

Special Category and Criminal Offence Data Policy

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OVERVIEW AND PURPOSE

1. This policy is concerned with how Kingston University handles personal data that is deemed to be special category (sensitive) or related to criminal convictions and offences, as defined by the UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018 (DPA 2018). These classes of information pose additional potential risks to data subjects, including students and staff, and as such must be handled with particular care.
2. Special category personal data is personal data relating to:
 - racial or ethnic origin
 - political opinions
 - religious or philosophical beliefs
 - trade union membership
 - genetic data and/or biometric data for the purpose of uniquely identifying a person
 - health
 - sex life or sexual orientation.
3. Criminal convictions and offences data is personal data relating to:
 - the alleged commission of offences by the data subject
 - proceedings for an offence committed or alleged to have been committed by the data subject or the disposal of such proceedings, including sentencing
 - unspent convictions and risk assessments.
4. The UK GDPR states that data controllers must have a legal basis for processing personal data plus an additional condition for special category or criminal offence data. The DPA 2018 provides further information on the legal bases for processing and the additional safeguards that need to be in place to protect special category or criminal offence data. This includes having an 'appropriate policy document' in place, which this policy constitutes.

SCOPE

5. This policy applies to all staff, students and affiliates, including salaried and non-salaried staff, contractors, governors, students' union staff, honorary staff, collaborative partners and associates.
6. This policy applies to all Special Category and Criminal Offence data, whether digital or physical, processed by or on behalf of the University, for any purpose. This includes, but is not limited to, information relating to:
 - teaching and learning

- professional services and support functions
- research and knowledge exchange, including externally funded projects
- internal, and external, legal and regulatory reporting.

POLICY

LAWFUL BASES

7. Under Article 6 of the UK GDPR the University relies on the following lawful bases for the processing of special category and criminal offence data:
 - (a) consent
 - (b) contract
 - (c) legal obligation
 - (d) vital interests
 - (e) public task
 - (f) legitimate interests.
8. The University relies on the following conditions for processing special category data:
 - Article 9:
 - (a) Explicit consent
 - (c) vital interests
 - (e) made public by the data subject
 - (f) legal claims
 - (g) substantial public interest
 - (J) archiving, research and statistics.
 - Schedule 1 Part 1 Employment, health and research:
 - 1. Employment, social security and social protection
 - 3. Public health
 - 4. Research etc.
 - Schedule 1 Part 2 Substantial public interest:
 - 6. Statutory and government purposes
 - 8. Equality of opportunity or treatment
 - 16. Support for individuals with a particular disability or medical condition
 - 20. Insurance.
9. The University relies on the following conditions for processing criminal offence data:
 - Schedule 1 Part 1 Employment, health and research:
 - 1. Employment, social security and social protection.
 - Schedule 1 Part 2 Substantial public interest:

18. Safeguarding of children and of individuals at risk

10. Preventing or detecting unlawful acts

11. Protecting the public against dishonesty

20. Insurance.

- Schedule 1 Part 3 Additional conditions relating to criminal convictions:

29. Consent

30. Vital interests

32. Personal data in the public domain

33. Legal claims.

RESPONSIBILITIES

10. Staff within the University and those working in any capacity for the University who collect, store, use, transfer and delete such personal data should ensure that they comply with this policy and the related data protection policies as well as other relevant legislation such as the Equality Act 2010. They should also ensure that any locally held policies and procedures take account of and refer to this policy.
11. It is the responsibility of University teams that process or intend to process special category or criminal offence data to ensure that both the UK GDPR legal basis and the DPA 2018 conditions for processing are recorded and kept up to date in Data Protection Impact Assessments and Records of Processing Activity.

ENQUIRIES AND COMPLAINTS

12. Any questions relating to data protection or how the University is processing personal data should be addressed to the University's Compliance and Information Governance team by email at dataprotection@kingston.ac.uk or by post to Compliance and Information Governance, Corporate Services, Holmwood House, Grove Crescent, Kingston upon Thames KT1 2EE.
13. Complaints should follow the Data protection complaint procedure under Information regulations on our Policies and regulations page.

RELATED LEGISLATION, REGULATIONS AND POLICIES

14. Related legislation:
 - Data Protection Act 2018 (DPA)
 - UK General Data Protection Regulation (UK GDPR)
15. This policy should be read in conjunction with other relevant University policies and documents which can be viewed under Information regulations on our [Policies and regulations](#) page.

BREACH OF POLICY

16. Anybody handling personal data agrees to abide by the terms of any applicable policies. Users who are found to have breached the terms of relevant policies may be subject to warnings, verbal and written. In serious cases individuals will be subject to the University's disciplinary procedures, and possible legal action.