

The Minerva Learning Trust



ACCESS TO PERSONAL FILES POLICY

Overseen by the Minerva Learning Trust Human Resources/
Health and Safety Committee

Adopted by the Board of Trustees of the Minerva Learning Trust

Minerva Learning Trust
Bridport Primary School
Burton Bradstock CE Primary School
St Mary's CE Primary School
The Sir John Colfox Academy

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Policy Written by

The Minerva Learning Trust

Ratified by
The Minerva Learning Trust Board

9 May 2018

Date Reviewed

March 2021

Date for further Review

March 2024

Signature of Chair

Access to Personal Files Policy

1. Introduction

- 1.1 The United Kingdom General Data Protection Regulations (UK-GDPR) (2020) and the Data Protection Act, 2018 governs the collection, retention, disclosure and disposal of any personal information held about an individual. This policy outlines the principles of the UK-GDPR 2020 and Data Protection Act, 2018 and how The Minerva Learning Trust will respond to requests for access to, and the release of, personal information contained in personal employee files.
- 1.2 Requests for access to specific documents on file can be made verbally or informally. Where a request is for access to the wider personnel file, the school needs to issue an information sheet outlining what happens next, the Data Subject Access Request Form.

2. Scope

This policy is applicable to all employees of The Minerva Learning Trust as adopted by the Board of Trustees.

3. Definition

- 3.1 Personal files bring together individual employee records which management considers it appropriate to retain. Usually files will be non-computerised, but requests for access to personal files can also include a request for disclosure of all computerised records held on an individual employee. All information whether computerised or non-computerised is covered by the UK-GDPR, 2020.
- 3.2 The school will endeavour to ensure that all data (i.e. information) held on an individual is processed, maintained and retained against the following principles of the UK-GDPR, 2020.
 1. Processed lawfully, fairly and in a transparent manner
 2. Collected for specified, explicit and legitimate purposes
 3. Adequate, relevant and limited to what is necessary
 4. Accurate and where necessary, kept up to date
 5. Retained only for as long as necessary
 6. Processed in an appropriate manner to maintain security
- 3.3 Generally personal files should include all or some of the following:

Application form; references; training records; current disciplinary and grievance records; requests for information from external agencies (e.g. building society); sickness information; details of trade union release; details of parental or other leave requested, approvals to undertake private work; contract of employment; all correspondence between the school and the employee; and any such records or documents as the school may consider appropriate.

3.4 Personal information includes any factual information and any expression of opinion about that employee or the expression of intentions in respect of them. This means that any information held about an employee either on the personal file or kept elsewhere (e.g. emails, computer files, etc.) should be scrutinised with a view to its disclosure. Any email that falls within the above definition should be printed and retained on the personal file. Any email that does not fall within the above definition and is not placed on a personal file should be deleted as part of regular maintenance of the email system.

3.5 Personal files will be kept by each school within the Minerva Learning Trust.

4.0 Access

4.1 All employees have a right to access their personal file held at their school, and/or their personal file held by the Minerva Learning Trust, on request, subject to giving ten working days notice. Formal requests for access to personal files must be made in writing and on the Subject Access Request (SAR) form.

4.2 Employees requesting access to their School personal file may do so by contacting the Headteacher. Employees requesting access to view their Local Authority personal file should contact Human Resources.

4.3 In cases where access to the Local Authority personal file is requested, the file may be examined by the individual requesting access in the presence of a member of staff within the HR team. Employees are entitled to be accompanied by their trade union representative.

4.4 Employees can request copies of any documents from their personal file(s). Where employees request copies of documents, this can be agreed in accordance with the Data Subject Access Request form issued to the data subject at the point of the data request.

5.0 Arrangements for Access

5.1 Employees requiring access to the LA file should provide photographic evidence, e.g. passport or driving licence, of their identity. Employees must complete the Data Subject Access Request form.

5.2 In allowing access to personal files, the schools equal opportunities policy will be adhered to. If employees require any reasonable adjustments to be made for access to Personal files this request should be made allowing reasonable time to put the arrangements in place.

6.0 Release of Information

6.1 The full personal file should be made available. However, access to certain records such as references, third party information, and investigative records may be exempt from disclosure under the provisions of the UK-GDPR, 2020, this will be determined on a case by case basis where applicable. For further information, refer to paragraphs 7 to 9.

6.2 Access requests can be made verbally. At the point of request, the school needs to issue an information sheet outlining what happens next i.e. Data Subject Access Request

6.3 Where subject access requests are made, the school has a legal obligation to provide access within 30 days of the request.

7. References

7.1 Where references have been provided to a school by a named third party, it may be necessary to seek their authority for release of the reference prior to making it available to the employee. If consent is refused or it is impractical to seek consent, the school will determine whether it is reasonable for the reference to be disclosed or not.

7.2 Where references have been provided by The Minerva Learning Trust in confidence to another organisation these are not required to be released if management chooses not to do so. Sensitive data should not be provided to third parties, without the prior permission of the employee, e.g. reasons for sickness absence.

8. Third Party Information

8.1 Where the disclosure of third party information without consent would represent a breach of confidentiality or a breach of that party's rights under the UK-GDPR, 2020, the information may be altered to remove the identity of the third party.

8.2 Where it is not possible to anonymise such information, the school will seek the third party's consent to disclose the information. Where consent is refused or it is impractical to seek consent, the school may withhold that information.

9. Investigative Records – Investigation stage

9.1 Documents relating to an ongoing investigative stage of any procedure may be exempt from disclosure if covered by a relevant exemption contained within the provisions of the UK-GDPR, 2020. Where such records are involved, the employee should submit a Data Subject Access Request form. Advice on disclosure of such documents can be sought from HR and/or the Data Protection Officer (DPO).

9.2 Once the investigation is completed, the exemptions may no longer apply and therefore any subsequent request for disclosure of investigation documents would have to be reassessed.

9.3 If allegations are made and are not substantiated these must be destroyed at the conclusion of the case UNLESS they are Child Protection related. In these circumstances allegations are kept until the person's normal retirement age or 10 years, whichever is longer.

10. Disputes Regarding Release of Information or Information Held on Personal Files

- 10.1 Where the employee disagrees with the accuracy of information held on file they may ask for it to be amended. Where this is not agreed the employee may add a note to the file recording his/her disagreement with information and giving the reason why. An employee can also add reasonable and relevant information that s/he feels should be included on the file.

11. Right of Appeal

- 11.1 Employees may raise an internal grievance if they feel that all or part of their personal file has been unreasonably withheld from them, or where they regard any information held on file to be inaccurate and a request for it to be amended has been refused. In the first instance this should be raised with the Board of Trustees.
- 11.2 Employees have a final right of appeal to the Information Commissioner if they have exhausted the internal grievance procedures and are not satisfied with the final decision in respect of their access to information. Details of how to contact the Information Commissioner can be found by contacting the Local Authority's Data protection Officer or by accessing the website at www.informationcommissioner.gov.uk.

12. Confidentiality

- 12.1 In general, no individual or organisation outside The Minerva Learning Trust shall have access to specific personal data without the authority of the person to whom the information relates. Exceptions to this would be Human Resources or officers of the Local Authority. Within The Minerva Learning Trust only those who need to see an employee's personal file for operational reasons may do so and access should be limited accordingly by permission of the Headteacher.
- 12.2 Information should only be used for the purpose for which it was collected. Information can only be passed to another agency or person outside of The Minerva Learning Trust or the County Council if there is a lawful justification. If this occurs a record should be placed on the file stating what was disclosed, when and to whom and the individual should be notified.

13. Review

- 13.1 This policy will be reviewed periodically to ensure that it meets with statutory requirements and best practice guidance.