



Data Protection Policy

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Data Protection Policy

Introduction

Berkshire College of Agriculture (BCA) is committed to a policy of protecting the rights and privacy of individuals, including learners, staff and others, in accordance with the General Data Protection Regulation 2016 ("GDPR") and the Data Protection Act 2018 ("DPA").

The new regulatory environment demands higher transparency and accountability in how colleges manage and use personal data. It also accords new and stronger rights for individuals to understand and control that use.

The GDPR contains provisions that BCA will need to be aware of as a data controller, including provisions intended to enhance the protection of students' personal data. For example, the GDPR requires that BCA's privacy notices are written in a clear, plain way that staff and students will understand.

BCA needs to process certain information about its staff, students, parents and guardians and other individuals with whom it has a relationship for various purposes such as, but not limited to:

1. The recruitment and payment of staff.
2. The administration of programmes of study and courses.
3. Student enrolment.
4. Examinations and external accreditation.
5. Recording student progress, attendance and conduct.
6. Collecting fees.
7. Complying with legal obligations to funding bodies and government including local government.

To comply with various legal obligations, including the obligations imposed on it by the GDPR, BCA must ensure that all this information about individuals is collected and used fairly, stored safely and securely, and not disclosed to any third party unlawfully.

Definitions

"Personal data" is any information that relates to a living individual who can be identified from that data (or from that data and other information in our possession). It accordingly excludes anonymous data. Personal data can be factual or it can be an opinion.

"Processing" is any activity that involves use of personal data whether or not by automated means, including collecting, storing, amending, disclosing or destroying it.

"Special categories of personal data" means information about an individual's racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, physical or mental health, sex life or sexual orientation, genetic data and biometric data.

Compliance

This policy applies to all staff and students of BCA. Any breach of this policy or of the Regulation itself will be considered an offence and the College's disciplinary procedures will be invoked.

As a matter of best practice, other agencies and individuals working with BCA and who have access to personal information, will be expected to read and comply with this policy. It is expected that departments who are responsible for dealing with external bodies will take the responsibility for ensuring that such bodies sign a data which among other things will include an agreement to abide by this policy.

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 to the GDPR and other relevant legislation.

The ICO's Guide to GDPR gives further detailed guidance and BCA undertakes to adopt and comply with this Guide. This can be accessed on the following webpage- <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/> .

General Data Protection Regulation (GDPR)

This piece of legislation came in to force on the 25th May 2018. The GDPR regulates the processing of personal data, and protects the rights and privacy of all living individuals (including children), for example by giving all individuals who are the subject of personal data a general right of access to the personal data which relates to them. Personal data is information relating to an individual and may be in hard or soft copy (paper/manual files; electronic records; photographs; CCTV images), and may include facts or opinions about a person.

The GDPR also sets out specific rights for BCA students in relation to educational records held within the state education system. These rights are set out in separate education regulations 'The Education (Pupil Information) (England) Regulations 2005 (and as subsequently amended) and the DPA. For more detailed information on these Regulations see the Data Protection Guide to GDPR.

Responsibilities under the GDPR

BCA will be the 'data controller' under the terms of the legislation – this means it is ultimately responsible for controlling the use and processing of the personal data. BCA has appointed a Data Protection Officer (DPO), currently the Principal who is available to address any concerns regarding the data held by BCA and how it is processed, held and used.

The Senior Leadership Team is responsible for all day-to-day data protection matters, and will be responsible for ensuring that all members of staff and relevant individuals abide by this policy, and for developing and encouraging good information handling within BCA.

The Senior Leadership Team is also responsible for ensuring that BCA's registration kept accurate. Details of BCA's ICO registration can be found on the Information Commissioner's website (<https://ico.org.uk/ESDWebPages/Search>). Our data registration number is: Z7358880.

Compliance with the legislation is the personal responsibility of all staff members of BCA who process personal information. BCA will provide appropriate training to all individuals about their data protection responsibilities. The level of training will reflect their role's access to personal data and responsibility for implementing this policy.

Individuals who provide personal data to BCA are responsible for ensuring that the information is accurate and up-to-date.

Data Protection Principles

The legislation places a responsibility on every data controller to process any personal data in accordance with the following nine principles. More detailed guidance on how to comply with these principles can be found ICO's Guide to GDPR (<https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/>)

Applicable data

Personal data means information that relates to an identifiable, living individual, including information such as an online identifier, such as an IP address. The GDPR applies to both automated personal data and to manual filing systems, where personal data is accessible according to specific criteria.

Certain types of personal data are referred to in the GDPR as 'special categories of personal data', (broadly the same as those in the Data Protection Act 1998, with some changes including that the GDPR now specifically includes genetic and biometric data). Special categories of personal data also include information about an individual's racial or ethnic origin, political opinions, religious beliefs, physical or mental health, sex life or sexual orientation.

In order to comply with its obligations, BCA undertakes to adhere to the seven principles as set out in the GDPR:

1) Lawfulness, fairness and transparency

BCA will ensure that individuals who are the focus of the personal data (data subjects) are informed of the identity of the data controller, the law basis of any processing, any disclosures of personal data to third parties that are envisaged and data subjects are given an indication of the period for which the data will be kept, and any other information which may be relevant. BCA does not process personal data in any way that is unlawful.

BCA will only process personal data in ways which the data subjects would reasonably expect, or where BCA can explain why any unexpected processing is justified. BCA do not deceive or mislead people when we collect their personal data.

BCA provides privacy notices to data subjects informing them about their rights, how it complies with its data protection obligations, how it collects and uses personal data, the reasons for processing personal data and the legal basis for any such processing.

BCA Privacy Policy can be found on the BCA website. More details are set out for students and parents of students under 18 in specific privacy statements.

2) Purpose Limitation

BCA will clearly identify the purpose or purposes for processing and will ensure this is documented. BCA will only use personal information for the purposes for which it was collected, unless it reasonably considers that it needs to use it for another reason and that reason is compatible with the original purpose. If BCA needs to use personal information for an unrelated purpose, it will notify the relevant individuals and explain the legal basis which allows it to do so.

3) Data Minimisation

BCA will not seek to collect any personal data which is not strictly necessary for the purpose for which it was obtained. Forms for collecting data will always be drafted with this mind. If any irrelevant data are given by individuals, they will be destroyed immediately.

4) Accuracy

BCA will review and update all data on a regular basis. It is the responsibility of the individuals giving their personal data to ensure that this is accurate, and each individual should notify BCA if, for example, a change in circumstances mean that the data needs to be updated. It is the responsibility of BCA to ensure that any notification regarding the change is noted and acted on.

5) Storage Limitation

BCA undertakes not to retain personal data for longer than is necessary to ensure compliance with the legislation, and any other statutory requirements. This means BCA will undertake a regular review of the information held and will ensure data is retained in accordance with its retention policy. Some of the key retention periods which are applicable are set out in the College's Privacy Policy and privacy statements.

Some educational records relating to former students or employees of BCA may be kept for an extended period for legal reasons for example as stipulated by such as the Education Skills Funding Agency (ESFA). We also maintain a student database where we record student achievements on a yearly basis for the purpose of the provision of references or academic transcripts.

BCA has in place appropriate measures for the deletion of personal data and will dispose of any personal data in a way that protects the rights and privacy of the individual concerned. Manual records will be shredded or disposed of as 'confidential waste' and appropriate contract terms will be put in place with any third parties undertaking this work. Hard drives of redundant PCs will be wiped clean before disposal or if that is not possible, destroyed physically. A log will be kept of the records destroyed.

6) Integrity and confidentiality

All members of staff are responsible for ensuring that any personal data which they hold is kept securely and not disclosed to any unauthorised third parties.

BCA will ensure that all personal data is accessible only to those who have a valid reason for using it.

BCA will have in place appropriate security measures which include:

- keeping all personal data in a lockable cabinet with key-controlled access.
- password protecting personal data held electronically.
- archiving personal data which are then kept securely (lockable cabinet).
- placing any PCs or terminals, CCTV camera screens etc. that show personal data so that they are not visible except to authorised staff.
- ensuring that PC screens are not left unattended without a password protected screen-saver being used.

This policy also applies to staff and students who process personal data 'off-site', e.g. when working at home, and in circumstances additional care must be taken regarding the security of the data.

7) Accountability

The accountability principle as stipulated by GDPR requires BCA to take responsibility for how it handles personal data and how it complies with the other GDPR principles as set out above. BCA must also be able to demonstrate compliance with these principles.

BCA will ensure it has appropriate measures and records in place to be able to demonstrate its compliance.

Data Security

BCA has ensured that it has appropriate technical and organisational measures and safeguards in place to prevent unauthorised or unlawful processing, to prevent personal data from being lost, accidentally destroyed, misused or disclosed, and to ensure that it is not accessed except by BCA staff when necessary in the proper performance of their duties. BCA will regularly evaluate and test the effectiveness of these measures and safeguards and will ensure that any third party engaged is subject to equivalent standards. Further details about BCA's security procedures can be found in BCA's IT Security Policy.

Data Subject's Rights

BCA will process personal data in accordance with the rights of the data subject under the legislation.

Individuals have various rights under the legislation including a right to:

- request access to their personal data (please see below for more detail)
- request correction of the personal data
- request erasure of their personal data
- object to processing of their personal data in certain circumstances
- request restriction of the processing of their personal data
- request the transfer of personal data
- withdraw consent when BCA are processing on the basis of consent.

If an individual believes that BCA has not complied with their data protection rights, they have the right to complain at any time to the Information Commissioner's Office (ICO), the UK supervisory authority for data protection issues.

International Transfers

BCA does not transfer personal data outside the European Economic Area (EEA). BCA does however store data (including personal data) on Google's G-suite cloud servers but BCA's contract with Google incorporates the EU's standard contractual clauses to ensure that the personal data is protected to Google and EU standards.

Legal Basis for processing

The majority of personal data relating to students is processed in accordance with performance of a Public Task and/or Legal Obligation.

Where BCA processed special category data, this will only be processed on the basis of specific consent or where consent cannot be obtained it may be processed to protect the vital interests of the data subject or others.

Personal data obtained in relation to attending a zoo day or open day is obtained in accordance with legitimate interests in order to fulfil the request or enquiry.

Personal data required to send over information via our mailing list or BCA alumni communications is collected based on explicit consent.

BCA will ensure that any forms used to gather data on an individual will contain a statement (fair collection statement) explaining the use of that data, how the data may be disclosed and also indicate whether or not the individual needs to consent to the processing. The Privacy Policy containing this information will also be published on the BCA website.

BCA will include the specified statement from the DfE and the ESFA on the student enrolment form and in the Student Privacy Statement and will update when required following the ESFA's technical guidance:

Subject Access Rights (SARs)

Individuals have a right to access any personal data relating to them which are held by the College. Any individual wishing to exercise this right should apply in writing to the Principal. Any member of staff receiving a SAR should forward this to the Principal.

Under the GDPR, an organisation can no longer charge a fee for every subject access request, unless in exceptional circumstances.

Under the legislation, a SAR must be complied with within 1 calendar month from the date of the request or if later without one month of receipt of:

- any information requested to confirm the requester's identity, or;
- a fee (only in exceptional circumstances)

Detailed guidance on responding to SARs can be found on the ICO website- <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/right-of-access/>

Disclosure of Data and Third Parties

We may disclose personal data to BCA staff who are required to know it to perform their roles at BCA. This will include special category data where appropriate. We may disclose personal data to third parties as follows:

- If we are under a duty to disclose or share it in order to comply with any legal obligation (for example we may disclose it to the Department for Education, ESFA and Office of Students, Learner Records Service, local authorities, our insurers and HMRC).
- To any organisation providing a student or apprentice with an industrial placement or apprenticeship as part of a course at BCA. We will enter into a data sharing agreement with any contractors who we engage to assist us in providing our services. They will only process personal data on the basis of written instructions, and will keep it confidential and secure, and are obliged to implement appropriate technical and organisational measures to ensure the security of the personal data.
- To the police or other regulatory body in order to comply with the law.
- To non-statutory third parties (such as our suppliers) in which case they will only process personal data to process personal data on BCA's behalf, we require them to do this on the basis of written instructions, and they will be under a duty of confidentiality to us and are obliged to implement appropriate technical and organisational measures to ensure the security of any personal data.

Where BCA engages third parties to process personal data on its behalf, BCA will ensure the third party provides adequate guarantees in terms of data security standards, policies, procedures, security measures in place, reliability and resources to implement appropriate technical and organisational measures to ensure personal data is processed in accordance with both companies' data protection obligations. It will have in place a contract or other legal arrangement with the third party setting out the type of personal data that will be processed, the duration of the processing, the nature and purposes of the processing, the categories of data subjects, the obligations and rights of BCA the specific tasks and responsibilities of the third party and the requirements around returning or deleting the personal data after completion of the contract.

BCA undertakes not to disclose personal data to unauthorised third parties, including family members, friends, and government bodies in certain circumstances

For detailed guidance on disclosures see ICO's Guide to GDPR-
<https://ico.org.uk/for-organisations/guide-to-data-protection/>.

In no circumstances will BCA sell any of its databases to a third party. Please refer to BCA's privacy policy for more information.

Impact Assessments

When appropriate, including where processing is likely to result in a high risk to an individual's rights and freedoms and in the event of all major system or business change programs involving the processing of personal data, BCA will carry out a data protection impact assessment to determine the necessity and proportionality of processing. This will include a description of the processing, its purposes, BCA's legitimate interests if appropriate, an assessment of the risks for individuals and the measures put in place to mitigate those risks. Where the impact assessment indicates the processing involves a high risk that cannot be mitigated by appropriate measures in terms of available technology and costs of implementation we shall consult the supervisory authority prior to the processing.

Data Breaches

If BCA discovers that there has been a personal data breach that poses a risk to the rights and freedoms of individuals, we shall report it to the Information Commissioner's Office without undue delay and, where feasible, within 72 hours of discovery. This will include any act or omission that compromises the security, confidentiality, integrity or availability of personal data or the safeguards that BCA or a third party has put in place to protect it that poses a risk to the rights and freedoms of individuals. BCA will record all data breaches.

Where appropriate and if the breach is likely to result in a high risk to the rights and freedoms of individuals, BCA will tell affected individuals without undue delay that there has been a breach and provide them with information about its likely consequences and the mitigation measures BCA has taken.

Publication of BCA Information

BCA publishes various items which will include some personal data, e.g.

- internal telephone directory.
- event information.
- photos and information in marketing materials.

It is BCA policy to offer an opportunity to opt-out of the publication of such when collecting the information.

Email

It is the policy of BCA to ensure that senders and recipients of email are made aware that under the DPA, and Freedom of Information Legislation, the contents of email may have to be disclosed in response to a request for information. One means by which this will be communicated will be by a disclaimer on the College's email.

Under the Regulation of Investigatory Powers Act 2000 and the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000, any email sent to or from BCA may be accessed by someone other than the recipient for system management and security purposes.

CCTV

There are some CCTV systems operating within BCA for the purpose of protecting BCA students, visitors, staff and property. BCA will only process personal data obtained by the CCTV system in a manner which ensures compliance with the legislation. Please refer to BCA's CCTV policy for more information.

Updates to this policy

This policy will be updated as necessary to reflect best practice or future amendments made to the General Data Protection Regulation (GDPR) effective from 25 May 2018 and the DPA. This policy was last updated [■February 2020].

Please follow this link to the ICO's website (www.ico.gov.uk) which provides further detailed guidance on a range of topics including individuals' rights, exemptions from the Act, dealing with subject access requests, how to handle requests from third parties for personal data to be disclosed etc. In particular, it may be helpful to read the Guide to Data Protection which is available from the ICO website- <https://ico.org.uk/for-organisations/guide-to-data-protection/>.

For help or advice on any data protection or freedom of information issues, please do not hesitate to contact:

The Data Protection Officer (DPO): Gillian May, Principal.