Personal Data Breach Procedure

To be used in conjunction with GDPR Policies

In the development of this procedure consideration has been given to Equality and Diversity and Data Protection.

Equality and Diversity

The Diocese of Ely Multi-Academy Trust (DEMAT) is committed to promoting equality of opportunity for all staff and job applicants. The Trust aims to create a supportive and inclusive working environment in which all individuals are able to make best use of their skills, free from discrimination or harassment, and in which all decisions are based on merit. We do not discriminate against staff on the basis of age; race; sex; disability; sexual orientation; gender reassignment; marriage and civil partnership; pregnancy and maternity; religion, faith or belief (Equality Act 2010 protected characteristics). The principles of non-discrimination and equality of opportunity also apply to the way in which staff and Governors treat visitors, volunteers, contractors and former staff members.

Data Protection

DEMAT will process personal data of staff (which may be held on paper, electronically, or otherwise). DEMAT recognises the need to treat this data in an appropriate and lawful manner, in accordance with the Data Protection Act 2018 (DPA).

This Procedure is to be used across all DEMAT schools	**Version**	**Date**
DEMAT Officer responsible for updating content: DPO	3	June 2020
Date approved by DEMAT Standards & Ethos Committee		
Effective date as determined by DEMAT	2	1 Sept 2018
Notice to be reviewed annually from date last approved by DEMAT Standards & Ethos Committee	3 (no procedural changes)	Annually
Produced using guidance from the ICO	2	Aug 2018
Procedure review by DEMAT (no statutory revisions required as at June 2020)	3	June 2020
Procedure to be reviewed by DEMAT (unless statutory revisions require it be done earlier)	3	June 2021

Procedure Contents

Application of the Procedure

This procedure is to be used by all employees employed by The Diocese of Ely Multi-Academy Trust (DEMAT).

This procedure is based on guidance on personal data breaches, produced by the ICO.

- On finding or causing a breach, or potential breach, the staff member or data processor must immediately notify the DPO
- The DPO will investigate the report and determine whether a breach has occurred. To decide, the DPO will consider whether personal data has been accidentally or unlawfully:
    - Lost
    - Stolen
    - Destroyed
    - Altered
    - Disclosed or made available where it should not have been
    - Made available to unauthorised people
- The DPO will alert the CEO (and headteacher if relevant)
- The DPO will make all reasonable efforts to contain and minimise the impact of the breach, assisted by relevant staff members or data processors where necessary (actions relevant to specific data types are set out at the end of this procedure)
- The DPO will assess the potential consequences, based on how serious they are, and how likely they are to happen
- The DPO will work out whether the breach must be reported to the ICO. This must be judged on a case-by-case basis. To decide, the DPO will consider whether the breach is likely to negatively affect people's rights and freedoms, and cause them any physical, material or non-material damage (eg emotional distress), including through:
    - Loss of control over their data
    - Discrimination
    - Identify theft or fraud
    - Financial loss
    - Unauthorised reversal of pseudonymisation (for example, key-coding)
    - Damage to reputation
    - Loss of confidentiality
    - Any other significant economic or social disadvantage to the individual(s) concerned

  If it's likely that there will be a risk to people's rights and freedoms, the DPO must notify the ICO.
- The DPO will document the decision (either way), in case it is challenged at a later date by the ICO or an individual affected by the breach. Documented decisions are stored electronically in a secured file area and where necessary any paper documentation will be stored in a locked filing cabinet.

- Where the ICO must be notified, the DPO will do this via the 'report a breach' page of the ICO website within 72 hours. As required, the DPO will set out:
    - A description of the nature of the personal data breach, including where possible:
        - The categories and approximate number of individuals concerned
        - The categories and approximate number of personal data records concerned
    - The name and contact details of the DPO
    - A description of the likely consequences of the personal data breach
    - A description of the measures that have been, or will be taken, to deal with the breach and mitigate any possible adverse effects on the individual(s) concerned
- If all the above details are not yet known, the DPO will report as much as they can within 72 hours. The report will explain that there is a delay, the reasons why, and when the DPO expects to have further information. The DPO will submit the remaining information as soon as possible
- The DPO will also assess the risk to individuals, again based on the severity and likelihood of potential or actual impact. If the risk is high, the DPO will promptly inform, in writing, all individuals whose personal data has been breached. This notification will set out:
    - The name and contact details of the DPO
    - A description of the likely consequences of the personal data breach
    - A description of the measures that have been, or will be, taken to deal with the data breach and mitigate any possible adverse effects on the individual(s) concerned
- The DPO will notify any relevant third parties who can help mitigate the loss to individuals – for example, the police, insurers, banks or credit card companies
- The DPO will document each breach, irrespective of whether it is reported to the ICO. For each breach, this record will include the:
    - Facts and cause
    - Effects
    - Action taken to contain it and ensure it does not happen again (such as establishing more robust processes or providing further training for individuals)

  Records of all breaches will be stored electronically in a secured file area and where necessary any paper documentation will be stored in a locked filing cabinet.
- The DPO and lead person will meet to review what happened and how it can be stopped from happening again. This meeting will happen as soon as reasonably possible.

Actions to minimise the impact of data breaches

We will take the actions set out below to mitigate the impact of different types of data breach, focusing especially on breaches involving particularly risky or sensitive information. We will review the effectiveness of these actions and amend them as necessary after any data breach.

Sensitive information being disclosed via email (including safeguarding records)

- If special category data (sensitive information) is accidentally made available via email to unauthorised individuals, the sender must attempt to recall the email as soon as they become aware of the error
- Members of staff who receive personal data sent in error must alert the sender and the DPO as soon as they become aware of the error
- If the sender is unavailable or cannot recall the email for any reason, the DPO will ask the ICT provider to recall it
- In any cases where the recall is unsuccessful, the DPO will contact the relevant unauthorised individuals who received the email, explain that the information was sent in error, and request that those individuals delete the information and do not share, publish, save or replicate it in any way
- The DPO will ensure we receive a written response from all the individuals who received the data, confirming that they have complied with this request
- The DPO will carry out an internet search to check that the information has not been made public; if it has, we will contact the publisher/website owner or administrator to request that the information is removed from their website and deleted

Information being disclosed via social media – website, Facebook, Twitter and other platforms

- Where possible the item should be removed from social media as soon as the Trust/school is made aware

Information being shared that is non-anonymised that contains personal/sensitive data during meetings

- Any documents given out that contain non-anonymised information must be collected back in immediately. If additional copies have been distributed outside of the meeting, all recipients must be contacted and asked to return the paperwork, not to read if not already done so, and not to share the information with anyone else. A record of who received the document and confirmation that all copies were returned and signed to confirm that the information had not been shared via any other means or to anyone else must be kept.

The list is not exhaustive, but all breaches must be reported to the DPO within 72 hours and the DPO will carry out the necessary investigation and reporting as required under the legislation as detailed earlier in this document.

Contact us

If you have any questions, concerns or would like more information about anything mentioned in this procedure, please contact our **Data Protection Officer**: Joanne Patterson, DPO@DEMAT.org.uk.