

**Articles 9 and 10 of the General Data Protection Regulation
Schedule 1 to the Data Protection Act 2018**

**Appropriate policy document for the processing of special categories of
personal data and personal data about criminal convictions and offences**

Introduction

This document supplements the University's Information Asset Register (its main record of processing activities under Article 30 of the GDPR) and outlines occasions where special category personal data or personal data about (alleged or actual) criminal convictions and offences is processed under certain conditions permitted by sections 10-11 of the DPA 2018 and set out in Parts 2-3 of Schedule 1 to the Act, as required under Part 4 of that Schedule. It outlines the nature of the processing in each case and then summarises why any such processing fulfils the principles in Article 5 of the GDPR as well as explaining relevant retention and erasure policies.

Relevant processing conditions from Schedule 1

Paragraph 8 – Equality of opportunity or treatment

Most special category personal data used for equal opportunities monitoring purposes is collected with the explicit consent of the data subject (in some cases through the provision of options such as 'Prefer not to say' on relevant data collection forms). On the rare occasions where the provision of special category personal data about racial/ethnic origin, religious beliefs, health (i.e. disability status) or sexual orientation is mandatory and is in the substantial public interest, it is processed under this condition, is kept separate from other personal data, and is solely used for this limited purpose. However, ethnicity data collected under this condition for attendees at outreach and widening participation events/programmes aimed at prospective undergraduate applicants is not kept separate from other personal data so as to enable the long-term tracking and monitoring of the success of those initiatives.

Paragraph 10 – Preventing or detecting unlawful acts

This condition applies to personal data about criminal convictions and offences used:

(i) During due diligence screening of prospective major donations, to ensure that the University does not unlawfully collect the proceeds of crime (see too Paragraph 14 – Preventing fraud and Paragraph 15 – Suspicion of terrorist financing or money laundering, either or both of which may on occasion become relevant). Any personal data about criminal convictions and offences used for such purposes is gathered from reputable public sources.

(ii) During the collection of declarations of relevant unspent criminal convictions/criminal records checks by student/job applicants where answers to those questions are mandatory (see too Paragraph 11 – Protecting the public against dishonesty etc and Paragraph 12 – Regulatory requirements relating to unlawful acts

and dishonesty etc). Any data is used solely for the purposes of safeguarding and protecting the University community, is kept separate from other personal data, and is handled in accordance with strict DBS and security check standards.

By virtue of Paragraph 36 of Schedule 1 to the DPA Act 2018, it is not necessary to demonstrate a substantial public interest in the above processing. (This condition will also apply to specific disclosures to the police and other law enforcement agencies upon request, but an appropriate policy document is not required with regard to such processing.)

This condition also applies to special category personal data (e.g. about religious beliefs or political opinions) and/or personal data about criminal convictions and offences used without explicit consent in connection with the University's obligations under the Prevent duty. Although much data processing surrounding Prevent matters is predicated on the consent of the individual, on occasion (especially during initial conversations about concerns) there may be a need to process such data in order to meet the substantial public interest in preventing people from being drawn into radicalisation or terrorism. Any personal data processed under this condition is handled very carefully on a strict need-to-know basis both within and, on occasion, beyond the Collegiate University (e.g. disclosures to the OfS Prevent Lead or the police) in accordance with Government and OfS guidance.

Paragraph 11 – Protecting the public against dishonesty etc

This condition applies to special category personal data or personal data about criminal convictions and offences collected or used under fitness to practice procedures for students on professional courses (e.g. medicine). The processing of such data is in the substantial public interest in ensure the safety of the public with regard to students working towards becoming part of these regulated professions. Any personal data processed under this condition is kept separate from other personal data, and is solely used for this limited purpose in accordance with strict protocols that are aligned to normal standards and industry-level guidance (e.g. of the General Medical Council) in this professional area.

Paragraph 17 – Counselling etc

Most special category personal data or personal data about criminal convictions and offences used during student/staff counselling or other student/staff welfare support services is collected with the explicit consent of the data subject (in some cases through the provision of options such as 'Prefer not to say' on relevant data collection forms). On the rare occasions where the collection or use of special category personal data in a counselling/welfare context is not carried out with explicit consent, it would only be because a substantial public interest has been identified and is being acted upon (e.g. to prevent harm arising to the data subject or others by a disclosure to another part of the University.) On the rare occasions where the collection or use of personal data about criminal convictions and offences in a counselling/welfare context is not carried out with explicit consent, it would only be because an urgent need had been identified for the data to be disclosed (e.g. to the police, to prevent or detect crime – see Paragraph 10 above).

Paragraph 18 – Safeguarding of children and of individuals at risk

This condition applies to personal data about criminal convictions and offences collected in connection with the delivery of residential events to prospective

undergraduate applicants, most of whom are aged under 18, and solely in relation to a mandatory question on the registration forms for such events asking attendees to declare any relevant unspent criminal convictions. By virtue of Paragraph 36 of Schedule 1 to the Data Protection Act 2018, it is not necessary to demonstrate a substantial public interest in such processing. These data are used solely for safeguarding purposes and to ensure that these events can be run in a safe manner for all attendees.

How and why the data processing under the conditions above meets the principles in Article 5 of the GDPR

Lawfulness, fairness and transparency

In every case above:

- An appropriate lawful basis exists.
- The processing is fair to the data subjects because it would always fall within their reasonable expectations.
- A privacy notice is supplied in advance outlining the processing (with the possible exceptions of (i) urgent and specific disclosures in connection with personal data revealed in counselling or other welfare services where a real risk emerges to the wellbeing or safety of the data subject or others, and (ii) due diligence screening of prospective donations, where we are processing only publicly available information and where provision of the privacy notice would require disproportionate effort – although in such cases it is always freely available online).

Purpose limitation

As described under each condition above, any such personal data is only processed for these limited purposes and, where technologically/operationally feasible, either is kept separate from other personal data or access is restricted so as to prevent any additional use.

Data minimisation

In every case above only the minimum personal data is collected to fulfil the purpose listed.

Accuracy

In every case above any inaccuracies in the personal data are corrected without delay so as to prevent any unnecessary damage or distress to the data subjects.

Storage limitation

In every case above the data is stored in an identifiable form only while it remains necessary for the relevant purpose.

- Equalities monitoring data is removed almost immediately from its association with any individual and is only held in anonymised form.
- Due diligence information is retained in perpetuity in recognition of the lifelong nature of a significant donation to the University, as described at <https://www.philanthropy.cam.ac.uk/data-protection>
- Applicants' criminal convictions declarations and CRB/security checks data are retained as described at <https://www.information->

compliance.admin.cam.ac.uk/data-protection/applicant-data and
<https://www.hr.admin.cam.ac.uk/hr-staff/hr-data/recruitment-checks-data>.

- Prevent-related information is retained as described at http://www.cam.ac.uk/system/files/procedure_for_raising_a_concern_-_supplementary_guidance.pdf.
- Fitness to Practise files are retained as described at <http://www.admin.cam.ac.uk/univ/so/2017/chapter02-section27.html>
- Counselling files are retained as described at <https://www.counselling.cam.ac.uk/general/confidentiality>.
- Information about criminal convictions disclosures in connection with residential events for prospective undergraduate applicants are destroyed after the event.

Integrity and confidentiality

In every case the data are stored securely using appropriate technological controls and access is highly restricted to certain 'need to know' staff. The information is not routinely shared beyond the University.

Retention and erasure arrangements

These are covered under the storage limitation principle above.

Information Compliance Office
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May 2018