

Fundraising and Development Privacy Notice

The Mall School Trust

December 2021



Explanatory note

How and where should the privacy notice be provided?

You must actively provide privacy information to individuals. You can meet this requirement by putting the information on your website, but you must make individuals aware of it and give them an easy way to access it. For example, by sending alumni an email prominently linking to the notice.

We recommend that the School should draw the individual's attention to anything which may be seen as more privacy intrusive. For example, if the privacy notice is sent to alumni in the post accompanying the School magazine, then we would recommend that the cover letter should draw attention to any wealth profiling referred to in the notice.

Sources of personal data

The School is also required to tell the individuals where their personal data was obtained from originally. Sources may include, other alumni, third party sources such as internet search engines, LinkedIn, etc. You also need to identify whether personal data has been taken from publicly available sources. NB - not all social media or internet sources will count as "publicly available."

Consent for different channels of communication

There are certain uses of personal data related to fundraising and development for which the School must obtain consent. For example, consent is usually (but not always) required before sending fundraising emails but consent is not generally required before sending fundraising communications in the post. If the School does not need to rely on consent it will instead rely on legitimate interests. The ICO recommends that a Legitimate Interests Assessment is carried out before relying on legitimate interests, please see the Guidance on the Privacy Notices.

The privacy notice wording must be provided to make the processing lawful no matter what lawful basis is being relied on. We recommend that any consent form provides a link to where the privacy notice can be found on the website.

The School must keep a record of any consents received. The School should keep a record of who consented, when the consent was received, the form of words used (and a copy of the relevant privacy notice wording) and the platform (e.g. online, paper form etc).

You must let the individual know that they have the right to withdraw their consent at any time when the consent is sought. It must be as easy to withdraw consent as it was to give it. If consent is withdrawn this will not invalidate any use the personal data before the consent was withdrawn. If an individual withdraws their consent the School must record the particulars e.g. what consent has been withdrawn and the date.

Consent for different purposes of communication

One option would be to draft the consent form(s) on the basis that the School will obtain separate consent for each different purpose (e.g. fundraising, newsletters etc), i.e. there is a different tickbox for each purpose.

As an alternative the School could have one tickbox covering all purposes. Although this is common practice, there is a risk that the ICO would consider that this approach is not sufficiently granular for data protection purposes and if a school wanted to adopt a cautious approach then it should have a separate tickbox for each purpose. It appears to be the Fundraising Regulator's view that having the more granular consent is the only way to be confident that the practice is compliant. As far as we

are aware, the ICO has never taken regulatory action against a school for having one tickbox covering all purposes.

Having a separate tickbox for each purpose could have adverse implications for the School commercially. For example, individuals may consent to receiving the newsletter but not fundraising communications.

We would be pleased to assist the School in drafting or reviewing any consent forms.

Retention of personal data

We have provided that some information is kept indefinitely. There is a risk that a Court or the ICO would find that an indefinite retention period is a breach of the UK GDPR. However, we have included this as we understand that many schools will want to keep personal data indefinitely so that the development office can continue to stay in touch with alumni and other contacts and prospects, notwithstanding a risk of non-compliance. If there is anything which the School considers it does not need to keep indefinitely then this should be provided for, either in this document or in a separate retention policy.

Wealth profiling (screening) and data matching

Wealth profiling (screening) may require consent, particularly if the School obtains data from third party sources (this includes resources on the internet, even if those resources are publicly available). The legal position here is not totally clear and the School may still be able to justify wealth profiling without consent if it has been sufficiently transparent about its practices (e.g. if it is covered in the privacy notice and the School has done enough to bring its practices to the attention of individuals in addition to the wording contained in the privacy notices).

The School could seek consent for using personal data for wealth profiling. This is the most compliant option.

As an alternative, the School could try to rely on legitimate interests. If legitimate interests is relied on it is especially important that there is clear and prominent wording in the privacy notice. There is a risk that the ICO or courts would find this practice unlawful should they ever become involved. To mitigate the risks here we strongly recommend that the School carries out a Legitimate Interests Assessment and a Data Protection Impact Assessment (DPIA). The ICO states that a DPIA must be carried out in relation to wealth profiling.

Please note that explicit consent is a legal requirement if any special category personal data (e.g. information about someone's political opinions, religious beliefs, ethnic origin or health) is used for wealth profiling.

We are aware that a lot of independent schools have chosen to rely on legitimate interests for wealth profiling rather than seeking consent and we are not aware of any independent school having been subject to enforcement action as a consequence of going down the legitimate interests route for wealth profiling.

In addition, some organisations carry out what is known as "data matching". This practice involves obtaining information from third party sources. E.g. finding someone's telephone number by screening their name against a third party database. Please let us know if the School carries out data matching. Consent is required for data matching. The ICO considers that it is a legal requirement to carry out a DPIA in relation to data matching.

Further information on the ICO's views on these points can be found here: <https://ico.org.uk/media/about-the-ico/consultations/2616882/direct-marketing-code-draft-guidance.pdf> and in particular at pages 50 and 57. You will note that the ICO appears to leave open the door to legitimate interests for wealth profiling but the guidance is nevertheless unclear on this point.

The ICO's guidance (linked above) is currently in draft form and has been for over a year now. If you would like to be notified when a new version is published you can sign up to the data protection module of our Compliance Toolkit for a small annual fixed fee. The Compliance Toolkit provides monthly updates on the latest developments in data protection law specifically for schools.

Sharing personal data with third parties

It is important that the privacy notice details with which third parties personal data are shared. The notice below includes our suggestions based on our experience of advising independent schools. However, this section should be considered carefully by the School. The fourth paragraph under the Introduction is intended to set out the relationship between the School and the alumni association. This paragraph in particular will require careful consideration by the School to ensure it reflects what happens in practice. If the School intends these documents to apply to the alumni association as well then the draft will likely require further amendments to reflect both how data is shared between the School and the association and also any data handling practices that are specific to the association.

Fundraising Regulator's Code

If the School carries out fundraising we recommend reviewing the Fundraising Regulator's Code - [Code of Fundraising Practice | Fundraising Regulator](#)

The Code does arguably go slightly further in parts than is strictly legally required for data protection compliance. For example, it occasionally conflates ICO guidance with the legal requirements. We would be pleased to advise further.

How we use your information: Fundraising and Development Privacy Notice

Introduction

This notice explains **how** and **why** the [• Development Office] uses personal data about you when carrying out our fundraising and development activities.

This notice also outlines **what we do** with your personal data and what **decisions** you can make about your personal data in relation to fundraising and development.

If you have any questions about this notice please contact [• the Development Director] whose contact details are [• please complete]. If the Development Director is not available, you can contact the Development Office on [• switchboard, email address and postal address] in relation to any of the matters set out in this notice.

It is essential that the privacy notice reflects the relationship between the School and any alumni society. Please chose the correct wording below. If personal data is shared between the School and a separate alumni society we recommend putting in place a data sharing agreement. We would be pleased to advise further on this.

[• **Option 1:** The [• Alumni society] is independent from the School. The [• Alumni Society] has a separate privacy notice which is published on its website [• insert URL].]

[• **Option 2:** The [• Alumni society] is part of the School and this notice also covers how the [• Alumni society] uses your personal data. [• Describe how information is shared with the society.] As the [• Alumni society] is part of the School, the School is responsible for how it, and the [• Alumni society], use your personal data. To use data protection terminology, the School is the "data controller" or "controller".]

[• **Option 3:** [• If this privacy notice is to cover both the School and a separate alumni society as data controllers, bespoke wording will be required. We would be pleased to advise.]

This notice only covers how the School uses your personal data for fundraising and development purposes. For more information about how the School uses your personal data more widely (for example, in relation to educating pupils) please ask [• the Bursar] for a copy of the appropriate privacy notice. [• The Bursar] can be contacted as follows: [• please complete].

What is personal data?

Personal data is information about you from which you can be identified (either directly or indirectly).

This includes your contact details, your relationship with the School and financial information.

What personal data does the School hold about you and how is this obtained?

We receive information about you from [• other teams within the School but only where this is relevant to our work]. We obtain information from [• details] about the dates when you attended the School and also [• describe what records are made available to the development office]. We hold a specific database with information about alumni, parents, staff, former parents, former staff and other supporters.

You provide us with information about yourself during the course of our relationship with you. For example, when you sign up to receive communications from us or order tickets for events.

[• In addition, we will obtain your personal data from other sources, which we use for the purposes described below. These are [• others who are involved in our development activities, for example, members of your family and other alumni might tell us about your interests or your career].]

[• The School receives information about you from the [• Alumni Society] as follows: [• Please complete - will in part be determined by which of the 3 options set out in the introduction to the privacy notice applies.]

We will hold information such as:

- your name, gender, and date of birth;
- information about your family, for example, whether you have any brothers or sisters who attended the School;
- any connection you may have with other members of the School community such as other alumni;
- the dates when you or your child attended the School (if applicable);
- if you are a former staff member the dates when you worked at the School;
- your contact details;
- information about your achievements and interests e.g. which sports team you were part of as a pupil or any hobbies that you have now;
- where you attended university and your occupation (if applicable);
- how you like to hear from us e.g. whether you have signed up to receive emails from us;
- your involvement with us. This includes correspondence with you, your attendance at our events, and whether you carry out [• mentoring of current pupils];
- records of any donations and your Gift Aid status if applicable;
- information from articles in the media;
- medical information or information about a disability you have, e.g. to make adjustments for you or to help you if you are hurt whilst taking part in an activity;
- any dietary requirements for catering purposes; and
- any disability which you may have so that we may make reasonable adjustments for you.

Why do we use your personal data?

We use your personal data in the following ways:

- to keep you informed about events and activities and in relation to your attendance at those events (for example, so that we can accommodate you if you tell us about any special needs or dietary requirements);
- to facilitate interaction between members of the School community [• for example, we provide an online portal to allow alumni to communicate. This can be found here [• link]].

Please note that if the online portal is provided by an external party there should be a contract in place with them which contains data protection provisions. We would expect the provider to be the School's processor in the vast majority of cases which requires certain mandatory provisions in the contract. The School should carry out checks on the provider's

data protection compliance. There is more information about processors in the Guidance on the Privacy Notices. We would be pleased to advise further on this.

- to tell you about products sold to benefit the School such as clothing and sports goods;
- to keep you informed about what is happening at the School, for example, by sending you a copy of the School [• newsletter / magazine] called [• details];
- in connection with providing financial support to the School (including making donations to the School, specific campaigns, such as for a new sports centre, and requests for sponsorship);
- in connection with the other ways in which you might support the School (such as when you volunteer);
- in connection with any research we carry out. For example, we may ask you to complete a survey, provide feedback or [• join one of our focus groups].

We will contact you for the above purposes by [• email, telephone, social media, post or by text message]. If you tell us that you do not want to be contacted for any of these purposes then we will of course respect that.

If you wish to make a donation, particularly a donation of a substantial value, we may need to verify your identity and / or carry out financial due diligence on you. This may involve taking and retaining copies of your identification documents and obtaining your personal data from the following sources: [• internet search engines, 192.com, the Charity Commission, Zoopla, Business Week and related media articles]. This is to comply with our legal obligations.

We will take photos or videos of you to use in our publicity or on our social media platforms and website. If we consider that the photo or video is more privacy intrusive then we may ask for consent first.

[• We will use your personal data to build up a picture of your willingness to give and how wealthy you are so that we can tailor our fundraising communications to you. As part of this we may use your personal data to help us decide [• how much we think you are willing and able to give]. We will use the following information for this purpose: [• your postal address and history of giving]. We will also obtain information from sources outside of the School. These sources are as follows [• Zoopla (for house prices), LinkedIn, Bloomberg]. [• We will only use your personal data as we have described in this paragraph where we have your consent to do so.] *This is wealth profiling, see introductory remarks.*

[• We will screen the details we have for you against third party databases so that we can check that we have up-to-date contact details for you but we will not do this without getting your consent first.] *This is data matching, see introductory remarks.*

How and why does the School share your personal data with third parties?

- [• If you use a third party platform to donate then we will receive information about you from them.]
- If you attend one of our events, then we will share your personal data with event booking platforms such as [• please complete].
- In accordance with our legal obligations, will share information with local authorities, [• the Independent Schools Inspectorate / Ofsted] and the Department for Education, for example, where we have any safeguarding concerns.

- On occasion, we may need to share information with the police for the prevention and investigation of crime and the prosecution of offenders.
- We may also need to share information with our professional advisors. For example, we may share your personal data with our legal advisers for the purpose of obtaining legal advice.
- We will need to share information if there is an emergency, for example, if you are hurt whilst on School premises or at one of our events.
- We will share information with HMRC in connection with Gift Aid claims.
- We use contractors to help us with our work (e.g. a printing company for our literature) or where we store our database in the cloud.

[• The School shares information about you with the [• Alumni Society] as follows: [• Please complete - will in part be determined by which of the 3 options set out in the introduction to the privacy notice applies.]

Our lawful bases for using your information

This section contains information about the lawful basis that we are relying on when handling your information.

Legitimate interests

This means that we are using your personal data when this is necessary for our legitimate interests, except when your interests and fundamental rights override our legitimate interests. We rely on legitimate interests to use your personal data for all of the purposes described except where we have asked you for your consent (in which case consent applies as the lawful basis). Specifically, we have a legitimate interest in:

- ensuring that there is an active community of supporters which will benefit the School and members of the School community, such as current and former pupils and parents;
- promoting the objects and interests of the School. This includes fundraising e.g. if we want to raise money for the bursary fund or new buildings;
- using your personal data to administer our events;
- safeguarding and promoting the welfare of our current and former pupils with whom you may be in contact e.g. if you arrange work experience or mentor a pupil; and
- ensuring that we comply with our legal obligations.

If you object to us using your personal data where we are relying on our legitimate interests as explained above please speak to [• the Development Director].

Public task

We rely on this basis (as well as legitimate interests) where we use personal data in order to look after those we are responsible for. For example, if we needed to carry out checks on someone before allowing them to mentor our pupils.

Consent

In some cases, we are processing your personal data because you have given us your consent to do so.

If we ask for your consent to use your personal data you can take back this consent at any time. Any use of your personal data before you withdraw your consent remains valid. To withdraw your consent please contact [• the Development Director] on [• please insert telephone number and email address].

Necessary for a contract

We will need to use your personal data in order to perform our obligations under a contract with you, for example, we need your name and contact details so that we can send you tickets for a concert that you have purchased tickets for.

Legal obligation

On some occasions we will need your personal data to comply with a legal obligation. For example, we may need to keep a record of who is attending an event so that we can comply with our health and safety obligations.

Vital interests

For example, to prevent someone from being seriously harmed or killed.

Sending your personal data to other countries

When the School sends personal data outside of the UK, we have to consider if the other country has the same level of protection for personal data as there is in the UK. Some countries are considered by the UK Government to have adequate rules and this includes all of the European Union and some other countries, such as, New Zealand, Norway, Switzerland and Argentina.

The School sends your personal data to countries with adequate rules when we:

- [• use an event booking platform which stores your personal data on servers in Ireland.]

In certain circumstances, we [• will / may] send your personal data to countries which do not have the same level of protection for personal data as there is in the UK. For example, we may:

- [• store your personal data in cloud computer storage with servers in the USA].

We will provide you with additional details about where we are sending your personal data, whether the country has an adequacy finding and if not the safeguards which we have in place outside of this privacy notice.

If you have any questions about the safeguards that are in place please contact [• the Development Director].

Please see the [Guidance on the Data Protection Privacy Notices for information on transferring personal data outside of the UK.](#)

For how long do we keep your information?

We have an ongoing relationship with you and we would like you to be involved with the School for many years to come. For this reason, the [• Development Office] keeps the majority of the personal data it holds about you indefinitely. For example, we keep your contact details so that we can continue to stay in touch with you. Similarly we will retain information about your involvement with the School as this helps us tailor our communications to you both now and in future.

We will also need to keep a record if you tell us that you do not want to hear from us anymore, so that we do not inadvertently add you to our mailing list in the future.

We also keep some information indefinitely for archiving purposes (this is known as "archiving in the public interest" under data protection law) and for historical research purposes. This includes the School's legitimate interest in research; supporting long-term accountability; enabling the discovery and availability of the School's and the wider school community's identity, memory, culture and history; enabling the establishment and maintenance of rights and obligations and of precedent decisions; educational purposes; and commercial and non-commercial re-use. For example, we keep some old photos so that we have a record of what the School was like in the past. Information held in our archive may be made publicly available but this would only be done in compliance with data protection laws.

The School will also keep information for a long time as part of its wider legal and regulatory obligations, even if that information is no longer needed for marketing, development or fundraising purposes. This is especially relevant to former staff, pupils and parents. For more information on how personal data is used by the School more widely please contact the [• Bursar].

Although the [• Development Office] keeps the majority of your personal data for a very long time, there are some exceptions to this. Further information can be found in our Information and Records Retention Policy [• link].

What decisions can you make about your information?

Data protection law gives you a number of rights regarding your information. Your rights are as follows:

- **Correction:** if information held about you by the School is incorrect or incomplete you can ask us to correct it.
- **Access:** you can also ask what information we hold about you and be provided with a copy. We will also give you extra information, such as why we use this information about you, where it came from and who we have sent it to.
- **Deletion:** you can ask us to delete the information that we hold about you in certain circumstances. For example, where we no longer need the information.
- **Portability:** you can request the transfer of your personal data to you or to a third party in a format that can be read by computer in certain circumstances.
- **Restriction:** you can request that we restrict how we use your personal data.
- **Object:** you may object to us using your personal data where:
 - we are using it for direct marketing purposes (e.g. [• to send you an email about a fundraising opportunity]);
 - the lawful bases on which we are relying is legitimate interests or public task. Please see the section "Our lawful bases for using your information" above;
 - if we ever use your personal data for scientific or historical research purposes or statistical purposes.

[• The Development Director] can give you more information about your data protection rights. To exercise any of your rights you can speak to [• The Development Director] at [• insert contact details].

Further information and guidance

[• The Development Director] is the person responsible at our school for managing how we look after personal data and deciding how it is shared in relation to fundraising and development. [• The Development Director] can answer any questions which you may have.

Like other organisations we need to keep your personal data safe, up to date, only use it for what we said we would, destroy it when we no longer need it and most importantly - treat the information we get fairly.

If you fail to provide certain information when requested, we may not be able to provide the information or service you have requested. We may also be prevented from complying with our legal obligations.

You have a right to lodge a complaint with the Information Commissioner's Office - ico.org.uk. If you do have any concerns about how we have handled your personal data we would kindly ask that you contact us in the first instance before you speak to the ICO so that we have an opportunity to put things right.

