



## **Data Protection Policy**

### **1 Introduction**

Middlesbrough College needs to keep certain information about its employees, learners and other users to allow it to monitor performance, attendance, achievements, and health and safety, for example. It is also necessary to process information so that staff can be recruited and paid, courses organised and legal obligations to funding bodies and government met.

Our use of information is governed by the principles of the Data Protection Act, 1998, known as the 1998 Act. Under the 1998 Act, personal data shall

- Be obtained for a specified and lawful purpose and shall not be processed in any manner incompatible with that purpose.
- Be adequate, relevant and not excessive for those purposes.
- Be accurate and kept up to date.
- Be kept for no longer than is necessary for that purpose.
- Be processed in accordance with the data subject's rights.
- Be kept safe from unauthorised access, accidental loss or destruction.
- Not be transferred to a country outside the European Economic Area unless that country has equivalent levels of protection for personal data.

Middlesbrough College and all staff or others who process or use personal information must ensure that they follow these principles at all times.

### **2 Status of the Policy**

This policy does not form part of the formal contract of employment but it is a condition of employment that employees will abide by the rules and policies made by Middlesbrough College from time to time. Failure to follow the Data Protection Policy can therefore result in disciplinary proceedings.

Any member of staff who considers that the policy has not been followed in respect of personal data about him or herself should raise the matter with the Data Protection Officer initially. If the matter is not resolved it should be dealt with under the Grievance Procedure in the Personnel Handbook.

### **3 Notification of Data Held and Processed**

All staff, learners and other users are entitled to

- Know what information Middlesbrough College holds and processes about them and why.
- Know how to gain access to it.
- Know how to keep it up to date.
- Know what Middlesbrough College is doing to comply with its obligations under the 1998 Act.

Middlesbrough College will therefore provide staff, learners and other relevant users with notification of the types of data Middlesbrough College holds and processes about them, and the reasons for which it is processed.

### **4 Responsibilities of Staff**

All staff are responsible for

- Checking that the information they provide to Middlesbrough College in connection with their employment is accurate and up to date.
- Informing Middlesbrough College of changes to or errors in information held.
- If and when, as part of their responsibilities, staff collect information about other people e.g. about learners' course work, opinions about ability, references to other academic institutions, details of personal circumstances, they must comply with the guidelines for staff - see later.

### **5 Data Security**

All staff are responsible for ensuring that

- Personal data they hold are kept securely.
- Personal information is not disclosed either orally or in writing, accidentally or otherwise, to any unauthorised third party. Unauthorised disclosure will usually be a disciplinary matter, and may be considered gross misconduct in some cases.

Personal information should be

- Kept under lock and key when not attended.
- If it is computerised, and in an area where it may be seen by unauthorised staff or learners, be password protected; or kept only on disks which are kept securely.

## **6 Learner Obligations**

Learners must ensure that all personal data provided to Middlesbrough College are accurate and up to date. They must ensure that changes of address, etc, are notified to the Registry and Finance department.

Learners who use Middlesbrough College computer facilities may from time to time process personal data. If they do they must notify the Data Protection Officer.

## **7 Rights to Access Information**

Staff, learners and contractors have the right to access any personal data that Middlesbrough College keeps about them, either on a computer or in paper files.

Any person who wishes to exercise this right should complete the College's Subject Access Request Form, available from the Data Protection Officer. Middlesbrough College will make a charge on each occasion that access is requested, although the fee may be waived in certain circumstances. Please refer to the Subject Access Procedure for full details.

Middlesbrough College aims to comply with requests for access to personal information as quickly as possible, and will ensure that it is provided within 40 days of receipt of a completed subject access request form, accompanying fee and proof of identification.

## **8 Publication of Information**

Information that is already in the public domain is exempt from the 1998 Act. It is Middlesbrough College policy to make as much information public as possible, subject to the requirements of the Data Protection Acts.

## **9 Subject Consent**

Those who are offered places or posts at Middlesbrough College will be notified of the standard data kept about them, and the uses to which it may be put, as declared in our registration with the Information Commissioner. Acceptance of a place or a post will be understood to signify acceptance of such 'standard' processing.

Sometimes it is necessary to process 'sensitive' information, for instance, about a person's health, criminal convictions, race and gender or family.

This may be to ensure that Middlesbrough College is a safe place to work or study, to operate Middlesbrough College policies e.g. sick pay, equal opportunities or to enable the institution to comply with the law. It is recognised that processing it may cause particular concern or distress to individuals.

Some jobs or courses will bring the applicants into contact with children under the age of 18. Middlesbrough College has a duty under the Children Act 1989 and other acts to ensure that staff are suitable for their jobs, and learners for their courses.

In addition, Middlesbrough College has a duty of care to staff and learners in general and must make sure that employees and those who use Middlesbrough College facilities do not pose a threat or danger to others. In order that these and similar requirements may be met, offers of employment or course places may be withdrawn if an individual refuses consent to process.

## **10 The Data Protection Officer and Data Owners**

Middlesbrough College as a body corporate is the 'Data Controller' under the 1998 Act, and the Governing Body is therefore ultimately responsible for implementation. The Data Protection Officer has been vested with day-to-day responsibility for implementing the provisions of this policy.

The Data Protection Officer will ensure that the personal data held by the College is kept securely and used properly, within the terms of the Act. The Data Protection Officer will inform college managers of any changes or amendments to the 1998 Act, and advise on the implementation of the 1998 Act. Middlesbrough College has also designated 'Data Owners' responsible for files held in particular locations or for particular functions. Data Owners may designate authorised staff to process personal data.

Responsibility for day-to-day matters will be delegated to the Directors of Programme / Assistant Principals / Heads of Service / Principalship as designated Data Controllers. Information and advice about the holding and processing of personal information is available from the Data Protection Officer.

## **11 Retention of Data**

Middlesbrough College will keep data for the minimum time necessary to fulfil its purpose and ensure effective disposal of any material no longer required. A full list of information with retention times is published and is available from the Assistant Principal – Estates and Facilities Management.

## **12 Disposal of Data**

The College will provide a secure system to dispose of confidential information with appropriate located reciprocals in all administration areas - these will be locked and will only be opened via the appointed contractor or the Estates Team under the direction of the Assistant Principal – Estates and Facilities Management and / or Data Protection Officer.

## **13 Conclusion**

Compliance with the 1998 Act is the responsibility of all members of Middlesbrough College. Any deliberate breach of the Data Protection Policy may result in disciplinary action, access to facilities withdrawn, or even criminal prosecution. Questions or concerns about the interpretation or operation of this policy should be taken up with the Data Protection Officer.

This policy should be read in conjunction with the following documents

- Subject Access Procedure.
- Confidentiality Guide-lines for Staff.

### **Responsibilities of Data Protection Officer**

- 1 To be the nominated officer in the College's entry in the Data Protection Register.
- 2 To maintain the accuracy and currency of the College's registration with the Data Protection Registrar.
- 3 To administer processes for requests for information by data subjects exercising their rights under the Data Protection Act.
- 4 To advise staff on the provisions of the Data Protection Act and related legislation.
- 5 To devise and implement operational procedures for Middlesbrough College's compliance with the Data Protection Act.
- 6 To maintain the currency of the College's Data Protection Policy.
- 7 To report to SMT on the College's compliance with the provisions of the Data Protection Act and related Acts regarding data and information.

### **Responsibilities of Data Owners**

- 1 To be responsible to the Data Protection Officer for the effective implementation of the College Data Protection Policy in respect of those records for which they are named "Data Owners".
- 2 To ensure that requests for information by data subjects exercising their rights under the Data Protection Act and forwarded by the Data Protection Officer are processed in accordance with the College's Data Protection Policy.
- 3 To identify staff who may process the data for which "Data Owners" are responsible and monitor them to ensure that processing complies with the College's Data Protection Policy.
- 4 To report to the Data Protection Officer when requested on their sections' compliance with the provisions of the College's Data Protection Policy.

## Staff Guidelines for Data Protection

- 1 The 1998 Data Protection Act covers any collection of data from which an individual may be identified. Under the 1998 Act, “processing” such data means performing almost any action upon it: storing, amending, ordering, erasing, and so on. A designated “Data Protection Officer” is responsible for ensuring that the College fulfils its obligations under the 1998 Act, and for implementing the College Data Protection Policy.
- 2 All staff process data about learners on a regular basis: when marking registers, writing reports or references, or as parts of pastoral or academic supervisory roles. Middlesbrough College will ensure through registration procedures that all learners give consent to this sort of processing and are notified of the categories of processing, as required by the 1998 Act. The information that staff deal with on a day-to-day basis will be “standard” and will cover categories such as
  - General personal details like name and address.
  - Details about class attendance, course work marks and grades and associated comments.
  - Notes of personal supervision, including matters about behaviour and discipline.
- 3 Information about a learner's physical or mental health, sexual life, political or religious views, Trade Union membership, ethnicity or race is “sensitive” and can only be collected and processed with the learner’s express consent. e.g. recording information about dietary needs, for religious or health reasons prior to taking learners on a field trip, recording information that a learner is pregnant, as part of pastoral duties. If staff need to process such information, they must ensure that consent has been obtained and recorded appropriately.
- 4 Staff have a duty to make sure that they comply with the data protection principles, which are set out in the Data Protection Policy. In particular, staff must ensure that records are accurate, up-to-date, fair and kept and disposed of safely, in accordance with Middlesbrough College’s Data Protection policy.
- 5 Middlesbrough College has designated some staff as “Data Owners”. Data Owners may authorise staff in certain areas to hold or process data that is sensitive, or not standard. Staff who are not so authorised may only process sensitive or non-standard data when they are satisfied that the processing of the data is necessary
  - A - In the best interests of the learner or staff member, or a third person, or Middlesbrough College and if
  - B - They have either informed the authorised person, or have been unable to do so and processing is urgent and necessary. This should only happen in very limited circumstances: e.g. a learner is injured and unconscious, but in need of medical attention, and a tutor tells the hospital that the learner is pregnant.

- 6 Staff must not disclose personal data to any learner, unless for normal academic or pastoral purposes, without authorisation or agreement from the Data Protection Officer. Staff shall not disclose personal data to any other staff member except with the authorisation or agreement of the Data Protection Officer.
- 7 Before processing any personal data, staff should consider the following checklist.
- Do you really need to record the information?
  - Is the information “standard” or is it “sensitive”?
  - If it is sensitive, do you have the data subject's express consent?
  - Has the learner been told that this type of data will be processed? Are you authorised to collect/store/process the data?
  - If yes, have you checked with the data subject that the data is accurate? Are you sure that the data is secure?
  - If you do not have the data subject's consent to process, are you satisfied that it is in the best interests of the learner or the staff member to collect and retain the data?
  - Have you reported the fact of data collection to the authorised person within the required time?

### **Definitions Relevant to Data Protection Policy**

Definitions are adapted from The Data Protection Act 1998

JISC Senior Management Briefing Paper 9 October 1999.

### **Data**

‘Data’ are any information

- Stored in a form capable of being processed by computer or other automatic equipment such as most computer files, including word processor, database and spreadsheet files.
- Recorded in any form for later processing by computer or other automatic equipment such as information collected from registration forms, CCTV pictures.
- Stored as part of a relevant filing system or intended to be included in one in the future including card files or filing cabinets structured by name, address or other identifier; Rolodex etc.
- Not covered by the above but part of an accessible record under s.68 DPA 1998 such as a set of notes kept by a counsellor employed by the Middlesbrough College.

## **Personal Data**

'Personal data' are data that relate to a living individual who can be identified from that information, or from that data and other information in the possession of Middlesbrough College. These include any expression of opinion about the individual and of the intentions of Middlesbrough College in respect of that individual.

## **Sensitive Personal Data**

The 1998 Act distinguishes between 'ordinary personal data' such as name, address and telephone number and 'sensitive personal data' including information relating to racial or ethnic origin, political opinions, religious beliefs, trade union membership, health, sex life and criminal convictions. Under the 1998 Act the processing of such data is subject to much stricter conditions.

## **Data Controller**

The 'Data Controller' is Middlesbrough College, and is so identified in Middlesbrough College's entry in the Data Protection Register.

## **Data Protection Officer**

The 'Data Protection Officer' is the nominated officer in Middlesbrough College's entry in the Data Protection Register. He or she is nominated by the Governing Body for the implementation of Middlesbrough College policies relating to the Data Protection Act and related Acts. The responsibilities of the Data Protection Officer are defined.

## **Data Subject**

A 'Data Subject' is any living individual who is the subject of personal data.

## **Data Subject Access**

'Data subject access' is the right of an individual to access personal data relating to him or her which is held by Middlesbrough College.

## **Data Owner**

A 'data owner' is a person authorised to manage the processing of data on behalf of Middlesbrough College. Data Owners are named in a list maintained by the Data Protection Officer.

## **Processing**

'Processing' includes technical operations on data, such as organisation, retrieval, disclosure, and deletion; but also obtaining and recording data; the retrieval, consultation or use of data; and the disclosure or otherwise making available of data.