



THE ELMS

EST 1614

## DATA PROTECTION, RETENTION & STORAGE POLICY

Aim. The Elms School seeks to balance the benefits of keeping detailed and complete records, for the purposes of good practice, archives or general reference, with practical considerations of storage, space and accessibility. There are legal considerations in respect of data protection, retention of records and documents which must be borne in mind by all staff. The aim of the policy is to:

- Adhere to statutory duties and government guidance relating to schools.
- Respect the law of confidentiality and privacy.
- Follow disclosure requirements in the course of litigation.
- Act upon contractual obligations.
- Adhere to the Data Protection Act (DPA) 1998 & 2003.

### SECTION 1 – Data Protection and Collection.

**1. Introduction.** The Elms School needs to collect and use certain types of information about the Individuals or Service Users who come into contact with The Elms School in order to carry on our work. This personal information must be collected and dealt with appropriately whether is collected on paper, stored in a computer database, or recorded on other material and there are safeguards to ensure this under the Data Protection Act 1998 (& 2003).

**2. Data Controller.** The Bursar is the Data Controller under the Act, which means that she determines what purposes personal information held, will be used for. She is also responsible for notifying the Information Commissioner of the data the School holds or are likely to hold and the general purposes that this data will be used for.

**3. Disclosure.** The Elms School may share data with other agencies such as the local authority, funding bodies and other voluntary agencies.

Pupils, Parents and staff will be made aware in most circumstances how and with whom their information will be shared. There are circumstances where the law allows The Elms School to disclose data (including sensitive data) without the data subject's consent.

These circumstances are:

- a. Carrying out a legal duty or as authorised by the Secretary of State.
- b. Protecting vital interests of an Individual/Service User or other person.
- c. The Individual/Service User has already made the information public.
- d. Conducting any legal proceedings, obtaining legal advice or defending any legal rights.
- e. Monitoring for equal opportunities purposes – i.e. race, disability or religion.
- f. Providing a confidential service where the Individual/Service User's consent cannot be obtained or where it is reasonable to proceed without consent: e.g. where we would wish to avoid forcing stressed or ill individuals/Service Users to provide consent signatures.

The Elms School regards the lawful and correct treatment of personal information as very important to successful working and to maintaining the confidence of those with whom we deal. There are eight data protection principles. In summary it requires that The Elms School data shall be:

- a. Fairly and lawfully processed.
- b. Processed for limited purposes.
- c. Adequate, relevant and not excessive.
- d. Accurate.
- e. Not kept longer than necessary.
- f. Processed in accordance with the rights of data subjects.
- g. Kept secure.
- h. Not transferred to a countries outside the European Economic Area without adequate protection

#### **4. Data Collection.**

When collecting data, The Elms School will ensure that the pupils, parents or staff:

- a. Clearly understands why the information is needed.
- b. Understands what the data will be used for and what the consequences are should consent not be provided.
- c. Grants explicit consent, either written or verbal, for data to be processed.
- d. Are competent enough to give consent and has given so freely without any duress.
- e. Has received sufficient information on why their data is needed and how it will be used.

**5. Data access and accuracy.** All pupils, parents and staff have the right to access the information The Elms School holds about them. The School will also take reasonable steps ensure that this information is kept up to date by asking staff/pupils whether there have been any changes.

The Elms School will ensure that:

- It has a Data Controller with specific responsibility for ensuring compliance with Data Protection.
- Everyone processing personal information understands that they are contractually responsible for following good data protection practice.
- Everyone processing personal information is appropriately trained to do so.
- Everyone processing personal information is appropriately supervised.
- Anybody wanting to make enquiries about handling personal information knows what to do.
- It deals promptly and courteously with any enquiries about handling personal information.

It describes clearly how it handles personal information.

- It will regularly review and audit the way it holds, manages and uses personal information.
- It regularly assesses and evaluates its methods and performance in relation to handling personal information.
- All staff are aware that a breach of the rules and procedures identified in this policy may lead to disciplinary action being taken against them.

This policy will be updated as necessary to reflect best practice in data management, security and control and to ensure compliance with any changes or amendments made to the Data Protection Act 1998.

## **SECTION 2 – Data Retention and Storage Data Storage.**

Information and records relating to pupils, parents and staff will be stored securely and will only be accessible to authorised school staff. Information will be stored for only as long as it is needed or required statute and will be disposed of appropriately. See Appendix 1 for school guidelines.

It is The Elms School's responsibility to ensure all personal and school data is non-recoverable from any computer system previously used within the organisation, which has been passed on/sold to a third party.

1. Meaning of "Record" In this policy, "record" means any document or item of data which contains evidence or information relating to the school, its staff or pupils. Some of this material will contain personal data of individuals as defined in the DPA. Many, if not most, new and recent records will be created, received and stored electronically. Others (such as Certificates, Registers, or older records) will be original paper documents. The format of the record is less important than its contents and the purpose for keeping it.
2. Digital records. Digital records can be lost or misappropriated in huge quantities very quickly. Access to sensitive data - or any large quantity of data - should as a minimum be password-protected and held on a limited number of devices only, with passwords provided

on a need-to-know basis and regularly changed. Where 'cloud storage' is used, the school will confirm what data needs to be made available in this way.

3. Emails (whether they are retained electronically or printed out as part of a paper file) are also "records" and may be particularly important: whether as disclosable documents in any litigation, or as representing personal data of the sender (or subject) for data protection/data privacy purposes. Again, however, the format is secondary to the content and the purpose of keeping the document as a record. It is also worth remembering that a digital document's original metadata may indicate the date of its creation, its author or the history of its changes: so it is important that this information is preserved.
4. Paper records. Paper records are to be stored in dry and secure conditions. Paper records are to be organised, and/or indexed, such that specific categories of personal information relating to a certain individual are readily accessible, and thus searchable as a digital database might be e.g. an alphabetical personnel file split into marked dividers. Personal information contained on print-outs taken from electronic files also falls under the DPA.
5. Personal Data. Some records will contain information about individuals eg. staff, pupils, consultants, parents, contractors - or indeed other individuals, whether they are a part of the school or some other third party (for example, another school). That type of information is likely to amount to "personal data" for the purposes of the DPA and therefore be subject to data protection laws which may, in places, conflict with aspects of these guidelines. As a general rule, statutory legal duties will 'trump' data protection concerns in the event of any contradiction. Certain personal data may legitimately need to be retained or disclosed subject to a private contractual duty (eg under a parent contract).

#### **Archiving and the Destruction or Erasure of Records.**

All staff are to receive basic training/awareness in data management - issues such as security, recognising and handling sensitive personal data, safeguarding, etc, on induction and periodic staff INSET training thereafter. Staff given specific responsibility for the management of records must have specific training and ensure, as a minimum, the following:

- That records - whether electronic or hard copy - are stored securely as above, including if possible with encryption, so that access is available only to authorised persons and the records themselves are available when required and (where necessary) searchable;
- That important records, and large or sensitive personal databases, are not taken home or - in respect of digital data - carried or kept on portable devices (whether data sticks or mobiles and handheld electronic tablets) unless absolutely necessary, in which case it should be subject to a risk assessment and in line with the IT use policy;
- That questions of back-up or migration are likewise approached in line with general school policy (such as professional storage solutions or IT systems) and not individual ad hoc action;
- That arrangements with external storage providers - whether physical or electronic (in any form, but most particularly "cloud-based" storage) - are supported by robust contractual arrangements providing for security and access;
- That reviews are conducted on a regular basis, in line with the guidance below, to ensure that all information being kept is still relevant and - in the case of personal data - necessary for the purposes for which it is held (and if so, that it is accurate and up-to date); and

- That all destruction or permanent erasure of records, if undertaken by a third party, is carried out securely - with no risk of the re-use or disclosure, or re-construction, of any records or information contained in them.

### **Litigation.**

The school will be well placed to deal with claims if it has a strong corporate memory - including adequate records to support its position, or a decision that was made.

Records are not to be disposed of until the limitation period for bringing a claim has passed. For most contracts that will mean 6 years from any breach (or 12 years in case of, say, a witnessed deed), but the date to start counting from is the last day of the period under contract. Where there has been early termination, this will be the relevant date to apply (once the appeal process has been concluded): but for pupils, limitation periods will only apply from the age of 18 years.

The period of 6 years also applies to many claims outside contract (such as fraud, mistake or negligence). In the case of personal injury it is only 3 years. However, if the harm is only discovered later - eg 'latent' damage, or some unseen injury - then the timer only starts from the point of discovery: subject, in the case of latent property damage, to a 15-year backstop.

The most important steps The Elms School takes to support our policy is:

- having adequate notices and consents in both staff and parent contracts;
- ensuring any long-term records worth keeping are kept very secure, accessible only by trained staff on a need-to-know basis. Insurance documents need to be kept in respect of historic policies for as long as a claim might arise.

### **Recording Information.**

It is important that all staff bear in mind, when creating documents and records of any sort (and particularly email), that at some point in the future those documents and records could be disclosed - whether as a result of litigation or investigation, or because of a subject access request under the DPA. The watchwords of record-keeping are therefore accuracy, clarity, professionalism and objectivity.

### **Secure Disposal of Documents.**

For confidential, sensitive or personal information to be considered securely disposed of, it must be in a condition where it cannot either be read or reconstructed. Skips and 'regular' waste disposal are not considered secure.

Paper records should be shredded using a cross-cutting shredder; CDs / DVDs / diskettes should be cut into pieces. Hard-copy images, AV recordings and hard disks should be dismantled and destroyed.

## TABLE OF THE ELMS SCHOOL RETENTION PERIODS

This table:

- Guides staff to identify the key types of document concerned.
- Focuses attention on particular issues associated with those types of document.

Type of Record/Document	Retention Period
<p><u>SCHOOL-SPECIFIC RECORDS</u></p> <ul style="list-style-type: none"> <li>• Registration documents of School</li> <li>• Attendance Register</li> <li>• Minutes of Governors' meetings</li> <li>• Annual curriculum</li> </ul>	<p>Permanent (or until closure of the school)</p> <p>6 years from last date of entry, then archive.</p> <p>6 years from date of meeting</p> <p>From end of year: 3 years (or 1 year for other class records: eg marks / timetables / assignments)</p>
<p><u>INDIVIDUAL PUPIL RECORDS</u></p> <ul style="list-style-type: none"> <li>• Admissions: application forms, assessments, records of decisions</li> <li>• Examination results (external or internal)</li> <li>• Pupil file including: <ul style="list-style-type: none"> <li>o Pupil reports</li> <li>o Pupil performance records</li> <li>o Pupil medical records</li> </ul> </li> <li>• Special educational needs records (<i>to be risk assessed individually</i>)</li> </ul>	<p><b><i>NB – this will generally be personal data</i></b></p> <p>25 years from date of birth (or, if pupil not admitted, up to 7 years from that decision).</p> <p>7 years from pupil leaving school</p> <p>ALL: 25 years from date of birth (subject to where relevant to safeguarding considerations: any material which may be relevant to potential claims should be kept for the lifetime of the pupil).</p> <p>Date of birth plus up to 35 years (allowing for special extensions to statutory limitation period)</p>

<p><u>SAFEGUARDING</u></p> <ul style="list-style-type: none"> <li>• Policies and procedures</li> <li>• DBS disclosure certificates</li>   <li>• Accident / Incident reporting</li>   <li>• Child Protection files</li> </ul>	<p>Keep a permanent record of historic policies</p> <p><u>No longer than 6 months</u> from decision on recruitment, unless DBS specifically consulted – but a record of the checks being made must be kept, if not the certificate itself.</p> <p>Keep on record for as long as any living victim may bring a claim (NB civil claim limitation periods can be set aside in cases of abuse). Ideally, files to be reviewed from time to time if resources allow and a suitably qualified person is available.<sup>2</sup></p> <p>If a referral has been made / social care have been involved or child has been subject of a multi-agency plan – indefinitely.</p> <p>If low level concerns, with no multi-agency act – apply applicable school low-level concerns policy rationale (this may be 25 years from date of birth OR indefinitely).</p>
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<p><u>CORPORATE RECORDS (where applicable)</u></p> <ul style="list-style-type: none"> <li>• Certificates of Incorporation</li> <li>• Minutes, Notes and Resolutions of Boards or Management Meetings</li> <li>• Register of Members/Shareholders</li> <li>• Annual reports</li> </ul>	<p>Permanent (or until dissolution of the company)</p> <p>Minimum – 10 years</p> <p>Permanent (minimum 10 years for ex-members/shareholders)</p> <p>Minimum – 6 years</p>
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<p><u>ACCOUNTING RECORDS</u></p> <ul style="list-style-type: none"> <li>• Accounting records</li> </ul>	<p>Minimum – 6 years for UK charities from the end of the financial year in which the transaction took place</p>
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<ul style="list-style-type: none"> <li>Budget and internal financial reports</li> </ul>	Minimum – 3 years
<b><u>CONTRACTS AND AGREEMENTS</u></b>	
<ul style="list-style-type: none"> <li>Signed or final/concluded agreements (<i>plus any signed or final/concluded variations or amendments</i>)</li> <li>Deeds (or contracts under seal)</li> </ul>	<p>Minimum – 7 years from completion of contractual obligations or term of agreement, whichever is the later</p> <p>Minimum – 13 years from completion of contractual obligation or term of agreement</p>
<b><u>INTELLECTUAL PROPERTY RECORDS</u></b>	
<ul style="list-style-type: none"> <li>Formal documents of title (trade mark or registered design certificates; patent or utility model certificates)</li> <li>Assignments of intellectual property to or from the school</li> </ul>	<p>Permanent (in the case of any right which can be permanently extended, eg trade marks); otherwise expiry of right plus minimum of 7 years.</p> <p>As above in relation to contracts (7 years) or, where applicable, deeds (13 years).</p>
<ul style="list-style-type: none"> <li>IP / IT agreements (including software licences and ancillary agreements eg maintenance; storage; development; coexistence agreements; consents)</li> </ul>	Minimum – 7 years from completion of contractual obligation concerned or term of agreement
<b><u>EMPLOYEE / PERSONNEL RECORDS</u></b>	
<ul style="list-style-type: none"> <li>Single Central Record of employees</li> <li>Contracts of employment</li> <li>Employee appraisals or reviews</li> <li>Staff personnel file</li> <li>Payroll, salary, maternity pay records</li> <li>Pension or other benefit schedule records</li> <li>Job application and interview/rejection records (unsuccessful applicants)</li> </ul>	<p><b><i>NB this will contain personal data</i></b></p> <p>Keep a permanent record of all mandatory checks that have been undertaken (but <u>not</u> DBS certificate itself: 6 months as above)</p> <p>7 years from effective date of end of contract</p> <p>Duration of employment plus minimum of 7 years</p> <p>As above, but <u>do not delete any information which may be relevant to historic safeguarding claims.</u></p> <p>Minimum – 6 years</p> <p>Possibly permanent, depending on nature of scheme</p> <p>Minimum 3 months but no more than 1 year</p>

<ul style="list-style-type: none"> <li>• Immigration records</li> <li>• Health records relating to employees</li> </ul>	<p>Minimum – 4 years</p> <p>7 years from end of contract of employment</p>
<p><u>INSURANCE RECORDS</u></p> <ul style="list-style-type: none"> <li>• Insurance policies (will vary – private, public, professional indemnity)</li> <li>• Correspondence related to claims/ renewals/ notification re: insurance</li> </ul>	<p>Duration of policy (or as required by policy) plus a period for any run-off arrangement and coverage of insured risks: ideally, until it is possible to calculate that no living person could make a claim.</p> <p>Minimum – 7 years</p>
<p><u>ENVIRONMENTAL, HEALTH &amp; DATA</u></p> <ul style="list-style-type: none"> <li>• Maintenance logs</li> <li>• Accidents to children</li> <li>• Accident at work records (staff)</li> <li>• Staff use of hazardous substances</li> </ul>	<p>10 years from date of last entry</p> <p>25 years from birth (longer for safeguarding)</p> <p>Minimum – 4 years from date of accident, but review case-by-case where possible</p> <p>Minimum – 7 years from end of date of use</p>
<ul style="list-style-type: none"> <li>• Risk assessments (carried out in respect of above)</li> <li>• Data protection records documenting processing activity, data breaches</li> </ul>	<p>7 years from completion of relevant project, incident, event or activity.</p> <p>No limit: as long as up-to-date and relevant (as long as no personal data held)</p>

Reviewed by: Bursar

Date of last review: February 2018

Date of next review: February 2019