



EMMANUEL SCHOOLS FOUNDATION

Data Protection and Code of Practice for Information Sharing and Exchange with other Public Agencies



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Data Protection and Code of Practice for Information Sharing and Exchange with other Public Agencies Policy

1. Students

The attached Policy and Guidance attempts to clearly state:

- The nature of the information and data held by Emmanuel Schools Foundation (“ESF”) with respect to students;
- Where such information and data is kept within ESF;
- Who has access to the information and data, and for what purposes;
- The conditions under which the information and data will be shared with other public agencies;
- The rights of students and parents to access the information and data, under current legislation.

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

Relevant Legislation:

- The Education (Pupil Information)(England) Regulations 2000;
- The Data Protection Act 1998;
- Data Protection (Subject Access Modification) (Education) Order 2000; and
- The Children’s Act 1989.

ESF is registered under the Data Protection Act 1998, and the Notification shall be renewed as required. Details of the Notification to the Register may be obtained from ESF, and are implicit within the Policy and Guidelines contained within this Policy document. ESF complies fully with the Data Protection principles, which state that personal information must be:

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

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

Staff and students shall be made aware of:

- The nature of the information collected about them;
- The purpose(s) for which personal information will be held;
- What such information will be used for;
- Who, other than internally, may the data / information be disclosed to; and

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

2 The Collection of Student Data and Information

2.1 The nature and sources of information:

The nature and sources of information are as follows:

- The transfer of a student's educational record when a student changes school (either at age 11, or within Key Stages 3 and 4).
- At transfer between Year 6 and Year 7 from within the catchment area, information is collected, largely through discussion with relevant staff, on such issues as medical knowledge; special educational needs; learning aptitude and characteristics, and behavioural characteristics. This information is noted and forms part of the information contained in the student's record.
- The completion of ESF's school Entry Form provides such information as name, address, contact data, emergency contact information, medical and ethnicity information. This information is kept within ESF's student database.
- The results of screening tests, baseline data testing and diagnostic tests are kept, together with regular assessment and achievement results.
- Statutory information such as attendance, punctuality, Key Stage assessment data (including post 14 achievement data – GCSE; BTEC).
- Behavioural data and information relating to rewards and sanctions deployed by ESF (including Exclusion data).
- Any relevant data and information that allows ESF to discharge its statutory responsibilities, including the care and welfare of students. Such information may include changed family circumstances (for example divorce, bereavement, financial hardship) and child protection documentation, and may be obtained from a number of sources including teaching and support staff, and other agencies.

2.2 The Keeping of Data and Information

Data and information on students is kept in four different locations:

I. Centrally held electronic information:

ESF records data and information on students within the CMIS student database on the Administrative ICT Network.

Such information includes that relating to:

- name
- gender
- date of birth
- Unique Pupil Number
- address;
- contact information
- legal guardianship
- medical information
- emergency contact information
- ethnicity

- religion
- doctor
- method of travel to school
- attendance
- punctuality
- achievement
- photograph

II. Centrally held manual records:

The student's form tutor/class teacher is responsible for the up-keep of the student's record which, in addition to much of the information listed above, also includes documentation relating to the individual student arising from their time in ESF. Such information includes:

- Student Information Notes;
- Copies of letters sent to parents;
- Copies of Individual Education Plans;
- Copies of Pastoral Support Plans;
- Medical details and guidance;
- Copies of reports;
- Copies of Certificates and Achievement Awards made;
- Subject option information (KS4);
- information collected for specific purposes, such as referrals to Learning support or the Inclusive Learning Base;
- Student target sheets completed;
- letters from parents and others acting for the student;
- Copies of letters sent home from the school;
- Special Educational Needs documentation including reviews; and
- Contact with other agencies such as the Young Offenders Team.

III. Electronic and manual records held by the Individualised Learning department:

The Individualised Learning Department, under the direction of the Assistant Vice Principal responsible for individualised learning, maintain records that relate specifically to students with special educational needs. Such information is maintained either electronically, or in manual form and includes such information as:

- Statements of special educational needs;
- Individual Education Plans;
- Medical details and guidance;
- Information collected for specific purposes, such as referrals to learning support or the student service base;
- Letters from parents and others acting for the student;
- Review documentation;
- Screening and diagnostic test data;
- Achievement data relating to programmes undertaken;
- Copies of relevant letters from parents and others acting for the student;
- Target information and learning support assistant logs; and
- Record of contacts made with respect to an individual student (phone calls, letters etc).

IV. **Individual Teacher and Learning Support Assistant records:**

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

- attendance at lessons;
- baseline and diagnostic data, including where relevant IEP's;
- achievement data relevant to their teaching and learning activities;
- target data; and
- behavioural information, including such things as individual study completion, and behavioural support plans.

2.3 **The Sharing of Data and Information**

2.3.1 The Data Protection Act ("Act") regulates the holding and processing of personal data, that is, information and data relating to students within ESF.

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

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

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

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

- The information that consists of racial or ethnic origin can be held to ensure and monitor equality of opportunity or treatment; or
- The information is processed in circumstances specified by Government.

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

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

2.3.2 Within ESF:

Within ESF the sharing of information and data is as follows:

- Between those employed by ESF, and accountable to the Principal and/or the Board, it is recognised that the fullest sharing of data and information between those responsible for the teaching, welfare and care of the student leads to the most benefit for the student. *(For example, information about the bereavement of a close family member should be shared by all those likely to come into responsible contact with the student in order for appropriate care and support to be established).*
- It is however inherent that any and all such information should be kept confidential between members of staff within ESF and not shared with others.
- It is a matter of professional judgement, as to whether information disclosed by a student is of necessity shared by all within ESF, if uncertain members of staff should consult with their line manager. However, any information disclosed relating to physical, sexual or emotional abuse, or neglect of students will be fully subject to the school's Child Protection Policy and Guidelines.
- Any and all manual records kept by ESF relevant to individual students, no longer required, must be handed in to the administration office for shredding.
- Student records held centrally, on the student's departure from ESF, will be archived and stored for a minimum of ten years. The administration manager will be responsible for the upkeep of the archive.
- Pastoral staff will maintain records for the students that they taught and supported, whether manual or electronic, for a minimum of five years. They should also be maintained for this period if the member of staff concerned leaves the employment of ESF.
- At times individual student level information is required for illustrative purposes by processes that ESF is subjected to by other legislation, guidance or practice. Examples include Ofsted Inspection; Threshold Assessment; Performance Appraisal and Target Setting. ESF will be explicit to students and parents in this respect, though individual students should not be named in any publication or report resulting from such processes.
- Information with respect to named individual students should not be produced for any audience whereby the information may thereby enter into the public domain, without the express permission of the student involved. ESF based examples include:
 - Newsletters to parents and the community;

- Reports to the governors;
- Review and evaluation documentation for other than internal use;
- Any and all documentation used for training or illustrative purposes to persons outside of ESF.
- Student teacher's, supply staff and others professionals working on a temporary basis as a member of staff within ESF, accountable to the Principal, will be required to adhere to the principles of data and information protection outlined.

2.3.3 With Outside Organisations, Agencies and Individuals

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

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

- **Feeder Primary Schools:** Achievement data and the results of benchmark testing.
- **QCA / DCSF:** Assessment, achievement and attendance data at non-specific student level.
- **Post 16 institutions and organisations:** Information and data with respect to achievement, actual and predicted/target data, together with essential core personal data, with post 16 educational institutions or training establishments.
- **Medical Service:** Any information relating to the student's health, care and welfare both within ESF and in his/her life that could affect the quality of life and achievement of the young person.
- **Social Services:** Any information disclosed relating to physical, sexual or emotional abuse, or neglect of students subject to the Children's Act in force at the time using the procedures specified in the school's Child Protection Policy and Guidelines.
- **Police:** Requests for the disclosure of information for purposes, such as the prevention or detection of crime, prosecution or apprehension of offenders, must be authorised by a senior member of staff, and only when they have verified that it is a genuine request.
- **Careers Personal Advisor:** Information and data contained on the school's CMIS database, and any relevant data or information required for the Careers Personal Advisor to discharge their responsibilities as an advocate of the student and his / her interests.

2.4 The Principles of Exchanging and Sharing Data and Information with Another Organisation, Agency or Individual with Respect to ESF Students

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

- ESF is to assume that all students are competent in their own right to make decisions and provide consent for the sharing and exchange of data and information with other institutions, organisations, agencies or individuals. This of course does not apply to Primary Years students. However, parents should be made aware of the exchange or sharing of data and information with

other institutions, organisations, agencies or individuals both through the school Prospectus and by clear statements on data capture forms.

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

2.5 Access to Data and Information held by ESF

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

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

Examples of fees that may be charged:

- 1 to 19 pages £2
- 50 to 59 pages £10
- 100 to 149 pages £20
- 200 to 249 pages £30

Some information may be withheld from the student. For instance, if it may cause harm to the physical or mental health of the student or a third party; information, which may identify third parties (for example, other students), and information that forms part of court reports. Information may also be withheld if in that particular case it would hinder the prevention or detection of crime or the prosecution or apprehension of offenders to provide it.

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

Parents also have their own independent right of access to the official educational records of their children. In essence the information to which parents are entitled and the exemptions are the same as for students. A parent seeking access to an educational record does not however have a right of redress under the Data Protection Act unless he/she is acting on behalf of their child. As parents have an independent right to access student records the students themselves have no right to prevent it.

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

Further information about the Data Protection Act currently in force can be obtained from the Commissioner's web site (www.dataprotection.gov.uk), requested from an information line (0303 1231113), or by post from: The Office of the Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire.SK9 5AF.

Students, or where appropriate a person legally acting on their behalf, may make a complaint about the way in which information about them is held, processed or disclosed by writing to the Principal, after that the Governors, the DFE, or as a last resort, the courts.