institutions not listed above will be made only with the permission of the member of staff or student unless exceptional circumstances apply, as provided by law.

## **Subject Access – Your Right to See Information That We Hold About You**

You can ask the College to see information that we hold about you by making a normal day-to-day business enquiry, such as how much you owe the College in fees if you are a student. We may carry out identity checks to ensure that you are who you say you are, but in general, the information will be disclosed to you.

You also have a legal right under the Data Protection Act 1998 to be informed about whether or not any information is held about you, and, if there is, to see a copy of it. This is known as your right of Subject Access. You have the right to:-

- A copy or description of the information that we hold about you. This information may be held electronically (for example on computer, closed circuit TV, video or audio recordings) or in paper records. We will provide the information to you in permanent form, unless the supply of such a copy is not possible, would involve disproportionate effort, or you are happy for us not to provide it to you. We will explain any technical terms or abbreviations so that you can understand what they mean.
- Be informed about the purpose(s) for which the information is processed.
- Be informed about the source(s) of information and recipient(s) or classes of recipients (to whom we may have disclosed your information).

If you are a student, you have the right to see some exam-related information, such as your mark, examiner's comments and minutes of examination appeals panels. If you ask for exam results before they have been announced, we will respond within 5 months of the date of your request or within 40 days from when your results are published (whichever is earlier).

There may be circumstances where not all information about you can be provided. There may be exemptions under the Act that we need to apply, for example where the information would seriously affect the prevention or detection of a crime.

We do not have to deal with repeated requests that have been made at unreasonable intervals. We would consider what information is requested, why we are holding it and how often it is updated or altered, when deciding whether or not to allow access to it.

### **Timescale**

We will endeavour to reply promptly to your request within 40 calendar days, provided that you have paid the necessary fee, provided evidence of your identity and given us enough information for us to search for your information. If we ask you for additional information to clarify or refine your request, the 40 day countdown does not start until this additional information has been received.

To make your request, please provide:-

- The required fee of £10 (VAT nil) for access to information about you that is held electronically or on computer or is held in a structured filing system where the information is readily accessible.

Information that is held in an unstructured form comes under the Freedom of Information Act fee system. We will estimate the cost of dealing with your request and may refuse it if the cost to us is more than £450 or provide it to you for only £10

if the cost to us is less than this.

If you would like to see a copy of your education record, there is an administration fee ranging from £1 for less than 20 pages of information to £50 for more than 500 pages. We will inform you about how much this will be after locating your information.

In all cases, please make cheques payable to Swindon College.

- The necessary information from you to confirm your identity. Please provide a photocopy of any of the following items:-

Birth certificate, marriage or civil partnership certificate, driving licence (photocard or paper), passport, two different utility bills (for example gas, electricity or water).

- Sufficient information from you to help us locate the information that you have requested.

### **How to Make an Application**

All requests should be made using our application form, which is available from the Data Protection Manager or on our website.

Please help us to help you by giving us as much information as you can to help us locate the information you request, for example how far back in time you would like us to search, or providing names of members of staff who you have been in contact with or specific areas in the College where you think that information about you may be held.

The information that you provide to us on the form will be used to manage and administer your request and carry out searches within Swindon College (and to external organisations such as our service providers) for information that is held about you.

### **Requests on Behalf of Other People**

You can ask someone to act on your behalf and they may make a request for you. We will send them a copy of information held about you (with your consent and authorisation, of course). Alternatively you can make a request on behalf of someone else.

We have a separate "Authorisation of Agent" form for this, so that we can make identity checks, to ensure that they have your consent and their identity is verified.

This form is available as above

As a parent or guardian, if you make a request on behalf of a young person under 18 we may make additional enquiries to confirm that you have parental responsibility before releasing information to you. This may involve discussing your request with staff members within the College or with relevant external organisations.

### **Information That Relates to Other People**

Under the Data Protection Act, you are only entitled to see information that is held about you. There may be occasions when information about other people is held on your records. We may inform them that you have made a subject access request and provide any other relevant information relating to your request. We may contact them for their consent to release information that identifies or relates to them. We are entitled to withhold information about them if their consent has been withheld or cannot be obtained.

### **Automated Decision Taking**

If any automatic decisions have been made about you by computers in the College, without any human intervention (for example to assess an application), you have the right to be informed by us about how these decisions are made. At your request, we will also inform you about the logic that was involved. The College does not use such systems at present, but we may do so in the future. If you would like to receive this additional information you should mention this specifically.

### **Correction or Deletion of Inaccurate Information**

If any of the information that we hold about you is inaccurate or misleading as to any matter of fact, please inform us of this as soon as possible so that we can take action to correct or delete the information. If there are circumstances where we do not agree, and believe the information is accurate and should continue to be held, we will discuss this with you.

If you have any queries, or need assistance with making a request, please contact the College Data Protection Manager.

### **Need more information?**

Impartial information and advice is available from the Information Commissioner's Office. Their website is available at [www.ico.gov.uk](http://www.ico.gov.uk). Their helpline number is 0303 123 1113.

# APPLICATION FOR SUBJECT ACCESS

## DATA PROTECTION ACT 1998

You should complete this form if you want us to provide a copy of personal information which we hold about you. You are entitled to receive this information under the Data Protection Act 1998

There is a standard fee of £10 for this. Other fees may apply, we will inform you if any other fees apply, such as those relating to educational records or information held in an unstructured form. Please refer to the information above explaining how to access your information.

Cheques should be made payable to Swindon College. If no information is held about you, we will inform you. Refunds are not provided if no information is held about you or is withheld under an exemption.

We will endeavour to respond promptly to your request and within 40 calendar days after we have received the following from you:

- This completed form
- Cheque for £10; and
- Receipt of satisfactory proof of identity

Tick the option that applies

- a.) I make this application for data about me
- b.) I would like my agent ..... to deal with this application on my behalf.

I enclose a signed authorisation of Agent for Subject Access form

Please refer to our leaflet explaining your right to see information that we hold about you for an explanation of how we handle your request.

**INFORMATION ABOUT THE PERSON WHOSE INFORMATION IS BEING REQUESTED (THE DATA SUBJECT):-**

Title:..... Forename(s):..... Surname:.....

Address:.....

Postcode:..... Email Address.....

Daytime Telephone Number: ..... Date of birth: .....

If you have moved house within the last twelve months, please give your previous address:

.....

- 
1. Please provide a description of the information which you are seeking and the dates from which we should search.

.....  
.....  
.....  
.....

2. State the date of any previous subject access request made by yourself or someone acting on your behalf: - .....

**Note:** The College is not obliged to comply with a request if we have recently complied with an identical request

**3. State how you would like the reply to this request to be dealt with:**

- sent to your home address
- Collected from our offices (You must bring evidence to confirm your identity)
- Sent to your authorised agent (if appointed)

**4. If you specifically need the answers to the following, please tick the boxes**

- Why we are processing your personal data
- To whom your personal data are disclosed
- The source(s) of the information

**5. When you have received the requested information, if you believe that:**

- The information is inaccurate or out of date; or
- We should no longer be holding that information; or
- We are using your information for a purpose of which you were unaware; or
- We may have passed inaccurate information about you to someone else; then

Please contact the College Data Protection Manager who will review the information and may amend your personal data in accordance with your wishes and take appropriate action.

**Please sign the declaration below, and return this form to the Data Protection Manager, Swindon College, North Star, Swindon, Wiltshire, SN2 1DY.**

I ..... certify that the information supplied on this data subject access form is accurate and true. I understand that it is necessary for the College to carry out enquiries to check my identity and that you may obtain more detailed information in order to locate the correct information about me. I understand that information about me may be disclosed to relevant individuals internally and externally so that you can respond to my request.

**Signed:**.....

**Date:**.....

Impartial information and advice is available from the Information Commissioner's Office. Their website is available at [www.ico.gov.uk](http://www.ico.gov.uk). Their helpline number is 0303 123 1113.

<b>FOR COLLEGE USE ONLY</b>			
Date request form, identity evidence & fee received:		Request Acknowledgement sent:	
Fee Receipt No:		Date responded:	

## AUTHORISATION OF AGENT FORM Data Protection Act 1998

If you are appointing someone else to receive information and act on your behalf (an agent), you will need to complete Part 1 and your agent will need to complete Part 2 of this form.

The information provided on this form will only be used for administering and investigating your request for information and will not be used for any other purposes. Please note your information may be disclosed to several sections within the College in order to consider and action this request.

<b>Part 1 – Details of the data subject (person who the request for information relates to)</b>			
Title:	Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/>	Other (please state):	
First name(s):		Surname:	
Address:			
Postcode:		Telephone No.	
<b><u>Declaration</u></b>			
<b>I am the above-named person and authorise Swindon College to provide information to my agent whose name and address are given below (part 2)</b>			
Name (use block capitals):			
Signature or mark of person giving the authority:			
Proof of identity enclosed (please tick) <input type="checkbox"/>		Date:	
<b>Part 2 - Details of the agent (the person making the request on behalf of the data subject) - to be completed by the agent</b>			
Title:	Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/>	Other (please state):	
Forename:		Surname:	
Address:			
Postcode:		Telephone No.	
What is your relationship to the data subject?			
<b><u>Agent Declaration</u></b>			
<b>I declare that I make this application on behalf of and solely in the interest of the named individual above (data subject). To ensure confidentiality I accept that you may need to make further enquiries to validate this authorisation.</b>			
Name (use block capitals):			
Signature or mark of person giving the authority:			
		Date:	

# GLOSSARY OF TERMS

## Data

Data is information, which is processed automatically (by a computer), or is manual data which forms part of a relevant filing system. A relevant filing system is a system that is structured either by reference to an individual or by criteria relating to individuals so that specific details relating to a particular individual may be easily selected from that system. Data can be written information, photographs, or information such as fingerprints or voice recordings.

The Freedom of Information Act extends the definition of data to include unstructured manual data for all public authorities, (such as Swindon College). This means that data subjects have the right to see unstructured manual data that is held about them, as well as data that which is structured. However, they do not have the right to see unstructured personal data that relate to appointments or removals, pay, discipline superannuation or other personal matters in connection with their service as an employee.

## Personal Data

Is information that relates to a living individual who can be identified from that data and other information in or likely to come into the possession of the Data Controller (the College). The Act **does not apply** to statistical or anonymised information where individuals cannot be identified, neither does it apply to people who are deceased.

## Processing

Is anything done with the data including holding and viewing data. It includes

- obtaining
- holding
- amending
- collating and compiling
- reading and consulting
- disclosing
- transferring
- blocking, deleting or destroying information

If you have personal data in your possession, you should assume that you are processing it.

## Data Subject

The Data Subject is the individual who is the subject of personal data. This will include staff, students, suppliers of goods and services etc.

## Data Controller

The Data Controller is the legal person or body who (either alone or jointly or in common with other persons) determines the purposes for which and the manner in which any personal data are, or are to be, processed. The College is the Data Controller.

## Data Processor

Is any person other than an employee of the Data Controller who processes data on behalf of the Data Controller. For example service providers.

## Third Party

Is any person other than the Data Subject, the Data Controller, the Data Processor or other person authorised to process data for the Data Controller. For example a student's parent or guardian.