

## **DATA PROTECTION: PROCESSING SPECIAL CATEGORY DATA AND CRIMINAL CONVICTIONS DATA - APPROPRIATE POLICY DOCUMENT**

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

### **1. Introduction**

The University processes personal data about various groups of individuals (data subjects), including, but not limited to, prospective and current students; alumni; current, prospective and former employees; and research participants. We use this information for a variety of lawful purposes to enable the University to fulfil its functions.

Sometimes it is necessary to process [special category](#) data and data about actual or alleged criminal convictions and associated proceedings. This type of personal data is afforded additional protection under the applicable data protection legislation (the General Data Protection Regulation (GDPR) and the Data Protection Act 2018 (DPA) and we must only process it if certain conditions are met. In certain cases, we must also have appropriate policy documentation in place to enable this processing to be carried out.

This document supplements the University's [Data Protection Policy](#), [Privacy Notices](#) and the University's record of personal data processing activities. It outlines the occasions where special category personal data and criminal convictions and offences personal data are processed under the conditions met by the General Data Protection Regulation and the Data Protection Act 2018 ('DPA') which require an appropriate policy document.

### **2. Purpose**

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. It also explains our policies in relation to retaining and erasing these types of personal data. It therefore serves as UWE, Bristol's 'Appropriate Policy Document', as required under Part 4 of Schedule 1 of the DPA.

### **3. Scope of the Policy**

This policy applies to all employees, including fixed-term, contract and variable hours employees, students, 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.

### **4. Conditions from Schedule 1 DPA**

The University processes special category data and data about criminal convictions in reliance on the following conditions from Schedule 1 DPA. These are not the only legal bases/conditions on which we process special category data, but they are the only ones to which this policy applies:

### *Paragraph 1 – Employment, social security and social protection*

The University processes information about prospective, current and previous employees for employment purposes, including data about health and criminal convictions and associated proceedings. It is not appropriate to obtain consent for such processing due to the nature of the employer-employee relationship and because consent cannot be freely given or withdrawn; therefore the University relies on this condition for much of this processing. Personal data processed for employment purposes is treated confidentially and maintained by HR. It is only shared within the University where the law allows i.e. it is necessary for this purpose. Where employees are seconded under contract to another organisation, or a secondee carries out work for the University, the University and the other organisation may share personal data in reliance on this condition, as set out in the applicable contract. Any information about criminal convictions obtained as part of a Disclosure and Barring Service (DBS) check is stored and retained in line with DBS requirements.

### *Paragraph 2 – Health or social care purposes*

The University processes information about patients who attend one of our clinics for the purpose of the provision of healthcare and treatment. Any personal data processed under this condition is in adherence with strict patient confidentiality requirements and is only shared within UWE or with external healthcare provision organisations from whom patients have been referred where the law allows i.e. it is necessary for this purpose.

### *Paragraph 4 – Research*

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. Any personal data processed under this condition is managed with appropriate safeguards in place and in accordance with UWE's research ethics codes of conduct.

### *Paragraph 6 – Statutory etc. and government purposes*

The University is legally required to provide some special category data about staff and students to external organisations for statutory returns and reporting, such as the data we provide to the Higher Education Statistics Agency (HESA). Only the minimum amount of data necessary to fulfil this requirement is provided and all data is shared securely. HESA's data collection notices are available via the following link:

<https://www.hesa.ac.uk/about/regulation/data-protection/notices> .

We also rely on this condition to process data about students' criminal convictions. This applies if a student is offered a place on a course which can result in employment in a regulated profession and the course involves an integral work placement which could not be undertaken if the student has a criminal conviction. We must process this data to ensure we do not admit a student onto a course which they cannot complete. Any information about criminal convictions obtained as part of a Disclosure and Barring Service (DBS) check is stored and retained in line with DBS requirements.

### *Paragraph 8 – Equality of opportunity or treatment*

The University recognises the importance of equality of opportunity or treatment and monitors and reviews the existence or absence of this across all areas so that equality can be promoted and/or maintained. Any processing of the specified categories of personal data used for these purposes is carried out confidentially and securely. When it is collected as part of an application form, the data is stored separately from the rest of the application data.

### *Paragraph 10 – Preventing or detecting unlawful acts*

We rely on this condition to process data about applicants' and students' criminal convictions, in certain circumstances, to enable us to manage any tangible risks to the University community. Any information about criminal convictions obtained as part of a Disclosure and Barring Service (DBS) check is stored and retained in line with DBS requirements. We may also rely on this condition to process information about employees' criminal convictions, if appropriate.

We also rely on this condition to disclose certain items of 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 only the minimum amount of information necessary is shared in any case.

The University has a duty to prevent individuals from being drawn into terrorism (known as the Prevent duty). 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. This may be the case where we are carrying out initial investigations into concerns that one or more individuals are being drawn into terrorism, or making initial reports or requests for advice to the police or the Office for Students Prevent Lead. Any personal data processed for these purposes is processed sensitively and confidentially on a strict need-to-know basis, in line with UWE, Bristol and national Prevent procedures and guidance.

### *Paragraph 11 – Protecting the public against dishonesty etc.*

The University offers programmes which lead to entry into a regulated profession or occupation. We may disclose special category data or data about criminal convictions to those who regulate such professions so that those regulators can exercise their functions appropriately by ensuring practitioners are fit and proper. There is a substantial public interest in enabling regulators to ensure that only those who are fit to practise a particular profession or occupation are able to do so.

### *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 data and criminal convictions data about its Governing Body Members (as well as 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 management arrangements in place which do not present a risk to students or to public funds.

#### *Paragraph 17 – Counselling etc.*

The University provides student counselling services and a number of other student wellbeing services. The majority of special category data or data about criminal convictions is processed with the explicit consent of the individual using one of the counselling services; however if a circumstance arose which required us to process personal data without consent in order to provide confidential counselling, advice or support, and such processing was in the substantial public interest, we would do so in reliance on this condition. All information held in counselling records is treated confidentially and stored securely and all counsellors comply with professional guidelines. The University also provides confidential counselling services to its staff via an external occupational health provider.

#### *Paragraph 18 – Safeguarding of children and of individuals at risk*

The University admits students who are under 18, as well as those over 18 who may be vulnerable, to our courses and to our accommodation. We rely on this condition to process data about applicants for certain courses and all acceptance holders' criminal convictions, in certain circumstances, to enable us to identify and manage any tangible risks to the University community (including the individuals themselves). Any information about criminal convictions obtained as part of a Disclosure and Barring Service (DBS) check is stored and retained in line with DBS requirements.

We may also rely on this condition to process information about employees' criminal convictions, if appropriate. 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. This condition is most likely to be relied upon where we act in students' best interests to provide support via our Student and Academic Services teams.

#### *Paragraph 33 – Legal claims*

The University relies on this condition in limited circumstances 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.

### **4. Data protection principles**

The University will comply with the data protection principles defined under Article 5 of the GDPR when processing special category personal data and criminal conviction and offences personal data, as follows:

#### *Lawful, fair and transparent*

Under each condition above, there is an appropriate lawful basis for processing as stated in the University's [Privacy Notices](#) outlining the processing, unless a valid exemption from the right to be informed is applicable in relation to a particular case.

#### *Processed for limited purposes*

In every case set out in Section 3, personal data will only be processed for the specific purposes notified to the data subject via the Privacy Notice when the data was first collected or for any other purposes specifically permitted under the data protection legislation. Personal data will not be further processed in a manner which is incompatible with these purposes. This means that personal data will not be collected for one purpose and then used

for an entirely different, unrelated purpose. 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 occurs. It may be the case that we cannot use the personal data for another purpose unless the data subject consents. Advice will be sought from the Data Protection Officer.

*Adequate, relevant and not excessive (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.

*Accurate and up-to-date*

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.

*Not kept for longer than is necessary (storage limitation)*

**Retention and erasure**

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 Management 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 securely destroyed. Retention periods are based on legal requirements and operational 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.

*Secure (integrity and confidentiality)*

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.

**Accountability**

The University has a Data Protection Officer who reviews UWE, Bristol's adherence to the accountability principle.

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 ([dataprotection@uwe.ac.uk](mailto:dataprotection@uwe.ac.uk))

The Data Protection Office will review this Appropriate Policy Document as and when required.

**Document control**

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