1. Introduction

1.1. As part of its delivery of adult education the College is required to process special category and criminal offence data. The data is processed in accordance with the requirements of Article 9 and 10 of the General Data Protection Regulation (GDPR) and Schedule 1 of the Data Protection Act 2018 (DPA 2018).

2. Special Category Data

2.1. Special category data is defined at Article 9 GDPR as personal data revealing:

 2.1.1. Racial or ethnic origin;
 2.1.2. Political opinions;
 2.1.3. Religious or philosophical beliefs;
 2.1.4. Trade union membership;
 2.1.5. Genetic data;
 2.1.6. Biometric data for the purpose of uniquely identifying a natural person;
 2.1.7. Data concerning health; or
 2.1.8. Data concerning a natural person's sex life or sexual orientation.

3. Criminal Conviction Data

3.1. Article 10 of the GDPR covers processing in relation to criminal convictions and offences or related security measures. In addition, section 11(2) of the DPA 2018 specifically confirms that this includes personal data relating to the alleged commission of offences or proceedings for an offence committed or alleged to have been committed, including sentencing. This is collectively referred to as 'criminal offence data'.

4. Statement Purpose

4.1. Some of the Schedule 1 conditions for processing special category and criminal offence data require the College to have an appropriate policy document in place which sets out and explains its procedures for securing compliance with the principles in Article 5 and policies regarding the retention and erasure of such personal data.

4.2. This statement explains the College's processing and satisfies the requirements of Schedule 1, Part 4 of the DPA 2018.

4.3. In addition it provides some further information about the College's processing of special category and criminal offence data where a policy document isn't a specific requirement. The information supplements the College's privacy notices and should be read in conjunction with them.

5. Conditions for Processing Special Category and Criminal Offence Data

5.1. The College processes special categories of personal data under the following GDPR Articles:

 Article 9(2)(g) - reasons of substantial public interest.
 5.1.1. The College is required to keep under review the existence or absence of equality or treatment between groups of people with a view to such equality being promoted or maintained. Processing of personal data in this context is for the purposes of substantial public interest and is necessary for the carrying out the College's role. Examples of processing on this basis include the information processed regarding the personal characteristics of students and staff e.g. ethnicity, gender, disability.

 5.1.2. The College provides learning support to individuals with a disability or medical condition to enable them to access the College's provision. Examples of processing on this basis include the health and disability information collected from students to enable the provision of appropriate additional learning support.

5.1.3. The College processes special category data about its employees that is necessary to fulfil its obligations as an employer. This includes information about their health and wellbeing, ethnicity, photographs and their membership of any trade union. Further information about this processing can be found in the staff privacy notice.

Article 9(2)(f) – for the establishment, exercise or defence of legal claims.
5.1.4. Examples of processing include processing relating to any employment tribunal or other litigation.

Article 9(2)(a) – explicit consent
5.1.5. In circumstances where consent is sought the College ensures that the consent is unambiguous and for one or more specified purposes, is given by an affirmative action and is recorded as the condition for processing.

5.1.6. Examples of processing include health information received from staff in relation to occupational health referrals.

Article 9(2)(c) – where processing is necessary to protect the vital interests of the data subject or of another natural person.
5.1.7. An example of processing would be using health information about a member of staff or student in a medical emergency.

Criminal Offence Data
5.1.8. The College processes criminal offence data under Article 10 of the GDPR. Examples of processing of criminal offence data include pre-employment checks and declarations by an employee in line with contractual obligations.

6. Data Protection Act Schedule 1 Conditions for Processing
6.1. The College processes special category data for the following purposes in Part 2 of Schedule 1. All processing is for the first listed purpose and might also be for others dependent on the context:
6.1.1. Paragraph 8(1) Equality of Opportunity or Treatment;
6.1.2. Paragraph 16(1) Support for Individuals with a Particular Disability or Medical Condition;
6.1.3. Criminal offence data.

6.2. Criminal offence data is processed for the following purposes in Parts 1 and 2 of Schedule 1:
6.2.1. Paragraph 1 – employment, social security and social protection.

7. Procedures for Ensuring Compliance with the Principles

Accountability Principle
7.1. The College has in place appropriate technical and organisational measures to meet the requirements of accountability. These include:
7.1.1. The appointment of a data protection officer who reports directly to the highest management level;
7.1.2. Taking a 'data protection by design and default' approach to activities;
7.1.3. Maintaining documentation of processing activities;
7.1.4. Adopting and implementing data protection policies and ensuring written contracts are in place with data processors;
7.1.5. Implementing appropriate security measures in relation to the personal data processed;
7.1.6. Carrying out data protection impact assessments for high risk processing;
7.1.7. Regularly reviewing accountability measures and updating or amending them when required.

Principle (a): lawfulness, fairness and transparency
7.2. Processing personal data must be lawful, fair and transparent. It is only lawful if and to the extent it is based on law and either the data subject has given their consent for the processing, or the processing meets at least one of the conditions in Schedule 1.

7.3. The College provides clear and transparent information about why personal data is processed, including the lawful basis for processing as set out in privacy notices and this policy document.

Principle (b): purpose limitation

7.4. Personal data is processed only for the purpose for which it was collected, this includes:

    7.4.1. For the performance of a contract;

    7.4.2. A task carried out in the public interest;

    7.4.3. Legitimate interests of the College.

7.5. Personal data is not processed for purposes incompatible with the original purpose it was collected for.

Principle (c): data minimisation

7.6. The College collects personal data necessary for the relevant purposes and ensures it is not excessive. The information processed is necessary for and proportionate to its purposes. Where personal data is provided or obtained which is not relevant to the stated purposes it is erased.

Principle (d): accuracy

7.7. Where the College becomes aware that personal data is inaccurate or out of date, having regard to the purpose for which it is being processed, every reasonable step is taken to ensure that data is erased or rectified without delay. If the decision it taken not to either erase or rectify it, for example because the lawful basis under which it is processed means these rights don't apply, the decision will be documented.

Principle (e): storage limitation

7.8. All special category data processed is, unless retained longer for archiving purposes, retained for the periods set out in the College's retention schedule. The retention period for the data is based on the College's legal obligations and the necessity of its retention for business needs. The retention schedule is reviewed regularly and updated when necessary.

Principle (f): integrity and confidentiality (security)

7.9. Electronic information is processed within the College's secure network. Hard copy information is processed in line with security procedures.

7.10. Electronic systems and physical storage have appropriate access controls applied.

7.11. The systems used to process personal data allow it to be erased or updated at any point in time where appropriate.

Retention and erasure policies

7.12. Retention and erasure practices are set out in our retention schedule.

8. Additional Special Category Processing

8.1. Special category personal data is processed in other instances where it is not a requirement to keep an appropriate policy document. The processing of such data respects the rights and interests of the data subjects. Clear and transparent information about the data is processed, including the lawful basis for processing, is included in the College's privacy notices.