

BRIEFING NOTE ON CHANGES TO CONTRACTS

The requirements of the General Data Protection Regulation (GDPR) mean that changes should be made to all contracts that you hold with any other organisation which concern the transfer, holding and/or processing of personal information about pupils, staff, parents or others.

Some organisations may already have been in contact with you seeking to change the terms and conditions of contracts in advance of 25th May. For contracts with organisations that have not done this, or whose terms do not comply with the requirements of GDPR, we have prepared the following:

- A standard letter for you to send to suppliers and other contractors explaining why a change to the contract you hold with them is required; and
- Standard clauses to be added to the contract.

For almost all of your contracts we would advise you to amend these on what is known as a 'unilateral basis'. This means that you don't require formal written agreement from the other party to the contract – the absence of an objection from them to the change will be enough. Just send them the letter and the standard clauses, and proceed on the basis that the clauses will be added to the end of the contract.

If the other party to the contract does object to the new clauses, please contact us as it may be necessary to negotiate appropriate alternative wording with them.

If you have any contracts concerning personal data that is transferred outside of the European Economic Area (usually due to website which use non-European servers), or if you have any contracts concerning the operation of CCTV cameras in which images are transferred away from the school's computer systems, then please let us know as we are regarding such contracts as being 'high risk' ones which require alternative means of alteration.

We would recommend that you send out these letters to suppliers and other contractors by 25th May, but do not be too concerned if this target is not achieved.

What if there is no contract?

You will share a lot of information with organisations that you do not have a formal contract with – for example local authorities and the Department for Education. This is usually where you are sharing information due to legal obligations that the school or academy trust is subject to. For this purpose we will be sending out a 'data sharing agreement' which will be a useful way of evidencing that you are taking your responsibilities seriously under GDPR and are putting expectations on the receiver of information to handle personal data appropriately.

In some cases you may use an external organisation as a 'data processor' which processes personal information on your behalf, but without a formal written contract being in place. Should you have any arrangements which fall into this category we will also send you a 'data processing agreement' which you can ask processors to sign up to.

We will be sending these documents through in a future bulletin as they are lower priority matters and we are happy for these to be dealt with after 25th May.

What if we are an Academy Trust?

We have drafted these agreements using the word 'school' and 'academy trust', but this can be replaced by 'multi-academy trust' or whatever term you are comfortable in referring to your organisation as.

The most important thing to do is to make sure that the contract variation or agreement is in the name of whoever is the data controller. For most academies that will be the academy trust, but some multi-academy trusts will have registered individual schools with the ICO as data controllers.

What you need to do

1. Identify the parties that you share personal information with (hopefully already done via your data mapping tool)
2. For the parties you have a contract with (and where point number 4. set out below does not apply)), 'brand' and send out the standard letter and standard clauses to be added to the contract.
3. For the parties you do not have a contract with, wait for us to send out the template data sharing agreement or the data processing agreement.
4. Identify any contracts involving the transfer of information outside of the European Economic Area or the operation of CCTV cameras and contact the DPO Service for further advice.