NWSLC

NORTH WARWICKSHIRE & SOUTH LEICESTERSHIRE COLLEGE

Rights of Individuals Under the GDPR Procedure 2022 (v1)

North Warwickshire and South Leicestershire College

Data Protection Officer

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Rights of Individuals under the GDPR Procedure 2022(v1)

1. Introduction

1.1 North Warwickshire and South Leicestershire College's (the College) reputation and future growth are dependent on the way the College manages and protects Personal Data. All individuals have rights over their Personal Data

1.2 This Rights of Individuals Procedure must be read in conjunction with the College's Rights of Individuals under the GDPR Policy. The Procedure explains the processes the College will follow to comply with its legal obligations to allow individuals to exercise their over their Personal Data, as detailed in the Policy.

1.3 All College staff will receive a copy of the Policy and this Procedure when they start their employment and may receive periodic revisions of the Policy and this Procedure. All College staff are obliged to comply with the Policy and this Procedure at all times.

1.4 The Policy and this Procedure do not form part of any College staff contracts of employment and the College reserves the right to change the Policy and this Procedure at any time.

2. Rationale

2.1 The College's GDPR Policy is the College's fundamental policy which sets out:

i. the types of Personal Data that the College may be required to handle;

ii. the College's legal purposes for handling that Personal Data;

iii. how the College complies with its obligations under Data Protection Laws; and

iv. the obligations of College staff in relation to ensuring that the College meet its obligations in this area.

2.2 This Procedure explains the processes that are in place to ensure that the College complies with its legal obligations to allow individuals to exercise their rights over their Personal Data.

3. Scope

3.1 This Policy applies to all College staff who collect and / or use individuals' Personal Data which is stored electronically, in paper form or otherwise.

4. Definitions

4.1 College staff - any College employee or contractor who has been authorised to access any Personal Data and will include employees, consultants, contractors and temporary staff hired to work on behalf of the College.

4.2 Data Protection Laws - the General Data Protection Regulation and all applicable laws relating to the collection an use of PD and privacy and any applicable codes of practice issued by a regulator including in the UK, the Data Protection Act 2018.

4.3 Data Protection Officer (DPO) - the DPO can be contacted at 02476 243000 or by email at dpo@nwslc.ac.uk.

4.4 ICO - the Information Commissioner's Office, the UK's data protection regulator.

4.5 Personal data - any information about an individual which identifies them or allows them to be identified in conjunction with other information that is held. Personal Data is defined very broadly and covers both ordinary Personal Data from personal contact details and business contact details to special categories of Personal Data such as trade union membership, genetic data and religious belief. It also includes information that allows an individual to be identified indirectly, for example an identification number, location data or on online identifier.

4.6 Processing - any collection, use or storage of Personal Data, whether on the College's information systems or in paper form.

4.7 Special categories of Personal Data - Personal Data which reveals a person's racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic data (i.e. information about their inherited or acquired genetic characteristics), biometric data (i.e. information about their physical, physiological or behavioural characteristics such as facial images or fingerprints), physical or mental health, sexual life or sexual orientation and criminal record.

5. Related Policies, Procedures and Documents

5.1 GDPR Policy;

5.2 Rights of Individuals under the GDPR Policy;

5.3 Data Retention Policy;

5.4 IT Security Policy;

5.4 Retention of Information Schedule;

5.5 Freedom of Information Policy.

5.6 Other policies and documents may be identified from time to time as circumstances change and may be added to this list.

6. How We Allow Individuals to Exercise Their Rights Under Data Protection Laws

6.1 **Right of Access (Subject Access Requests - SAR)**

If a member of College staff receives a request from an individual to access or to receive a copy of their Personal Data, the following procedure should be followed:

i. The member of staff must forward or report the request to the DPO as soon as they receive it.

ii. A request from an individual does not have to be in a particular format, e.g. in writing. If the request is not made in writing (it may for example have been taken over the telephone) the individual should be asked to confirm their request in writing to ensure the College correctly complies with the request.

iii. If the individual does not wish to do this, then the request should be written down by the member of staff receiving it and read back to the individual, who should then be asked if there are any inaccuracies in the 'transcript'.

iv. **Note**: the College can no longer charge a fee for responding to such requests unless a second or subsequent copy of the Personal Data is requested (in which case the College can charge an administrative fee) or the request is unfounded or excessive (see paragraph 6.8 below).

v. Upon receiving or being notified of the request, the DPO will note the date the request was received, the deadline to respond to the request (ordinarily one month from the date of receipt, although an extension may be possible in certain circumstances - see paragraph 6.9 below).

vi. The DPO will monitor the progress being made to deal with the request to ensure the deadline is maintained.

vii. Within three working days of receipt, the DPO will decide whether any further information is required from the individual to clarify the identity of the individual or to understand the request. The DPO will ask the individual for any further information that is needed as soon as possible.

viii. If further information is required, no action will be taken until that further information has been received from the individual.

ix. Once the further information has been received and / or the DPO is satisfied that he/she knows what has been asked for, relevant staff will work to locate the individual's Personal Data.

x. Depending on who the individual is, this may involve locating staff files, student files, information on parents, notes, minutes, correspondence and other relevant documents containing Personal Data either on the College's information systems or in the College's structured paper filing systems. The DPO will inform staff as to what searches they need to carry out.

xi. Once staff have located all the individual's Personal Data, the DPO will review it and decide whether any of the Personal Data does not need to be disclosed because there are exemptions which may apply.

xii. Once the DPO has decided what the College is going to provide to the individual, relevant staff will respond, providing copies of the Personal Data, which, if the request is made electronically shall be provided in a commonly used electronic form.

xiii. If it is clear that it is not possible to respond to the request within one month of the date the request was received, the DPO will ensure he/she has contacted the individual before the deadline to explain what the College has done so far and when the College would provide their Personal Data.

6.2 **Right to Rectification**

If a member of College staff receives a request from an individual to correct their Personal Data, the following procedure should be followed:

i. The member of staff must forward or report the request to the DPO as soon as they receive it.

ii. Upon receiving or being notified of the request, the DPO will note the date the request was received, the deadline to respond to the request (ordinarily one month from the date of receipt, although an extension may be possible in certain circumstances - see paragraph 6.9 below).

iii. The DPO will monitor the progress being made to deal with the request to ensure the deadline is maintained.

iv. Relevant staff will locate the Personal Data concerned and verify whether it is incorrect or incomplete and will correct or complete it as soon as possible.

v. The DPO will ascertain whether the College has disclosed any incorrect Personal Data to any third parties and, if so, relevant staff will contact those third parties as soon as possible to require them to correct the Personal Data.

vi. The DPO will decide whether the College needs to keep a copy of the original Personal Data for evidence reasons of otherwise.

vii. The DPO will confirm to the individual, in writing, within one month of the date of their request that the College has complied with the request.

6.3 **Right to Erasure (Right to be Forgotten**)

If a member of College staff receives a request from an individual to delete their Personal Data, the following procedure should be followed:

i. The member of staff must forward or report the request to the DPO as soon as they receive it.

ii. Upon receiving or being notified of the request, the DPO will note the date the request was received, the deadline to respond to the request (ordinarily one month from the date of receipt, although an extension may be possible in certain circumstances - see paragraph 6.9 below).

iii. The DPO will monitor the progress being made to deal with the request to ensure the deadline is maintained.

iv. The DPO will reach a decision as to whether the right to be forgotten applies.

v. If the right to be forgotten does apply, the DPO will decide whether the College is required to keep any parts of the Personal Data for evidence reasons and. if so, this Personal Data will be excluded from the request.

vi. The DPO will then request relevant staff to securely delete all the Personal Data about the individual that the College holds, which is not excluded. This will include securely shredding all hard copy documents and ensuring that computer records are securely deleted from the College's information systems in line with the processes detailed in the College's Data Retention Policy.

vii. The DPO will ascertain whether the College has disclosed the deleted Personal Data to any third parties and, if so, relevant staff will contact those third parties as soon as possible to require them to delete the data.

viii. The DPO will confirm to the individual, in writing, within one month of the date of their request that the College has complied with the request.

6.4 **Right to Restrict Processing**

If a member of College staff receives a request from an individual to restrict the College's use of their Personal Data, the following procedure should be followed:

i. The member of staff must forward or report the request to the DPO as soon as they receive it.

ii. Upon receiving or being notified of the request, the DPO will note the date the request was received, the deadline to respond to the request (ordinarily one month from the date of receipt, although an extension may be possible in certain circumstances - see paragraph 6.9 below).

iii. The DPO will monitor the progress being made to deal with the request to ensure the deadline is maintained.

iv. The DPO will reach a decision as to whether the right to restrict processing applies.

v. If the right to restrict processing does apply, the DPO will action the request as soon as possible and ensure that the College no longer uses the individual's Personal Data in the way they have objected to. This may include moving documents to folders where they can no longer be accessed, removing details from files and locking papers files away.

vi. The DPO will ascertain whether the College has disclosed the Personal Data to any third parties and, if so, relevant staff will contact those third parties as soon as possible to require them to stop using the Personal Data in the restricted way.

vii. The DPO will confirm to the individual, in writing, within one month of the date of their request that the College has complied with the request.

6.5 **Right to Data Portability**

If a member of College staff receives a request from an individual to provide a copy of their Personal Data in a structures, commonly-used and machine-readable format, the following procedure should be followed:

i. The member of staff must forward or report the request to the DPO as soon as they receive it.

ii. Upon receiving or being notified of the request, the DPO will note the date the request was received, the deadline to respond to the request (ordinarily one month from the date of receipt although an extension may be possible in certain circumstances - see paragraph 6.9 below).

iii. The DPO will monitor the progress being made to deal with the request to ensure the deadline is maintained.

iv. The DPO will reach a decision as to whether the right to data portability applies and to which subset of the individual's Personal Data it applies.

v. If the right to data portability does apply, relevant staff will action the request as soon as possible. This will include creating an electronic copy of the individual's Personal Data which can be transferred to another organisation if the individual so requests.

6.6 **Right to Object**

If a member of staff receives an objection from an individual, to the College's processing of their Personal Data, the following procedure should be followed:

i. The member of staff must forward or report the request to the DPO as soon as they receive it.

ii. Upon receiving or being notified of the request, the DPO will note the date the request was received, the deadline to respond to the request (ordinarily one month from the date of receipt although an extension may be possible in certain circumstances - see paragraph 6.9 below).

iii. The DPO will monitor the progress being made to deal with the request to ensure the deadline is maintained.

iv. The DPO will reach a decision as to whether the right to object applies.

v. If the right to object does apply, the DPO will action the request as soon as possible. This may include supressing the individual from the College's direct marketing lists, or stopping the processing of Personal Data that has been objected to.

vi. The DPO will confirm to the individual, in writing, within one month of the date of their request that the College has complied with, or intends to comply with their request or that the College has not complied with their request and the reasons why the request has not been complied with.

6.7 **Rights in Relations to Automated Decision Making**

If a member of College staff receives an objection from an individual to an automated decision that the College has made about the individual which produces legal effects concerning them or similarly significantly affects them, the following procedure should be followed:

i. The member of staff must forward or report the request to the DPO as soon as they receive it.

ii. Upon receiving or being notified of the request, the DPO will note the date the request was received, the deadline to respond to the request (ordinarily one month from the date of receipt although an extension may be possible in certain circumstances - see paragraph 6.9 below).

iii. The DPO will monitor the progress being made to deal with the request to ensure the deadline is maintained.

iv. The DPO will reach a decision as to whether the right to intervene in the automated decisions-making applies.

v. If the right to intervene does apply, the DPO will ensure that the request is reviewed as soon as possible. This will involve the review of the automated decision-making process, and the decision made and a consideration of whether the decision needs to be re-taken, allowing the individual to give their view on the decision.

vi. The DPO will ensure that the individual is written to within one month of the date of the request, to inform them as to what the outcome of the review is.

vii. Automated decision making happens where the College makes a decision about an individual solely by automated mans without any human involvement.

viii. Profiling happens where the College automatically uses Personal Data to evaluate certain things about an individual.

6.8 **Are There Any Requests the College Does Not Have to Respond To?**

6.8.1 If the request received from an individual is unfounded or excessive then the DPO may, on behalf of the College, either:

i. refuse to action the request; or

ii. charge a reasonable fee, taking into consideration the College's administrative costs of providing the information or taking the action requested.

6.9 **Response Times**

6.9.1 All requests set out above must be responded to within a month, unless the request is complex, in which case the period may be extended up to a further two months.

6.9.2 Any decision in relation to whether the request is complex is to be made by the DPO, who shall inform the individual making the request, of any extension to the response time. The notification shall be made within the initial one month period and shall include reasons for the delay.

6.9.4 If the College decides not to action the request made by an individual, the DPO will communicate this decision to them within one month of receiving the request. The communication shall include details of the College's reasons for not actioning the request and the ability of the individual to make a complaint to the ICO.

6.10 **Legal Advice**

Specialist external legal advice may be taken on any matter referred to above. The DPO will make the decision as to whether such advice should be taken.

7. Equality Analysis

7.1 By virtue of the provision of the Equality Act 2010, the College has a duty to have due regard to the need to:

i. eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct;

ii. advance equality of opportunity between people of different groups;

iii. foster good relations between people from different groups.

7.2 In implementing this Policy and associated procedures, the College will actively take these aims into account as part of its decision making process and will demonstrate how this has been undertaken.

7.3 Where necessary a full equality impact assessment will be undertaken.

8. Implementation, Monitoring and Review

8.1 Activity taking place under this Procedure will be reviewed by the DPO and reported to the Executive as it arises and to the Corporation on an annual basis.

8.2 This Procedure will be reviewed every three years, or as otherwise directed by the Principal, College policy or legislative changes.