

GDPR PRIVACY NOTICE

Policy Review					
• Person(s) Responsible for this Policy		• Data Protection Lead			
• Last Review:		• September 2022			
• Next Review:		• September 2024			
Staff are reminded that they may view any of the School’s other policies at any time online (https://withamhallschool.sharepoint.com/sites/StaffNonAcademic/Shared Documents/Policies & Handbooks/); a hard copy may be requested from the School Office.					
Externally available:	Internal only		By request	On website	X

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Introduction

Terminology

Abbreviation	Definition
Child	Refers to all young people who have not yet reached the age of 18.
Data Controller	Organisation or individual that determines how people’s personal data is processed and for what purpose. Strictly – and in liability terms – this is the Trustees of the Charity; in practical terms, it is the School as an entity.
Data Protection Law	From 25 th May 2018, the relevant legislation includes both the <i>General Data Protection Regulation</i> (EU 2016/679) and the <i>UK Data Protection Act 2018</i> , as well as other relevant supporting legislation.
Data Protection Lead, DPL	The person within the organisation best-trained to understand the regulations and with responsibility to disseminate that understanding to wider staff in their work-practices and the authority to enforce good-practice as required. This is distinct from the role of Data Protection Officer, now only seen typically in public bodies and those organisations whose core activities involve systematic, regular monitoring of people or use of sensitive personal data.
Data Subject	Any living individual whose data the Data Controller processes.
IICSA	Independent Inquiry into Child Sexual Abuse. A statutory inquiry.
KCSIE	<u>Keeping Children Safe in Education</u>
Legitimate Interest	Legitimate interest is one of the six lawful bases for processing personal data which Article 6(1)(f) of the GDPR explains as “processing [that is] necessary for the purposes of the legitimate interests pursued by the controller or by a third party.” For more details see https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/legitimate-interests/what-is-the-legitimate-interests-basis/ .
Parent(s)	Refers to birth parents and other adults who are in a parenting role (e.g. step-parents, foster parents, carers and adoptive parents <i>etc.</i>).
Personal Data	Everything from which a Data Subject can be identified. It ranges from simple contact details via personnel or pupil files to safeguarding information, and encompasses opinions, file notes or minutes, a record of anyone’s intentions towards that person, and communications (such as emails) with or about them.

Processing	Any action in relation to that personal data, including filing and communication.
School, Us, We, Our	Witham Hall School Trust Registered Charity Number: 507070 Registered Company Number: 01348108 (England and Wales)
Special Category Data	Some categories of Personal Data are special category data under the GDPR (broadly equivalent to “sensitive” personal data under the old law, but with criminal data treated separately). These comprise data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership; data concerning health or data concerning a natural person’s sex life or sexual orientation; and (new with GDPR) biometric data. Extra safeguards are provided by law for processing of such data.

Responsibility for Data Protection

The School is responsible for Data Protection.

To oversee this responsibility the School has appointed the Bursar as its Data Protection Lead (“DPL”). The DPL may be contacted via:

- Data Protection Lead, Witham Hall School, Witham-on-the-Hill, Bourne, Lincolnshire, PE10 0JJ
- DataProtection@withamhall.com

Why a Privacy Notice is Needed

The General Data Protection Regulation (effective across the UK from 25th May 2018 and to continue regardless of the UK’s exit from the European Union) was the biggest change to data protection law in 20 years. One of its core tenets is “transparency”, meaning an emphasis on how data controllers tell data subjects how they use their personal data, in clear language.

For the purposes of the relevant legislation (“Data Protection Law”), the School is the Data Controller and its Data Subjects are:

- Pupils:
 - Prospective and/or Registered
 - Current
 - Former (‘Alumni’)
- Parents (and/or carers, guardians *etc.*)
- Personnel
 - Prospective (candidates)
 - Current
 - Former

Staff, parents and pupils are all encouraged to read this *Privacy Notice* and understand the School’s obligations to its entire community.

This *Privacy Notice* applies alongside any other information the School may provide about a particular use of personal data (e.g. when collecting data via an online or paper form).

This *Privacy Notice* also applies in addition to the School's other relevant terms and conditions and policies, including:

- any contract between the School and its staff or the parents of pupils;
- the School's *GDPR Retention of Records Policy*;
- the School's *Child Protection and Safeguarding Policy*, including how concerns or incidents are recorded;
- the School's *ICT Policy*;
- the School's *Staff Code of Conduct*; and
- the School's *Staff Communications Policy*, including the School's policy on taking, storing and using images of children.

Anyone who works for, or acts on behalf of, the School (including staff, volunteers, governors and service providers) should also be aware of and comply with this *Privacy Notice* and the School's *Data Protection Policy*, which also provides further information about how personal data about those individuals will be used.

Personal Data

Why the School Needs to Process Personal Data

In order to carry out its ordinary duties to or regarding staff, pupils and parents, the School may process a wide range of personal data about individuals (including current, past and prospective staff, pupils or parents) as part of its daily operation.

Some of this activity the School will need to carry out in order to fulfil its legal rights, duties or obligations, including those under a contract with its staff or with parents of its pupils.

Other uses of personal data will be made in accordance with the School's legitimate interests, or the legitimate interests of another, provided that these are not outweighed by the impact on individuals, notably when the use of personal data includes special or sensitive types of data.

The School expects that the following uses may fall within that category of its (or its community's) legitimate interests:

- for the purposes of pupil selection (and to confirm the identity of prospective pupils and their parents);
- to provide education services, including musical education, physical training or spiritual development and extra-curricular activities to pupils;
- to monitor pupils' progress and educational needs;
- maintaining relationships with alumni and the School community, including direct marketing or fundraising activity¹;
- for the purposes of donor due diligence, and to confirm the identity of prospective donors and their background;

¹ *n.b.* direct electronic or telephone marketing falls under the prevue of Privacy and Electronic Communications Regulations "PECR" and can only proceed with the consent of the data subject.

- for the purposes of management planning and forecasting, research and statistical analysis, including that imposed or provided for by law (such as diversity or gender pay gap analysis and taxation records);
- to enable relevant authorities to monitor the School's performance and to intervene or assist with incidents as appropriate;
- to give and receive information and references about past, current and prospective pupils, including relating to outstanding fees or payment history, to/from any educational institution that the pupil attended or where it is proposed they attend, and to provide references to potential employers of past pupils;
- to enable pupils to take part in national or other assessments, and to publish the results of public examinations or other achievements of pupils of the School;
- to safeguard pupils' welfare and provide appropriate pastoral care;
- to monitor (as appropriate) use of the School's IT and communications systems in accordance with the School's *ICT Policy*;
- to make use of photographic images of pupils in School publications, on the School website and (where appropriate) on the School's social media channels in accordance with the School's policy on taking, storing and using images of children (*c.f.* detailed in the *Staff Communications Policy*); and
- where otherwise reasonably necessary for the School's purposes, including to obtain appropriate professional advice and insurance for the School.

In addition, the School may need to process special category personal data (concerning health, ethnicity, religion, biometrics or sexual life) or criminal records information (such as when carrying out DBS checks) in accordance with rights or duties imposed on it by law, including as regards safeguarding and employment, or from time to time by explicit consent where required. These reasons may include:

- to safeguard pupils' welfare and provide appropriate pastoral (and, where necessary, medical) care, and to take appropriate action in the event of an emergency, incident or accident, including by disclosing details of an individual's medical condition where it is in the individual's interests to do so (*e.g.* for medical advice, social services, insurance purposes or to organisers of School trips);
- to provide educational services in the context of any special educational needs of a pupil;
- to provide spiritual education in the context of any religious beliefs;
- in connection with employment of its staff (*e.g.* DBS checks), welfare or pension plans; or
- for legal and regulatory purposes (*e.g.* for child protection, diversity monitoring and health and safety) and to comply with its legal obligations and duties of care.

Types of Personal Data Processed by the School

A non-exhaustive list of personal data processed by the School will include by way of example:

- names, addresses, telephone numbers, e-mail addresses and other contact details;
- car details (about those who use our car parking facilities);
- bank details (*e.g.* of paid employees) and other financial information (*e.g.* about parents who pay fees to the School);
- past, present and prospective pupils' academic, disciplinary, admissions and attendance records (including information about any special needs), and examination scripts and marks;
- where appropriate, information about individuals' health and medical conditions, and contact details for their next of kin or emergency contacts;

- references given or received by the School about pupils, and information provided by previous educational establishments and/or other professionals or organisations working with pupils;
- images of pupils (and occasionally other individuals) engaging in School activities (in accordance with the School's policy on taking, storing and using images of children *c.f.* detailed in the *Staff Communications Policy*); and
- CCTV footage of communal areas of the School campus which is recorded for security and safety purposes (*c.f.* the School's *CCTV Policy*).

How the School Collects Personal Data

Generally, the School receives personal data from the individual directly (including, in the case of pupils, from their parents). This may be via a form or simply in the ordinary course of interaction or communication (such as email or written assessments).

However, in some cases personal data may be supplied by third parties (for example another school, or other professionals or authorities working with that individual) or collected from publicly available resources.

Keeping and Sharing Personal Data

Access to and Sharing Personal Data

Occasionally, the School will need to share personal information relating to its community with third parties, such as professional advisers (*e.g.* lawyers and accountants) or relevant authorities (*e.g.* HMRC, police or the local authority).

For the most part, personal data collected by the School will remain within the School, and will be processed by appropriate individuals only in accordance with access protocols (*i.e.* on a 'need to know' basis). Particularly strict rules of access apply in the context of:

- personnel records held and administered centrally and securely by HR staff;
- pupil medical records:
 - held and administered centrally and securely by Surgery
 - made viewable to relevant teaching and catering staff to discharge duty of care (*e.g.* food allergies for catering, or medical conditions for School trips);
- pupil pastoral files held and administered centrally and securely on the School's Management Information System, viewable only to Staff members with appropriate levels of access;
- pupil safeguarding files held and administered centrally and securely by the DSL and Deputy DSL(s); and
- pupil SEN files held and administered centrally and securely by the SEN Coordinator (*n.b.* certain amount of any SEN pupil's relevant information will need to be provided to staff more widely in the context of providing the necessary care and education that the pupil requires).

Staff, pupils and parents are reminded that the School is under duties imposed by law and statutory guidance (including by KCSIE) to record and in some cases report incidents and concerns that arise or are reported to it, in some cases regardless of whether they are proven, if they meet a certain threshold of seriousness in their nature or regularity. This may include file notes on personnel or safeguarding files, and in some cases referrals to relevant authorities such as the LADO or police.

For further information about this, please view the School's *Child Protection and Safeguarding Policy* ([Link](#)).

In accordance with its statutory duty of care, the School also records incidents and concerns of a pastoral or well-being nature which may not necessarily be of a significantly serious enough level to constitute a safeguarding concern. These less serious incidents and concerns are recorded and reported internally via the School's Management Information System, viewable only to Staff members with appropriate levels of access.

Finally, in accordance with Data Protection Law, some of the School's processing activity is carried out on its behalf by third parties, such as IT systems, web developers or cloud storage providers. This is always subject to contractual assurances that personal data will be kept securely and only in accordance with the School's specific directions.

How Long Personal Data is Kept

The School will retain personal data securely and only in line with how long it is necessary to keep for a legitimate and lawful reason. Typically, the legal recommendation for how long to keep ordinary staff and pupil personnel files is up to 7 years following departure from the School. However, incident reports and safeguarding files will need to be kept much longer, in accordance with specific legal requirements. Given the wider context of IICSA and unknown future obligations to contribute information to potential investigations or statutory inquiries, the School retains all possibly relevant personal data for the expected lifetime of that data subject or, in the case of those who were/are in charge of minors, for the expected lifetime of those minors. If you have any specific queries about how this Policy is applied, or wish to request that personal data that you no longer believe to be relevant is considered for erasure, please contact the DPL (*c.f.* **Responsibility for Data Protection** p.3). However, please note that the School may nevertheless have lawful and necessary reasons to hold on to some data.

The School has applied the above rationale to all of the different types of data it holds, as identified in a comprehensive business-wide data audit. Different categories of data are retained for different lengths of time, given the purpose they serve or the statutory obligations that are relevant. The retention practices employed are stipulated in the School's *Retention of Records Policy*, periodically reviewed by senior management.

Keeping in Touch and Supporting the School

The School will use the contact details of parents, alumni and other members of the School community to keep them updated about the activities of the School, or about alumni and parent events of interest, including sending updates and newsletters by email and by post.

The School may also:

- contact parents and/or alumni by post in order to promote and raise funds for the School and, where appropriate, other worthy causes (*e.g.* independent charities, bursaries at the School *etc.*);
- contact parents and/or alumni by e-mail or telephone for the same purposes, but only in those instances where express consent has been obtained;
- should a data subject wish to limit or object to any such use, or would like further information, they should contact the DPL in writing. The data subject always has the right to withdraw any consent given, or otherwise object to direct marketing or fundraising. However, the School may

need nonetheless to retain some details (not least to ensure that no more communications are sent to that particular address, email or telephone number).

Rights and Consent

Individuals' Rights

Individuals have various rights under Data Protection Law to access and understand personal data about them held by the School, via a Subject Access Request. In some cases, individuals can ask for personal data to be erased or amended or for the School to stop processing it, but subject to certain exemptions and limitations.

Any individual wishing to access or amend their personal data, or wishing it to be transferred to another person or organisation, or who has some other objection to how their personal data is used, should put their request in writing to the DPL.

The School will endeavour to respond to any such written requests as soon as is reasonably practicable and in any event within statutory time-limits, which is one month in the case of most requests for access to information. The School will be better able to respond quickly to smaller, targeted requests for information. If the request is manifestly excessive or similar to previous requests, the School may ask you to reconsider or charge a proportionate fee, but only where Data Protection Law allows it.

You should be aware that certain data is exempt from the right of access. This may include, but is not limited to, information which identifies other individuals, or information which is subject to legal professional privilege. The School is also not required to disclose any pupil examination scripts (though examiners' comments may qualify for disclosure), nor any confidential reference given by the School for the purposes of the education, training or employment of any individual.

Pupil Requests

Pupils can make Subject Access Requests for their own personal data, provided that, in the reasonable opinion of the School, they have sufficient maturity to understand the request they are making (see section **Whose Rights** p.9). Indeed, while a person with parental responsibility will generally be entitled to make a subject access request on behalf of younger pupils, the information in question is always considered to be the child's at law.

A pupil of any age may ask a parent or other representative to make a subject access request on his/her behalf. Moreover (if of sufficient age) their consent or authority may need to be sought by the parent making such a request. Typically, pupils at senior school are generally assumed to have this level of maturity (although this will depend on both the child and the personal data requested, including any relevant circumstances at home). For the purposes of this School, pupils will generally be assumed not to have reached this level of maturity; on a case by case basis, the School may deem older children (13 years old or above) exhibiting exceptional levels of maturity to be sufficiently mature to have a say in this decision.

All information requests from, or on behalf of, pupils – whether made under Subject Access Request or simply as an incidental request – will therefore be considered on a case by case basis.

Consent

Where the School is relying on consent as a means to process personal data, any person may withdraw this consent at any time (subject to similar age considerations as above). Please be aware however that the School may have another lawful reason to process the personal data in question even with that consent withdrawn.

That reason will usually have been asserted under this *Privacy Notice*, or may otherwise exist under some form of contract or agreement with the individual (*e.g.* an employment or parent contract, or because a purchase of goods, services or membership of an organisation (*e.g.* an alumni or parents' association) has been requested).

Whose Rights

The rights under Data Protection Law belong to the individual to whom the data relates. However, the School will often rely on parental consent to process personal data relating to pupils (if consent is required) unless, given the nature of the processing in question and given the pupil's age and understanding, it is more appropriate to rely on the pupil's consent. Parents should be aware that in such situations potentially they may not be consulted, depending on the interests of the child, the parents' rights at law or under their contract, and all the circumstances.

In general, the School will assume that pupils' consent is not required for ordinary disclosure of their personal data to their parents (*e.g.* for the purposes of keeping parents informed about the pupil's activities, progress and behaviour, and in the interests of the pupil's welfare) unless, in the School's opinion, there is a good reason to do otherwise.

However, where a pupil seeks to raise concerns confidentially with a member of staff and expressly withholds their agreement to their personal data being disclosed to their parents, the School may be under an obligation to maintain confidentiality unless, in the School's opinion, there is a good reason to do otherwise (*e.g.* where the School believes disclosure will be in the best interests of the pupil or other pupils, or if required by law).

Pupils are required to respect the personal data and privacy of others, and to comply with the School's policies in this regard (*e.g.* notably the School's *ICT Policy*) and the School rules. Staff are under professional duties to do the same covered under the relevant staff policies and contractual obligations.

Data Accuracy and Security

The School will endeavour to ensure that all personal data held in relation to an individual is as up-to-date and accurate as possible. Individuals must please notify the DPL of any significant changes to important information (*e.g.* contact details) held about them.

An individual has the right to request that any out-of-date, irrelevant or inaccurate information about them is erased or corrected. This right is subject to certain exemptions and limitations under Data Protection Law; please see above for details of why the School may need to process your data and whom you may contact if you disagree.

The School will take appropriate technical and organisational steps to ensure the security of personal data about individuals, including policies around use of technology and devices, and

access to School systems. All staff and Governors will be made aware of the School's data protection policies and of their duties under Data Protection Law, receiving relevant training as appropriate.

Other Information

Updates

The School will update this Policy from time to time. Any substantial changes that affect your rights will be provided to you directly as far as is reasonably practicable.

Queries and Complaints

Any comments or queries on this document should be directed to the School's Data Protection Lead using the contact details shown above (*c.f.* **Responsibility for Data Protection** p.3).

If an individual believes that the School has not complied with this Policy or acted otherwise than in accordance with Data Protection Law, they should utilise the School complaints procedure and should also notify the School's Data Protection Lead. The individual can also make a referral to or lodge a complaint with the Information Commissioner's Office (ICO) directly, although the ICO recommends that steps are taken to resolve the matter with the School before involving the regulator.

Legal and Regulatory Framework

Various laws underpin this Privacy Notice and are relevant to independent schools:

- The General Data Protection Regulation (from 25 May 2018)
- The Data Protection Act 2018 and related legislation (from 25 May 2018, form TBC)
- The Privacy and Electronic Communications Regulations 2011 (PECR) (to continue after 25 May 2018 until replaced by the ePrivacy Regulation – form and date TBC)
- The Protection of Freedoms Act 2012 (biometrics and CCTV)