

10.0 DATA PROTECTION

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10.10 Policy Statement

The information and guidelines within this Policy apply to all ISA staff. Non-compliance may result in disciplinary action.

CROSS REFERENCE: 8.70 Photographing and Images of ISA Students / Disclosure of Student Assessment Data

10.20 Introduction

Like all educational establishments, ISA holds and processes information about their employees, applicants, past and present parents, pupils, and other individuals for various purposes (for example the administration of the admissions process, the effective provision of academic and welfare services, to record academic progress, to operate the payroll and to enable correspondence and communications, including the provision of references and certificates). To comply with the Data Protection Act 1998 (DPA 98), information must be collected and used fairly, stored safely and not disclosed to any unauthorised person.

10.30 Notification to the Information Commissioner

ISA has an obligation, as a Data Controller (a body holding or processing data, as defined by DPA 98), to notify the Data Protection Commissioner of the purposes for which it processes personal data. Individual data subjects can obtain full details of ISA's data protection registration with the Data Protection Commissioner from ISA's Data Protection Officer (the Director) or from the Data Protection Commissioner's website (<http://www.dataprotection.gov.uk>).

10.40 Data Protection Principles

ISA, as a Data Controller, must comply with the Data Protection Principles, which are set out in the 1998 Act. In summary, these state that personal data shall:

- Be processed fairly and lawfully and shall not be processed unless certain conditions are met
- Be obtained for specified and lawful purposes and shall not be processed in any manner incompatible with those purposes
- Be adequate, relevant and not excessive for those purposes
- Be accurate and kept up to date
- Not be kept for longer than is necessary for those purposes
- Be processed in accordance with the data subject's rights under the 1998 Act
- Be the subject of appropriate technical and organisational measures against unauthorised or unlawful processing, accidental loss or destruction
- Not be transferred to a country outside the European Economic Union, unless that country or territory has equivalent levels of protection for personal data.

CROSS REFERENCE: 8.70 Photographing and Images of ISA Students / Disclosure of Student Assessment Data

10.50 Processing

“Processing”, in relation to information or data, means obtaining, recording or holding the information or data or carrying out any operation or set of operations on the information or data, including:

- (a) organisation, adaptation or alteration of the information or data;
- (b) retrieval, consultation or use of the information or data;
- (c) disclosure of the information or data by transmission, dissemination or otherwise making available; or
- (d) alignment, combination, blocking, erasure or destruction of the information or data.

10.60 Data Protection Officer

ISA's Data Protection Officer is the Director. All queries about Data Protection Policy and all requests for access to personal data should be addressed, in the first instance, to the Director (see "Rights to Access Personal Data" below).

10.70 Responsibilities of Individual Data Users

All ISA staff who record and/or process personal data in any form must ensure that they comply with the requirements of the 1998 Act (including the Data Protection Principles) and with ISA Data Protection Policy (including any procedures and guidelines which may be issued from time to time). *A breach of the 1998 Act and/or ISA's Data Protection Policy may result in disciplinary proceedings.*

In particular, no member of staff may, without the prior written authorisation of the Data Protection Officer:

- develop a new computer system for processing personal data;
- use an existing computer system to process personal data for a new purpose;
- create a new manual filing system containing personal data;
- use an existing manual filing system containing personal data for new purposes.

The above does not apply to databases that are maintained by staff within ISA for their private domestic use, for example, private address books.

10.80 Data Security and Disclosure

All members of staff are responsible for ensuring that:

- Any personal data which they hold is kept securely;
- Personal data is not disclosed either orally or in writing or otherwise to any unauthorised third party, and that every reasonable effort will be made to see that data is not disclosed accidentally.

Unauthorised disclosure is a disciplinary matter and may be considered gross misconduct. If in any doubt, consult ISA Data Protection Officer.

Personal data must be kept securely and examples of how this may be done will include:

- keeping the data locked in a filing cabinet, drawer or room, or otherwise inaccessible to unauthorised persons;
- if the data is electronically stored on computer, ensuring that the data is password protected or kept only on remote storage media which is itself kept securely; or
- any other reasonable and appropriate security measure.

CROSS REFERENCE: 8.70 Photographing and Images of ISA Students / Disclosure of Student Assessment Data

10.90 Data/Handling

Personal data should be handled and access to it permitted on a strictly “need to know” basis.

Any communications or documents containing personal data of a sensitive or confidential nature should carry an appropriate handling caveat. In practical terms, this means applying a “CONFIDENTIAL” header and footer to the communication or document, whether it is being electronically stored, handled or transmitted, or manually so (ie by hard copy, on or separate from a manual file). *It is extremely important that handling caveats are used scrupulously and fully respected by data users.*

All documents or files being moved manually from one person or department to another within ISA must be placed in a sealed envelope, which must be clearly and specifically addressed to a named individual. This applies both to files and to individual documents and the envelopes must be clearly marked with the handling caveat “CONFIDENTIAL Personal for.....”

10.100 Obligation to Provide and Maintain Accurate and Up-to-Date Personal Data

All staff must endeavour to ensure that any necessary personal data provided to the School, on themselves or any third party, is accurate and up-to-date. Staff are responsible for providing updates on changes in relevant personal data about them which is held by the school, eg changes of address, qualifications and the like.

Staff charged with responsibility for maintaining the school's structured filing systems are to take all reasonable steps to ensure that personal data contained therein is kept accurate and up-to-date.

10.110 Data Subjects' Consent

It is a requirement of DPA 1998 that consent should be sought, whenever practicable, from individual data subjects for Data Controllers to hold and process personal data concerning them. This is to allow individuals an opportunity to raise any objections to any intended processing of personal data. ISA will consider any such objections, but reserves the right to process personal data in order to carry out its functions as permitted by law.

Consent can be sought on an “opt in” basis, where consent is specifically sought in writing, or an “opt out” basis whereby consent is assumed unless an individual elects to state that he or she withholds consent. It is self-evident that a school cannot undertake its functions in relation to pupils, parents, staff and former pupils without properly, reasonably and necessarily holding personal data about them. It is, therefore, a reasonable conclusion that in enrolling a pupil at the school, accepting employment at ISA or otherwise freely becoming formally involved with school, a parent, staff member or the Board accepts this necessity and consents to personal data on them (or their children, as pupils) being held and processed by the schools.

10.120 Rights to Access Personal Data

Staff, parents, pupils of appropriate age under the law and other individuals have the right under the 1998 Act to access any personal data that is being held about them either in an “automatically processable form” (mainly computer records) or in a “relevant filing system” (ie any set of information structured in such a way that specific information relating to a particular individual is readily accessible) and to request the correction of such data where they are incorrect. Any individual who wishes to exercise his or her right of access should do so in writing to the Director.

Any inaccuracies in data disclosed in this way should be communicated immediately to the Director who shall take appropriate steps to make the necessary amendments.

The School reserves the right to make a charge of £10 (or such other charge as is permitted from time to time under the DPA 1998) on each occasion that access is requested. In accordance with the DPA 1998, ISA reserves the right to refuse repeated requests where a reasonable period has not elapsed between requests. In normal circumstances, ISA will not charge staff for access to personal data held on them.

It is the policy of ISA to be willing and open in its response to data access requests, respecting both the letter and the spirit of the law. ISA will normally respond to the request for access to personal data within 40 days (including bank holidays and weekends) of the request or payment of the fee, if payment is called for, whichever is the later.

10.130 Disclosure outside of the European Economic Area (EEA)

ISA may, from time to time, require to transfer personal data to countries or territories outside of the EEA with the knowledge of, and for purposes made known to, individual data subjects. For example, the names of members of staff on a website may constitute a transfer of personal data worldwide. Accordingly, if an individual wishes to raise an objection to this disclosure then written notice should be given to the Director.

Other personal data, even if it would otherwise constitute fair processing, must not, unless certain exemptions apply or protective measures are taken, be disclosed or transferred outside the EEA to a country or territory which does not ensure an adequate level of protection for the rights and freedoms of data subjects.

10.140 Sensitive Personal Data

ISA may, from time to time, process “sensitive personal data” relating to pupils, parents, candidates and staff of ISA.

“Sensitive personal data” is defined under DPA 1998 as information as to a data subject’s racial or ethnic origin, political opinions, religious beliefs or beliefs of a similar nature, trade union membership, physical or mental health or condition, sexual life, offences or alleged offences, and information relating to any proceedings for offences committed or allegedly committed by the data subject, including the outcome of those proceedings.

ISA needs to process some types of sensitive personal data. For example, data relating to the gender and ethnic origin of members of staff of ISA could be processed for the purposes of equal opportunities monitoring. Pupils’ medical records need to be processed for the provision of health care and general welfare purposes. To comply with Child Protection legislation, ISA may need to process information regarding criminal convictions or alleged offences. *Such processing will be undertaken only as and when strictly necessary and with absolute respect to individual confidentiality.*

In more unusual and contentious circumstances, where sensitive personal data is to be held or processed, ISA will seek the explicit consent of the member of ISA’s Community in question unless one of the limited exemptions provided in the Data Protection Act 1998 applies (such as to perform a legal duty regarding employees or to protect the data subject’s or a third party’s vital interests).

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10.150 CCTV

ISA operates a number of CCTV cameras in order to assist with security for members of the ISA Community and in respect of school property. Any person having queries regarding the operation of the CCTV system should refer these to the Director. Anyone wishing to access any personal data about them on the CCTV system, should make a formal request to the Director with as much information as possible to enable the data to be located (including, if possible, details of the relevant camera, date and time). ISA reserves the right to levy a £10 fee for such requests. In normal circumstances, staff will not be subject to this fee.

CCTV footage will be used for no other purposes than the security of the pupils, staff and school property.

10.160 E-Mail

It is permissible and appropriate for ISA to keep records of internal communications which are relevant to an individual's ongoing relationship with the School, whether as a parent, member of staff or pupil, including information concerning performance and conduct issues, provided such records comply with the Data Protection principles.

It is recognised in law that e-mail is used for such communications and that such e-mails should form part of ISA's records. It goes beyond the scope of this policy document to address the appropriate use of e-mail in the proper functioning of the schools and the limitations and legal implications of this mode of communication. However, all members of the staff need to be aware that:

- the 1998 Act applies to e-mails which contain personal data about individuals which are sent or received by members of ISA's Community (other than for their own private purposes as opposed to school purposes);
- subject to certain exceptions, individual data subjects will be entitled to make a data subject access request and have access to emails which contain personal data concerning them, provided that the individual data subject can provide sufficient information for ISA to locate the personal data in the e-mails; and
- the legislation applies to all e-mails from and to members of ISA's Community which are sent and received for school purposes, whether or not the e-mails are sent through the School's e-mail system or on an individual's own e-mail account.

10.170 Retention of Personal Data

DPA 1998 requires that personal data should be processed and retained for no longer than is necessary. Personal data should not be held indefinitely without reason, but there are legitimate business archive and historical archive purposes for which personal data may be retained permanently. The following guidelines are to be followed regarding the retention of personal data holdings within ISA:

10.170.1 Pupil Files

Pupil Files should be summarised by School Office staff, in accordance with current practice, after a maximum of seven years following their subjects leaving school, and thereafter destroyed. The Summary Sheets should contain basic information on a pupil's school career and a copy of the last reference provided by the school. The summary record is to be retained in perpetuity. Any 'problem', sensitive or other case which warrants retention for legal, pastoral or other valid reasons should be retained by the School Office Staff and subject to review after seven years. If there is no reason to retain it after that time, it should be summarised and then destroyed. If in doubt, the file should be retained pending a further seven year review, to be undertaken by the relevant Director or Principal, this process to be repeated until such time as they are satisfied that the file may be destroyed.

10.170.2 Parent Records

Parent record files are only to be raised by exception, as and when there is some specific need, such as credit control monitoring. Such files are to be retained for seven years following the date of the parent's child (or children) leaving the School, with review and destruction to take place thereafter. Only very exceptional cases are to be retained beyond that point and such cases are to be subject to repeat review action after a further seven years. Responsibility for review and confidential destruction falls to the staff of the office in which the file is held.

10.170.3 Medical Records

Medical records are to be retained for seven years following the child leaving the School, after which they are to be subject to review by the School's medical staff and, in normal circumstances, confidential destruction. If necessary, for legal, pastoral or other valid reasons, medical records may be retained beyond review, in which case they are to be subject to repeat review with a view to confidential destruction, at seven year intervals, until such time as destruction is deemed acceptable.

10.170.4 Staff Records

Staff records are to be retained for seven years after the staff member has left the employment of ISA. After seven years, the files are stored electronically in perpetuity. In the event of any doubt or controversy being attached to the file (eg an Industrial Tribunal or other dispute having taken place in respect of the subject), the file is to be retained and subjected to repeat review, with a view to destruction, at regular intervals.

10.170.5 Child Protection Files

All Child Protection records must be held until the youngest child in the family is 25 years old. However, these files may be held for seven years by those ISA members of staff charged with responsibility for Child Protection matters, and then sent to the Child Protection Team in Aberdeen for storage until the due date for destruction.

10.170.6 Unsuccessful Pupil Applicants/Withdrawn Applicants/Prospective Pupils

Each file is to be retained for one year and then subject to review and destruction, by the staff of the relevant school offices, unless there are compelling circumstances warranting retention for longer. In that event, a further review with a view to destruction is to be undertaken after seven years by the relevant school Director or Principal, to be repeated as necessary thereafter.

10.170.7 Prospective Employees

Details of prospective employees are to be retained for one year then subject to review and destruction unless a compelling reason for retention beyond that point is identified. If it is deemed appropriate, they should be destroyed at an earlier stage. Retained files are to be subject to repeat review after a further maximum of three years.

In the event of vacancies filled by sponsored migrant workers, UK Border Agency requirements for document retention from the recruitment process must be observed.

10.180 ISA Historical Archives

Summarised pupil and staff files and other permitted categories of personal data form the basis of the formal records and the detailed historical archives of ISA, and may be retained indefinitely, both physically and electronically, for reference, historical and research purposes.

Personal data which is contained in ISA's archives may be processed for research purposes (including statistical, historical or biographical purposes). Such processing will be carried out in such a manner as to comply with the Data Protection Principles, insofar as they may be applicable.

ISA reserves the right to destroy (in whole or in part) archived files whenever it considers it appropriate to do so.

10.190 Former Pupils and Alumni Development

Manual and computer-based files maintained in respect of current and former staff, pupils and other current, past and potential donors to the schools are to be kept securely.

Data will be used by ISA for a full range of activities, including the sending of school publications, promotion of benefits and services available to Former Pupils (including, if appropriate, those being made available by external organisations), notification of Former Pupils' activities and fundraising programmes (which might include an element of direct marketing).

10.200 Audit and Review of Policy

The implementation of this policy will be subject to periodic audit. The policy will be subject to review by the Data Protection Officer annually, or as and when pertinent legislation makes a review necessary.