



PROCESSING SPECIAL CATEGORY PERSONAL DATA AND CRIMINAL CONVICTIONS AND OFFENCES PERSONAL DATA

(Articles 9 and 10 of the General Data Protection Regulation and Schedule 1 of the Data Protection Act 2018)

1. Introduction

- 1.1 The University collects, holds and processes a variety of personal data about different members of the University community, including, but not limited to, prospective, current, and previous students; current, prospective and previous employees; volunteers; alumni and Board members.
- 1.2 In some instances, the University is required to process special category (“sensitive”) personal data and/or data relating to criminal convictions and offences (actual or alleged). This type of personal data must only be processed if certain conditions can be met and requires that the University has an appropriate policy document in place in relation to the processing of such personal data.
- 1.3 This document supplements the University’s Data Protection Policy, Privacy Notices and Information Asset Register (the University’s main record of personal data processing activities) and outlines the occasions where special category personal data and criminal convictions and offences personal data is processed under the conditions met by the General Data Protection Regulation and the Data Protection Act 2018 (‘DPA’).
- 1.4 A glossary of terms used within this policy is available at Appendix 1.

2. Purpose

- 2.1 The purpose of this policy is to set out how the University will comply with the data protection principles when processing special category personal data and criminal convictions and offences personal data when it does so in reliance on a condition from Parts 1, 2 or 3 of Schedule 1 of the DPA, as required under Part 4 of Schedule 1 of the DPA.

3. Scope

- 3.1 This policy applies to all employees, including fixed-term, contract and variable hours employees, students, subsidiaries and subsidiary employees, partner organisations and partner employees, suppliers, contractors, consultants, volunteers, representatives and agents that work for or process, access, use or manage personal data on behalf of the University.
- 3.2 This policy relates to all special category personal data and criminal convictions and offences personal data that is handled, stored, processed or shared by or on behalf of the University whether organised and stored in physical or IT based record systems.

4. Processing Conditions from Schedule 1, DPA

These are not the only legal bases/conditions on which the University processes special category personal data and/or criminal convictions and offences personal data, but they are the ones to which this policy applies.

4.1 Paragraph 1 – Employment, social security and social protection

The University processes a variety of information about prospective, current and previous employees for employment purposes, including special category personal data and criminal convictions and offences personal data. The University relies on this condition for processing such information as consent cannot be freely given or withdrawn and it is not appropriate to obtain consent for such processing due to the nature of the employment relationship.

Personal data processed for employment purposes is treated confidentially and maintained by Human Resources. It is only shared within the University on a need-to-know basis where the law allows. Any information about criminal convictions obtained as part of a Disclosure and Barring Service (DBS) check is stored and retained in accordance with DBS standards.

4.2 Paragraph 4 – Research etc.

The University processes a variety of information about prospective, current and previous students and employees, research participants and other individuals for archiving, scientific or historical research purposes or statistical purposes. Data processing in relation to research is in the main on the basis of the consent of the individual(s) concerned, where it is not appropriate to rely on consent and where there may be a need to process such data in order to meet the public interest in the research area concerned, any personal data is processed under this condition and is handled very carefully and in accordance with research ethics codes of conduct.

4.3 Paragraph 6 – Statutory etc. and government purposes

The University is legally required to provide some special category personal data about staff and students to external organisations for statutory returns and reporting, such as to the Higher Education Statistics Agency (HESA). See the HESA data collection notices available at: <https://www.hesa.ac.uk/about/regulation/data-protection/notices>

4.4 Paragraph 8 – Equality of opportunity or treatment

The University recognises the importance of 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. On those occasions where special category personal data is processed without consent and is in the public interest, it is processed under this condition. Any processing of personal data used under this condition is carried out confidentially and securely.

4.5 Paragraph 10 – Preventing or detecting unlawful acts

The University's unique group structure, comprising the subsidiary further education college (Bolton College) and University Technical College (UTC), broadens the University's safeguarding duties to a much wider community (many of whom are under 18).

We rely on this condition to process data about applicants' and students' criminal convictions and offences, in certain circumstances, to enable us to manage any potential risks to the University community. We may also rely on this condition to process information

about employees' criminal convictions, if appropriate.

The University has a duty to prevent individuals from being drawn into radicalisation and terrorism. Where we process special category data such as personal data about religious beliefs or political opinions, or data about criminal convictions, for the purposes of fulfilling our Prevent duty, we may rely on this condition where it is not appropriate to obtain an individual's consent. Any personal data processed for these purposes is processed confidentially on a need-to-know basis internally and externally in accordance with University and Government guidance.

The University relies on this condition to disclose certain personal data to the police, DWP, or other similar bodies for the prevention and detection of unlawful acts. Any personal data disclosed under these circumstances is shared securely and is restricted to the minimum amount of information necessary.

Information about criminal convictions obtained as part of a Disclosure and Barring Service (DBS) check is stored and retained in accordance with DBS standards.

4.6 Paragraph 11 – Protecting the public against dishonesty etc.

The University provides courses which lead to entry into regulated professions. 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. nursing and teaching).

We may disclose special category data or data about criminal convictions to those who regulate such professions. The processing of such data is in the public interest in ensuring the safety of the public regarding students working towards becoming a member of those professions and enabling those regulating such professions to do so. The personal data processed under this condition is used in accordance with industry standards and guidance in the respective professional area.

4.7 Paragraph 12 – Regulatory requirements relating to unlawful acts and dishonesty etc.

Where it is not appropriate to rely on consent, the University relies on this condition when it processes special category personal data and criminal convictions and offences personal data about members of the Governing Body (including some employees) to ensure they are fit and proper persons to fulfil the role. To enable us to register as a Higher Education provider with the Office for Students, we must be able to demonstrate that the University has appropriate, adequate and effective management and governance arrangements in place.

4.8 Paragraph 14 – Preventing fraud

See paragraphs 10 (preventing or detecting unlawful acts) and 11 (Protecting the public against dishonesty etc.) above.

The University also relies on this condition to audit claims relating to student finance and public organisations (eg. to local authorities) in order to detect and prevent fraud.

4.9 Paragraph 17 – Counselling etc.

The University provides staff and student counselling services and other student wellbeing

services. 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 individual engaging with such services.

This condition will be relied upon where special category personal data or criminal convictions and offences data in a counselling/welfare context is processed without consent due to a substantial public interest being identified and acted upon and/or an urgent need has been identified for the data to be disclosed. All information held in counselling records is treated confidentially and stored securely with all counsellors, who comply with professional guidelines.

4.10 Paragraph 18 – Safeguarding of children and individuals at risk

The University's unique group structure, comprising the subsidiary further education college (Bolton College) and University Technical College (UTC), broadens the University's safeguarding duties to a much wider community (many of whom are under 18).

The University admits students to courses, residential events and to our accommodation who are under 18 as well as those over 18. We rely on this condition to process data about applicants' and students' criminal convictions and offences data, in certain circumstances, to enable us to identify and manage any potential risks to the University community. This condition will be relied upon where we act in students' best interests in providing support via our Student Services.

We also rely on this condition to process special category data for the purposes of safeguarding children who are under 18, or individuals who are over 18 and at risk, where there is a substantial public interest and we are unable to obtain consent for the processing. We may also rely on this condition to process information about employees' criminal convictions, if appropriate.

Any information about criminal convictions obtained as part of a Disclosure and Barring Service (DBS) check is stored and retained in accordance with DBS standards.

4.12 Paragraph 33 – Legal claims

The University relies on this condition where it is necessary to do so for the purpose of any legal proceedings and in order to obtain legal advice and for the purposes of establishing, exercising or defending the University's legal rights (eg. court orders preventing individuals entering University premises).

5. How the data processing under the above conditions satisfies the Data Protection Principles in Articles 5 and 6 of the General Data Protection Regulation

5.1 The University will comply with the data protection principles when processing special category personal data and criminal conviction and offences personal data, as follows:

5.2 Lawfulness, fairness and transparency

Under each condition above, there is an appropriate lawful basis for processing as stated in the University privacy notices outlining the processing, unless an exemption from the right to be informed is applicable in relation to a particular case. The processing is fair to the individual(s) concerned because it would always fall within their reasonable

expectations. The University also uses data privacy impact assessments to ensure that the proposed processing is carried out fairly.

5.3 Purpose Limitation

Under each condition above, any personal data shall only be processed for those purposes as notified under the privacy notice or for any other purpose as allowed under the data protection legislation. Personal data will not be further processed in a manner which is incompatible with these purposes. If it becomes necessary to change the purpose for which the data is processed, the data subject will be informed of the new purpose before any processing takes place unless an exemption from the right to be informed is applicable.

5.4 Data Minimisation

Under each condition above, only the minimum personal data is collected in order to fulfil the specified purpose. Information which is not needed or is not relevant for a purpose will not be collected or otherwise processed.

5.5 Accuracy

Under each condition above, personal data will be accurate and, where necessary, kept up-to-date. Where the University has been notified that information is incorrect steps will be taken to correct it. The accuracy of any personal data will be checked at the point of collection and will be reviewed when contacting individuals (data subjects) afterwards.

5.6 Retention and erasure of personal data (storage limitation)

Under each condition above, personal data will not be kept longer than is necessary for the purposes for which it is being processed.

Personal information will be managed in line with the University's Records Retention and Disposal Policy and Records Retention Schedule which provide guidance on how long certain types of information should be retained and when and how it should be destroyed. Retention periods are based on legal requirements and operational service standards.

Any information about criminal convictions of staff or students which has been obtained as part of a DBS check will be retained in accordance with DBS standards.

5.7 Integrity and confidentiality (security)

Under each condition above, the data is stored securely using appropriate technological controls and access is restricted internally and externally on a need to know basis. The University will ensure that appropriate technical and organisational measures are taken to protect against unlawful or unauthorised processing of personal data and against the accidental loss of, or damage to, personal data.

5.8 Accountability

The University has a Data Protection Officer who is accountable for ensuring that the data protection principles are applied.

If there is a concern that this policy document or data protection principles have not been followed the matter should be raised with the Data Protection Officer at dpo@bolton.ac.uk

The data protection officer will review this Appropriate Policy Document as and when required.

OTHER RELATED AND RELEVANT INFORMATION

- Data Protection Policy
- Records Retention and Disposal Policy
- Records Retention Schedule
- Privacy Notices
- Information Security Policies

[This is not an exhaustive list.]

LOCATION, ACCESS AND DISSEMINATION OF THE POLICY

The University reserves the right to change this policy at any time without notice so please check regularly to obtain the latest copy.

For useful information and advice on data protection contact: www.ico.org.uk

The following Officers will be responsible for providing advice to staff and students on the application of the policy to specific cases in the first instance:

- Data Protection Officer
- Data Protection Champions

This policy will be made available on the University website.

APPENDIX 1

GLOSSARY OF TERMS

Data	Information which is stored electronically (on any media), on a computer (including in emails) or in most non-electronic filing systems or other manual records.
Personal data	Data relating to a living individual who can be identified from that data (or from that data and other information in our possession or likely to come into our possession). Personal data can be factual (such as name, address, date of birth) or it can be an opinion (such as aspects of an employment reference). Information can be personal data without including a person's name. Personal data may also be referred to as 'personal information'.
Special category data	<p>Information about a person's:</p> <ul style="list-style-type: none"> • Racial or ethnic origin; • Political opinions; • Religious or philosophical beliefs; • Trade union membership; • Physical or mental health data; • Genetic data; • Biometric data used to uniquely identify someone; • Sexual life or sexual orientation. <p>Information relating to actual or alleged criminal offences or convictions, and any proceedings in relation to the same, is treated in a similar way to special category data. Processing these types of information is prohibited unless certain legal bases apply.</p>
Processing	Any activity which involves the data. It includes collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.
Data subject	The individual the data relates to and for the purpose of this policy, data subjects include all living individuals about whom we hold personal data. A data subject need not be a UK national or resident. All data subjects have legal rights in relation to their personal data.
Privacy notice	A statement provided to data subjects when or before their personal data is collected which explains who the data controller is, what their information will be used for, to whom it may be disclosed for these purposes (particularly any external third parties) and any other information they may need to know in order to ensure that the processing is fair.