



## Data Sharing Policy 2022 - 2023

**Equality Impact Assessment:** Askham Bryan College recognises the importance of the Equality Act 2010 and its duties under the Act. This document has been assessed to ensure that it does not adversely affect staff, students or stakeholders on the grounds of any protected characteristics.

### 1. INTRODUCTION

- 1.1. Data sharing can bring great benefits to an organisation and in the case of the College, to its students. Whilst there is no formal definition of “data sharing” within the legislation, section 121 of the Data Protection Act 2018 (or “DPA 2018”) provides that data sharing is “the disclosure of personal data by transmission, dissemination or otherwise making it available”. This includes:
  - providing Personal Data to a third party, by whatever means;
  - receiving Personal Data as a joint participant in a data sharing arrangement;
  - the two-way transmission of Personal Data; and
  - providing a third party with access to Personal Data on or via College IT systems.
- 1.2. In order to comply with data protection legislation, specifically, the UK General Data Protection Regulation (“the UK GDPR”) and Data Protection Act 2018, appropriate safeguards must first be in place before any data sharing takes place.
- 1.3. Typically, this will be in the form of a **data sharing agreement** (also sometimes referred to as an information sharing agreement, a data or information sharing protocol or contract, or a personal information sharing agreement).
- 1.4. Whilst any College employee could be asked by an outside organisation to provide a data sharing agreement, the process of drafting and issuing an appropriate data sharing agreement needs to be properly overseen, to ensure that it is right in the circumstances of a particular request for the College and in the interests of the Data Subjects concerned to share the requested data with the other organisation.
- 1.5. Data sharing requests can be made either by contacting [enquiries@askham-bryan.ac.uk](mailto:enquiries@askham-bryan.ac.uk) or by submitting the Data Sharing Request form at Appendix A. **All data sharing requests must be directed as soon as possible to the Legal and Compliance Adviser ([jethro.powell@askham-bryan.ac.uk](mailto:jethro.powell@askham-bryan.ac.uk))** for the Legal and Compliance Adviser to consider and respond to.

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### Data Sharing Requests by the Police and other law enforcement authorities

- 1.6. The Police and or other law enforcement authorities (as defined by Schedule 7 of the DPA 2018) may approach the College and ask the College to share Personal Data with them. In all such cases, the Legal and Compliance Adviser must be advised of the data sharing request.
- 1.7. The Police typically request access to College to be able to carry out their law enforcement functions, ie the prevention, investigation, detection or prosecution of criminal offences; but other law enforcement authorities may require access for the execution of criminal penalties, including safeguarding against and prevention of threats to public security
- 1.8. If the Police require access to College data, the Police will be required to complete a Request by Police for Disclosure of Personal Data to the Police form before any Personal Data will be released. Unless critical to a Police investigation, or unless in an emergency, the College will not share information with the Police unless there is a completed Request by Police for Disclosure of Personal Data to the Police form in place. Other law enforcement authorities will be required to complete and submit the Data Sharing Request form at Appendix A.
- 1.9. The Legal and Compliance Adviser will maintain a separate record of any data sharing requests by the Police and law enforcement authorities.

### Data sharing agreements

#### Why is a data sharing agreement necessary?

- 1.10. The ICO's Data Sharing Code of Practice (2021) provides that it is good practice to have a data sharing agreement in place. A data sharing agreement:
  - sets out the purpose of the data sharing;
  - covers what happens to the data at each stage;
  - helps all the parties be clear about their roles; and
  - sets standards.
- 1.11. Where the other party is a "Processor" (as defined in Article 4(8) of the UK GDPR), Article 28 UK GDPR provides that there *must* be a written contract between the Controller and the Processor, including guarantees about the security of any shared data. Under the UK GDPR, a Processor must only process Personal Data on documented instructions from the Controller. A Processor has its own liabilities and responsibilities both under the contract and the UK GDPR.

#### Format

- 1.12. There is no set format for a data sharing agreement.
- 1.13. However, the Data Sharing Code of Practice (2021) suggests that a data sharing agreement should deal with the following:

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- who are the parties to the agreement?
- what is the purpose of the data sharing initiative?
- which other organisations will be involved in the data sharing?
- are we sharing data along with another controller?
- what data items are we going to share?
- what is our lawful basis for sharing?
- is there any special category data, sensitive data or criminal offence data?
- what about access and individual rights?
- what information governance arrangements should we have?

### Data sharing clause in a contract

1.14. In some instances, the College will already have an existing relationship with a third party organisation, that will process Personal Data supplied by the College, on the College's instructions, such as the companies that supply the College's catering and or transport. Where Personal Data has been shared with a third party organisation such as this, then instead of relying on a data sharing agreement, it is permissible for the College to instead rely on the contractual provisions of the contract in place with that third party organisation *provided* those contracts have similar data sharing provisions to those to be found in a data sharing agreement.

### Lawful basis for sharing

1.15. The College will only share Personal Data, including Special Category Data, with a third party organisation where the College is legally entitled to do so and where there is a lawful basis for doing so.

1.16. Special Category Data is Personal Data that needs more protection because it is sensitive, such as health information, information about a person's sex life or sexual orientation, information about a person's gender or race, etc.

1.17. The College must identify *at least* one lawful basis for sharing before it can share any Personal Data. This can be:

- where the College has a student's or individual's **consent** to share their Personal Data with another organisation;
- where the sharing of information is necessary for the **performance of a contract** between the College and another organisation;
- where the College has a legal obligation and **is required by law** to share a student's or individual's Personal Data, which may override the wishes of the student or individual concerned;
- where the College has to share that Personal Data in the "**vital interests**" of a student or individual, for instance, in an emergency situation, where a person is hurt or unconscious and is not in a position to give consent to the sharing of their Personal Data;

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- where it is necessary so that the College can carry out **tasks in the public interest**; or
- where it is otherwise in the College's "**legitimate interests**" to share that Personal Data.

1.18. If the College is asked to share any Special Category Data, it will need to identify both a lawful basis for processing *and* a Special Category condition for processing in compliance with Article 9 UK GDPR.

1.19. As stated above, **the College will only share information, even where there is a lawful basis for doing so, where there is a data sharing agreement in place with the other organisation.**

### Emergency Situations

1.20. **The only exception is if the sharing of information is necessary in an emergency.** In an emergency, you should go ahead and share data as is necessary and proportionate; **but it is still good practice to try and speak to the Legal and Compliance Adviser before you do this (depending on the circumstances).**

### What constitutes "an emergency"?

1.21. Not every urgent situation is "an emergency". An emergency includes:

- preventing serious physical harm to a person;
- preventing loss of human life;
- protection of public health;
- **safeguarding** vulnerable adults or children;
- responding to an emergency;
- or an immediate need to protect national security.

1.22. The College will have to consider in an emergency situation the risks involved in not sharing the information.

1.23. Unless critical to a Police investigation, or unless in an emergency, the College will not share information with the Police unless there is Request by Police for Disclosure of Personal Data to the Police form in place.

## 2. DATA PROTECTION OFFICER

2.1 The College Senior Leadership Team has overall responsibility for ensuring compliance with data protection legislation and its associated policies and procedures and has appointed a Data Protection Officer, who is the Clerk to the Corporation and Director of Governance.

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- 2.2 The Data Protection Officer will lead on the College's overall approach to data protection, assisted by the Legal and Compliance Adviser.
- 2.3 In addition, the College's Data Protection Officer, assisted by the Legal and Compliance Adviser and Head of IT, will monitor internal compliance with the UK GDPR and the Data Protection Act 2018, and provide advice on data protection issues and how it impacts the College and its activities, and act as a contact point for Data Subjects and the Supervisory Authority, the ICO.
- 2.4 However, all users of College systems, ie staff, students, contractors and visitors to the College, and link organisations such as the Wildlife Park, are expected to comply with data protection legislation and support the College's Data Protection Officer, Legal and Compliance Adviser and Head of IT in meeting the College's obligations under data protection legislation, and cooperate with the College's Data Protection Officer, Legal and Compliance Adviser and Head of IT in the event of a Data Breach or Cyber Security incident.**
- 2.5 Any person who considers that any of the College's data protection policies and or procedures have not been followed should raise the matter with the College's Data Protection Officer by contacting [judith.clapham@askham-bryan.ac.uk](mailto:judith.clapham@askham-bryan.ac.uk) or by emailing [DataProtection@askham-bryan.ac.uk](mailto:DataProtection@askham-bryan.ac.uk) or by contacting the Legal and Compliance Adviser at [jethro.powell@askham-bryan.ac.uk](mailto:jethro.powell@askham-bryan.ac.uk) .
- 2.6 If an individual makes a complaint to the College's Data Protection Officer and is not satisfied with the College's response, he/she may then wish to contact the Information Commissioner's Office (or "ICO"), the UK's supervisory authority, at <https://ico.org.uk/concerns/> and make a formal complaint.
- 2.7 The College is registered with the Information Commissioner's Office ("ICO"). The Registration Number is Z6170811. Renewal of the registration takes place annually on 22 January.
- 2.8 Please note that the ICO is unlikely to investigate a complaint without an individual first having made a complaint to the College and exhausting the College's own internal complaints procedure first, before referring the matter to the ICO.**

## 3. RELATED POLICIES AND PROCEDURES

This policy is supplemented by the following policies and procedures:

Data Protection Policy

Subject Access Request Policy

Subject Access Request Procedure (internal use only)

Data Sharing Procedure (internal use only)

Data Retention Policy

Data Retention Procedure (internal use only)

Breach Detection and Reporting Policy

Breach Detection and Reporting Procedure (internal use only)

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Data Subject Rights Policy  
Data Subject Rights Procedure (internal use only)  
Key Partners and Suppliers (Data Protection Compliance) Procedure

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Appendix A: Data sharing request form



**Data Sharing Request Form**

**Equality Impact Assessment:** Askham Bryan College recognises the importance of the Equality Act 2010 and its duties under the Act. This document has been assessed to ensure that it does not adversely affect staff, students or stakeholders on the grounds of any protected characteristics.

**PART 1 – TO BE COMPLETED BY THE ORGANISATION MAKING THE REQUEST FOR DATA SHARING**

Please submit your completed form to [DataProtection@askham-bryan.ac.uk](mailto:DataProtection@askham-bryan.ac.uk)

**Name of organisation**

**Name and position of person requesting data**

**Name of Data Protection Officer (if different) including contact email**

If requester is not the Data Protection Officer (DPO) or equivalent, have they been consulted and their views considered? Yes/No (please select from the dropdown below)

**Date of Request:** [Click here to enter a date.](#)

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**Description of data requested, eg destinations data**

**Legal basis for the sharing**

**Why is sharing 'necessary'?**

**Does processing involve any special category data (or sensitive processing under Part 3 DPA 2018)? Yes/No (please select from the dropdown below)**

Choose an item.

**Are there any specific arrangements for retention/deletion of data?**

**Are there any circumstances in the proposed sharing that might result in a risk to individuals?**

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Data controller relationship:

Joint  Separate

Are additional conditions met for special category data or criminal offence data sharing (where applicable)?

Which legal power for sharing applies (if relevant)?

Have you considered a DPIA?

Choose an item.

DPIA undertaken and outcome (if applicable)

Reason(s) for sharing or not sharing

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**Decision taken by (name and position)**

Signed:

Dated:

**REMINDER: don't forget to enter details of the data sharing request on the Data Sharing Register. Update the Data Sharing Register once the Data Sharing Agreement has been signed**

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