



Patrons: Helen McCrory OBE and Damian Lewis CBE

Sponsors: OM SYSTEM

DATA PROTECTION POLICY

Review date: APRIL 2024 Signed by Chair of Trustees: Tal Lomnitzer

1. Aims

HvH Arts aims to ensure that all personal data collected, stored, processed, and destroyed about any natural person, whether they be a member of staff, beneficiary, parent or guardian, Governor, volunteer, contractor, consultant, or any other individual is done so in accordance with the UK General Data Protection Regulation (UK GDPR) and Data Protection Act 2018 (DPA 2018).

This policy applies to all personal data processed by HvH Arts, regardless of whether it is in paper or electronic format, or the type of filing system it is stored in, and whether the collection or processing of data was, or is, in any way automated.

2. Legislation and guidance

This policy meets the current requirements of UK Data Protection legislation. It is based on guidance published by the Information Commissioner's Office (ICO) on the EU GDPR, UK GDPR and DPA 2018. It is also based on the information provided by the Article 29 Working Party.

Additionally, it meets the requirements of the Protection of Freedoms Act 2012, ICO's code of practice in relation to CCTV usage, and the DBS Code of Practice in relation to handling sensitive information.

3. Definitions

<u>Term</u>	<u>Definition</u>
Data controller	The natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data.
Data processor	A natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller, following the Controller's instruction.
Data subject	The identified or identifiable individual whose personal data is held or processed.
Consent	Freely given, specific, informed and unambiguous indication of the data subject's wishes via a statement or by a clear affirmative action, signifying agreement to a specific processing of personal data relating to them.
Personal data	<p>Any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a</p> <ul style="list-style-type: none">• name,• an identification number,• location data,• an online identifier or• to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.
Special categories of personal data	<p>Personal data which is more sensitive and so needs more protection, including Information about an individual's:</p> <ul style="list-style-type: none">• Racial or ethnic origin• Political opinions• Religious or philosophical beliefs• Trade union membership• Genetics• Biometrics (such as fingerprints, retina and iris patterns), where used for identification purposes

- Health – physical or mental
- Sex life or sexual orientation
- History of offences, convictions or cautions *

* Note: Whilst criminal offences are not listed as special category data, within this policy they are regarded as such in acknowledgment of the extra care which is needed with this data set.

Processing

Any operation or set of operations which is performed on personal data or on sets of personal data, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

Processing can be automated or manual.

Data breach

A breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data.

4. The data controller

HvH Arts collects and determines the processing for personal data relating to parents/guardians, beneficiaries, HvH Arts workforce, governors, visitors and others, in addition they process data on the behalf of others therefore is a data controller and a data processor.

5. Roles and responsibilities

This policy applies to **all individuals** employed by HvH Arts, and to external organisations or individuals working on our behalf. Employees who do not comply with this policy may face disciplinary action.

5.1 Governing Board

The Governing Board has overall responsibility for ensuring that HvH Arts complies with all relevant data protection obligations.

5.2 Data Protection Officer

HvH Arts CEO Debbi Clark is responsible for overseeing the implementation of this policy, along with any future development of this or related policies/guidelines, and reviewing our compliance with data protection law.

5.3 All Employees

Employees (regardless of role) are responsible for:

- Collecting, storing and processing any personal data in accordance with this policy
- Informing HvH Arts of any changes to their personal data, e.g., a change of address, telephone number, or bank details.
- Reporting a Data Breach, Data Right Request, or Freedom of Information Request.
- Contacting the Data Protection Officer:
 - With any questions about the operation of this policy, data protection law, retaining personal data or keeping personal data secure
 - If they have any concerns that this policy is not being followed
 - If they are unsure whether or not they have a lawful basis to use personal data in a particular way
 - If they need to rely on or capture consent, draft a privacy notice/notification, or transfer personal data outside the United Kingdom.
 - Whenever they are engaging in a new activity that may affect the privacy rights of individuals
 - If they need help with any contracts or sharing personal data with third parties

6. The Data protection principles

Data Protection is based on seven principles that HvH Arts must comply with.

These are that data must be;

- Processed lawfully, fairly and in a transparent manner.
- Collected for specified, explicit and legitimate purposes.
- Adequate, relevant and limited to what is necessary to fulfil the purposes for which it is processed.
- Accurate and, where necessary, kept up to date.
- Kept for no longer than is necessary for the purposes for which it is processed.
- Processed in a way that ensures it is appropriately secure.

The Accountability principle ties these all together by requiring an organisation to take responsibility for complying with the other six principles. Including having appropriate measures and records in place to be able to demonstrate compliance.

This policy sets out how HvH Arts aims to comply with these key principles.

7. Processing personal data

7.1 Lawfulness, fairness and transparency

HvH Arts will only process personal data where we have one of six 'lawful basis's (legal reasons) to do so under data protection law:

- The individual (or their parent/guardian when appropriate) has freely given clear **consent**
- The data needs to be processed so that HvH Arts can **fulfil a contract** with the individual, or the individual has asked HvH Arts to take specific steps before entering into a contract
- The data needs to be processed so that HvH Arts can **comply with a legal obligation**
- The data needs to be processed to ensure the **vital interests** of the individual e.g. to protect someone's life
- The data needs to be processed for the **legitimate interests** of HvH Arts or a third party (provided the individual's rights and freedoms are not overridden)

For special categories of personal data, we will also meet one of the special category conditions for processing which are set out in data protection law.

These are where:

- The individual (or their parent / guardian in the case of a beneficiary, where appropriate) has **given explicit consent**;
- It is necessary for the purposes of carrying out the **obligations and exercising specific rights** of the controller or of the data subject in the field of **employment** of a Data Controller or of a Data Subject.
- It is necessary to protect the **vital interests** of the Data Subject;
- Processing is carried out in the course of its **legitimate activities** with appropriate safeguards by a **foundation, association or any other not-for-profit body with a political, philosophical, religious or trade union aim.**
- The Personal Data has **manifestly been made public** by the Data Subject;
- There is the **establishment, exercise or defence of a legal claim**;
- There are reasons of **public interest** in the area of **public health**;
- Processing is necessary for the purposes of preventative or occupational medicine (e.g. for the **assessment of the working capacity of the employee**, the medical diagnosis, the provision of health or social care or treatment);
- There are **archiving** purposes in the **public interest**;

Where we collect personal data directly from individuals, we will provide them with the relevant information required by data protection law, in the form of a privacy notice.

These privacy notices can be found in a location accessible and relevant to the data subjects

- Beneficiary and Parents/Guardians: **HvH Arts website**

- Workforce (includes Trainees, Contractors and Consultants): **HvH Arts website**
- Governors & Volunteers: **HvH Arts website**
- Job Applicants: **HvH Art website**
- Visitors: **HvH Arts website**

Additional Copies of the Privacy Notices are available on request by contacting Debbi Clark CEO. E: Debbi@hvhart.org

7.2 Limitation, minimisation and accuracy

HvH Arts will only collect personal data for specified, explicit and legitimate reasons. We will explain these reasons to the individuals when we first collect their data in our privacy notices.

If we want to use personal data for reasons other than those given when we first obtained it, we will inform the individuals concerned before we do so and seek consent where necessary.

Employees must only access and process personal data where it is necessary to do their jobs.

We will keep data accurate and, where necessary, up to date. Inaccurate data will be rectified or erased when appropriate.

When personal data is no longer required, employees must ensure it is destroyed. This will be done in accordance with the HvH Arts document retention policy, which states how long particular documents should be kept, and how they should be destroyed.

8. Sharing personal data

In order to efficiently, effectively and legally function as a data controller HvH Arts are required to share information with appropriate third parties, including but not limited to situations where:

- There is an issue with a beneficiary or parent/guardian that puts the safety of our staff at risk
- We need to liaise with other agencies or services – we may seek consent when appropriate before doing this where possible.
- Our suppliers or contractors need data to enable us to provide services to our employees and beneficiaries– for example, IT companies. When doing this, we will:
 - Only appoint suppliers or contractors which can provide sufficient guarantees that they comply with data protection law and have satisfactory security measures in place.
 - Establish a data sharing agreement with the supplier or contractor, either in the contract or as a standalone agreement, to ensure the fair and lawful processing of any personal data we share.
 - Only share data that the supplier or contractor needs to carry out their service, and information necessary to keep them safe while working with us.

We will also share personal data with law enforcement and government bodies when required to do so, these include but are not limited to:

- The prevention or detection of crime and/or fraud
- The apprehension or prosecution of offenders
- The assessment or collection of tax owed to HMRC
- In connection with legal proceedings
- Where the disclosure is required to satisfy our safeguarding obligations
- Research and statistical purposes, as long as personal data is sufficiently anonymised, or consent has been provided

We may also share personal data with emergency services and local authorities to help them to respond to an emergency situation that affects any of our beneficiaries or employees.

9. Individuals Data Protection Rights

9.1 Access Rights

Individuals have a right to make a '**subject access request**' to gain access to personal information that HvH Arts holds about them.

If you make a subject access request, and if we do hold information about you, we can:

- Give you a description of it.
- Tell you why we are holding and processing it, and how long we will keep it for.
- Explain where we got it from, if not from you.
- Tell you who it has been, or will be, shared with.
- Let you know whether any automated decision-making is being applied to the data, and any consequences of this.
- NOT provide information where it compromises the privacy of others.
- Give you a copy of the information in an intelligible form.

9.2 Other Rights regarding your Data:

You may also

- Withdraw their consent to processing at any time, this only relates to tasks which HvH Arts relies on consent to process the data.
- Ask us to rectify, erase or restrict processing of your personal data, or object to the processing of it in certain circumstances and where sufficient supporting evidence is supplied
- Prevent the use of your personal data for direct marketing
- Challenge processing which has been justified on the basis of public interest, official authority or legitimate interests.

- Request a copy of agreements under which your personal data is transferred outside of the United Kingdom.
- Object to decisions based solely on automated decision making or profiling (decisions taken with no human involvement, that might negatively affect them)
- Request a cease to any processing that is likely to cause damage or distress
- Be notified of a data breach in certain circumstances
- Ask for your personal data to be transferred to a third party in a structured, commonly used and machine-readable format (in certain circumstances)

In most cases, we will respond to requests within 1 month, as required under data protection legislation. However, we are able to extend this period by up to 2 months for complex requests or exceptional circumstances.

We reserve the right to verify the requesters' identification by asking for Photo ID, if this proves insufficient then further ID may be required.

HvH Arts will comply with the Data Protection legislation in regard to dealing with all data requests submitted in any format, individuals are asked to preferably submit their request in written format to assist with comprehension.

They should include:

- Name of individual
- Correspondence address
- Contact number and email address
- Details of the request

If you would like to exercise any of the rights or requests listed above, please contact Debbi Clark CEO:

- Debbi@hvhart.org

9.3 Children and Data Rights/Requests

An individual's data belongs to them therefore a child's data belongs to that child, and not the child's parents or guardian.

However, children below the age of 12 are generally not regarded to be mature enough to understand their rights and the implications of invoking a data request. Therefore, for children under the age of 12 most data requests from parents or guardians of beneficiaries at HvH Arts may be granted without the express permission of the child. This is not a rule and a child's ability to understand their rights will always be judged on a case-by-case basis.

Where a child is judged to be of sufficient age and maturity to exercise their rights and a request is invoked on their behalf, we would require them to give consent to authorise the action to be undertaken.

10. Photographs, film & words

As part of our activities, we may take photographs and record images of individuals within our courses & individual projects

The use of photographs includes but is not limited to:

- To publicise events or council services, in magazines, brochures, newsletters and posters, digital screens and information leaflets.
- By external agencies and partners such as local and national newspapers and local and national campaigns we are involved with
- Online on our website or social media pages

We will obtain consent from the responsible individuals. When doing so we will clearly explain how the photograph and/or video will be collected and used to both the parent/guardian and beneficiary when obtaining consent.

Consent can be refused or withdrawn at any time. If consent is withdrawn, we will delete the photograph or video and not distribute it further.

11. Data protection by design and default

We will put measures in place to show that we have integrated data protection into all of our data collection and processing activities. These include, but are not limited to the following organisational and technical measures:

- Only processing personal data that is necessary for each specific purpose of processing, and always in line with the data protection principles set out in relevant data protection regulations.
- Completing data privacy impact assessments where the school's processing of personal data presents a high risk to rights and freedoms of individuals, and when introducing new technologies or processing tools
- Integrating data protection into internal documents including this policy, any related policies and privacy notices
- Regular training for the HvH Arts workforce on data protection law, this policy and any related policies and any other data protection matters.
- Periodic audits will be undertaken to monitor and review our privacy measures and make sure we are compliant.
- Maintaining records of our processing activities, including:
 - For all personal data that we hold; maintaining an internal record of the type of data, data subject, how and why we are using the data, any third-party recipients, how and why we are storing the data, retention periods and how we are keeping the data secure.

12. Data security and storage of records

We will protect personal data and keep it safe from unauthorised or unlawful access, alteration, processing or disclosure, and against accidental or unlawful loss, destruction or damage.

Our organisational and technical measures include, but are not limited to;

- Paper-based records and portable electronic devices, such as laptops, tablets and hard drives that contain personal data will be kept under lock and key when not in use. We endorse a clear desk policy.
- Papers containing confidential personal data will not be left out on display when not in use unless there is a compelling lawful basis to do so e.g. Public Task to display Allergy information in the Medical Room.
- Passwords that are at least eight characters long containing letters and numbers are used to access school computers, laptops and other electronic devices. Staff and pupils are reminded to change their passwords at regular intervals.
- Encryption software is used to protect any devices such as Laptops, Tablets and USB Devices where saving to the hard drive is enabled.
- Staff, beneficiaries or governors who store personal information on their personal devices are expected to follow the same security procedures
- Where we need to share personal data with a third party, we carry out due diligence and take reasonable steps to ensure it is stored securely and adequately protected.

13. Disposal of records

Personal data that is no longer needed will be disposed of securely. Personal data that has become inaccurate or out of date will be rectified or updated, unless it is no longer of use and therefore will be disposed of securely.

For example, we will shred paper-based records, and overwrite or delete electronic files. We may also use a third party to safely dispose of records on our behalf. If we do so, we will require the third party to provide sufficient guarantees that it complies with data protection law and provide a certificate of destruction.

14. Personal data breaches

HvH Arts will make all reasonable endeavours to ensure that there are no personal data breaches.

All potential or confirmed Data Breach incidents should be reported to Debbi Clark CEO where they will be assigned a unique reference number and recorded in the data breach log. Once logged, incidents will then be investigated, the potential impact assessed, and appropriate remedial action undertaken.

Examples of a Data Protection Breach include but are not limited to:

- Personal data being left unattended in the HvH Arts Gallery or HvH Arts Media Centre

- Sending information relating to a beneficiary or family to the wrong member of staff, or to the wrong parent / guardian
- Safeguarding information being made available to an unauthorised person

www.hvharts.org

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