

Appropriate Policy Document

Background

As part of the University's functions, we process special category data and criminal conviction data in accordance with the requirements of Articles 9 and 10 of the UK General Data Protection Regulation (UK GDPR) and Schedule 1 of the Data Protection Act 2018 (DPA 2018).

Article 9 of the UK GDPR defines *special category data* as personal data revealing:

- Racial or ethnic origin
- Political opinions
- Religious or philosophical beliefs
- Trade union membership
- Genetic data
- Biometric data (for the purpose of identification)
- Data concerning health
- Data concerning a person's sex life or sexual orientation

Article 10 of the UK GDPR covers processing in relation to criminal convictions and offences or related security measures. In addition, section 11(2) of the DPA 2018 specifically confirms that this includes personal data relating to the alleged commission of offences or proceedings for an offence committed or alleged to have been committed, including sentencing. This is collectively referred to as 'criminal offence data'.

Due to its sensitivity, we may only process this type of data in certain circumstances.

- For special category data, we must identify a condition within Article 9 of the UK GDPR. Where we rely on Articles 9(2)(b), (g), (h), (i) or (j), section 10 of the DPA 2018 states that we must be able to meet additional conditions and safeguards at Schedule 1, Parts 1-3.
- For criminal conviction data, we must also meet a specific condition in Schedule 1 of the DPA 2018 and comply with the additional safeguards set out in that Act.

For some of the Schedule 1 conditions of processing we are required to have an Appropriate Policy Document (APD) in place, which provides further detail on our policies and procedures.

What this policy does

This Appropriate Policy document sets out how the University will protect special category and criminal convictions personal data, when processed as described in our primary [Privacy Notices](#).

If we need to process such data for reasons not described in our primary Privacy Notices, we will let you know by means of a separate Privacy Notice and create and maintain APDs as required by the DPA 2018.

This Policy supplements the University's [Data Protection Policy](#) and Records of Processing Activity. The Data Protection Policy sets out the University's general approach to data protection, while this APD meets the requirements of Schedule 1, Part 4 of the DPA 2018.

Conditions for processing special category and criminal offence data

We process special category and criminal offence data under the following provisions of the UK GDPR:

- **Article 9(2)(b)** - where processing is necessary for the purposes of carrying out obligations and exercising specific rights which are imposed or conferred by law on UEA or the data subject in connection with **employment, social security or social protection**
- **Article 9(2)(g)** - where it is necessary for reasons of substantial public interest.

We process special category and criminal offence data for the following purposes in Part 1 of Schedule 1 of the DPA 2018:

- **Paragraph 1, Employment, social security and social protection** - for the purposes of performing or exercising obligations or rights under employment law, social security law or the law relating to social protection. This includes our health and safety responsibilities as well as other employment rights and obligations.
- **Paragraph 2, Health or social care purposes** - for the purpose of assessing the working capacity of our employees so that we can safeguard their welfare. This means that we can provide any adjustments necessary for our staff and implement any changes advised by our occupational health provider.
- **Paragraph 4, Research** - for the purpose of research, where such research is in the public interest.

We process special category and criminal offence data for the following purposes in Part 2 of Schedule 1 of the DPA 2018:

- **Paragraph 6, Statutory purposes**
- **Paragraph 8, Equality of opportunity or treatment** - we will process certain categories of data for the purposes of monitoring, promoting and maintaining equality of opportunity and treatment of our staff and students, for example, in relation to our Equality Act duties and our work to widen participation in Higher Education. This data is limited to racial or ethnic origin, religious or philosophical beliefs, health and sexual orientation. Most of this data will be collected with the explicit consent of the individual.
- **Paragraph 10, Preventing or detecting unlawful acts** - this condition applies when we process data about criminal convictions and offences, for example, as part of the recruitment of staff or the admissions process for applicants to certain courses, such as social work or education. We have a duty to do so to safeguard our students, staff and others and, in line with Part 3 of Schedule 1, we will only process this data with consent and only if it is relevant to the role, position or course.
- **Paragraph 11, Protecting the public against dishonesty**
- **Paragraph 12, Regulatory requirements relating to unlawful acts and dishonesty**
- **Paragraph 17, Counselling** - we may need to process data in order to provide confidential counselling, advice or support to our staff and students. Usually, we will have consent for this purpose but that may not be possible in some instances, for example where the individual cannot give consent.

- **Paragraph 18, Safeguarding** - we may need to process data in order to meet our safeguarding responsibilities, for example, to protect an individual at risk from physical, mental or emotional harm.

We process special category and criminal offence data for the following purposes in Part 3 of Schedule 1 of the DPA 2018:

- **Schedule 1 Part 3, Criminal convictions and offences data**

Compliance with the data protection principles

When processing personal data, including special category and criminal offence data, the University will comply with the data protection principles in Article 5 of the UK GDPR.

Principle (a), Lawfulness, fairness and transparency

We provide clear and transparent information about why we process personal data including our lawful basis for processing in our [privacy notices](#) and this document.

Our processing for purposes of substantial public interest is necessary for the exercise of functions conferred on the University by statute.

As a public authority we need to process special category and criminal offence data for the substantial public interest conditions set out above to meet the requirements of legislation such as the Higher Education and Research Act 2017, the Equality Act 2010, the Health and Safety Act 1974, the Counter Terrorism and Security Act 2015, and legislation relating to safeguarding.

Our processing for the purposes of employment relates to our obligations as an employer.

Principle (b), Purpose limitation

Personal data will only be processed for the specific purposes notified to the data subject via a privacy notice or for any other purposes permitted under data protection legislation.

Personal data will not be collected for one purpose and then used for a separate, unrelated purpose. Should it become necessary to change the purpose for which the data is processed, data subjects will be informed of the new purpose before any processing occurs.

Principle (c), Data minimisation

We collect personal data necessary for the relevant purposes and ensure it is not excessive. The information we process is necessary for and proportionate to our purposes. Where personal data is provided to us or obtained by us, but is not relevant to our stated purposes, we will erase it.

Principle (d), Accuracy

Where the University has been notified that information is incorrect, steps will be taken to correct it. Accuracy of personal data will be checked at the point of collection and reviewed at necessary intervals.

Principle (e), Storage limitation

Special category and criminal offence data processed by us for the purpose of employment or substantial public interest, will be retained for the periods set out in our [retention schedule](#). The retention policy is determined by our legal and regulatory obligations, and our business requirements.

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.

Principle (f), Integrity and confidentiality (security)

The University will ensure that appropriate technical and organisational measures are taken to protect against unlawful or unauthorised processing of personal data and against its accidental loss, destruction or damage.

Article 5(2), Accountability

We have put in place appropriate technical and organisational measures to meet the requirements of accountability, which include:

- The appointment of a data protection officer who reports directly to our highest management level.
- Taking a '*data protection by design and default*' approach to our activities
- Maintaining documentation of our processing activities
- Adopting and implementing data protection policies and ensuring we have written contracts in place with our data processors
- Implementing appropriate security measures in relation to the personal data we process
- Carrying out data protection impact assessments for our high-risk processing
- Implement processes to make sure that personal data is only collected, used or handled in a way that is compliant with data protection legislation.

Retention and erasure of data

As part of our ongoing compliance obligations we will make sure that data is only retained for as long as is necessary and we will publish information about the retention periods for different categories of data. Data subjects have access to information about how their data will be handled and how long it will be retained.

Where we no longer require special category or criminal conviction data for the purpose for which it was collected, we will delete it, put it beyond use or make it permanently anonymous.

Review process

We will review this Policy annually, or more frequently if necessary.

Further information

Additional special category processing

We process special category personal data in other instances where it is not a requirement to keep an appropriate policy document. Our processing of such data respects the rights and interests of the data subjects. We provide clear and transparent information about why we process personal data including our lawful basis for processing in our privacy notice and staff privacy notice

Any queries about this policy should be directed to the University's Data Protection Officer at dataprotection@uea.ac.uk.

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