



Data Protection Policy

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Data Protection Policy

Introduction

Nescot needs to keep certain information about its employees, students and other users to allow it to monitor, for example, performance, achievements, and health and safety. It is also necessary to process information so that staff can be recruited and paid, courses organised and legal obligations to funding bodies and government fulfilled. To comply with the law, information must be collected and used fairly, stored safely and not disclosed to any other person unlawfully. To do this, Nescot must comply with the Data Protection Principles (see Appendix 3) which are set out in the Data Protection Act 1998. In summary these state that personal data shall:

- be obtained and processed fairly and lawfully and shall not be processed unless certain conditions are met;
- be obtained for a specified and lawful purpose and shall not be processed in any manner incompatible with that purpose;
- be adequate, relevant and not excessive for those purposes;
- be accurate and kept up to date;
- not be kept for longer than is necessary for that purpose;
- be processed in accordance with the data subject's rights;
- be kept safe from unauthorised access, accidental loss or destruction;
- not be transferred to a country outside the European Economic Area, unless that country has equivalent levels of protection for personal data.

All College staff or others who process or use any personal information must ensure that they follow these principles at all times. In order to ensure that this happens, Nescot has adopted this Data Protection Policy.

Status of the Policy

This policy does not form part of the formal contract of employment, but it is a condition of employment that employees will abide by the rules and policies made by Nescot from time to time. Any failures to follow the policy can therefore result in disciplinary proceedings.

Any member of staff, who considers that the policy has not been followed in respect of personal data about him/herself, should raise the matter with one of the designated data controllers initially. If the matter is not resolved it should be raised as a formal grievance.

Notification of Data Held and Processed

All staff, students and other users are entitled to:

- know what information Nescot holds and processes about them and why;
- know how to gain access to it;
- know how to keep it up to date;
- know what Nescot is doing to comply with its obligations under the 1998 Act.

Nescot will therefore provide all staff and students and other relevant users with a standard form of notification. This will state all the types of data Nescot holds and processes about them, and the reasons for which it is processed. Nescot will try to do this at least once every year for students and once every 3 years for staff.

Responsibilities of Staff

All staff are responsible for:

- checking that any information that they provide to Nescot in connection with their employment is accurate and up to date;
- informing Nescot of any changes to information, which they have provided, i.e. changes of address;
- checking the information that Nescot will send out from time to time, giving details of information kept and processed about staff;
- informing Nescot of any errors or changes. Nescot cannot be held responsible for any errors unless the staff member has informed Nescot of them.

If and when, as part of their responsibilities, staff collect information about other people, (i.e. about students course work, opinions about ability, references to other academic institutions, or details of personal circumstances), they must comply with the guidelines for staff, which are at **Appendix 1**. (See also Staff IT Use Agreement)

Data Security

All staff are responsible for ensuring that:

- Any personal data which they hold is kept securely.
- Personal information is not disclosed either orally or in writing or accidentally or otherwise to any unauthorised third party.

Staff should note that unauthorised disclosure will usually be a disciplinary matter, and may be considered gross misconduct in some cases.

Personal information should be:

- kept in a locked filing cabinet; or
- in a locked drawer; or
- if it is computerised , be password protected; or
- kept only on disk which is itself kept securely.

Student Obligations

Students must ensure that all personal data provided to Nescot is accurate and up to date. They must ensure that changes of address, etc are notified to Advice & Recruitment.

Students who use Nescot computer facilities may, from time to time, process personal data. If they do, they must notify a designated data controller. Any student who requires further clarification about this should contact the data controller in their Directorate. (See also Student IT Use Agreement).

Rights to Access Information

Staff, students and other users of Nescot have the right to access any personal data that is being kept about them either on computer or in certain files. Any student who wishes to exercise this right should complete the college "Access to Information" form and give it to a member of staff in the Advice & Recruitment Centre. Staff should complete the college "Access to Information" form and give it to a member of staff in the Personnel Unit.

Nescot reserves the right to make a charge of £10 on each occasion that access is requested in addition to the direct costs of providing any copies of data.

Nescot aims to comply with requests for access to personal information as quickly as possible, but will ensure that it is provided within 21 days unless there is good reason

for delay. In such cases, the reason for delay will be explained in writing to the data subject making the request.

Publication of College Information

Information that is already in the public domain is exempt from the 1998 Act. It is Nescot policy to make as much information public as possible, and in particular the following information will be available to the public for inspection:

- Names of, and a means of contacting, Nescot governors
- List of staff (with name and designation only)
- Photographs of key staff
- Some examination results

Nescot's internal phone list will not be a public document.

Any individual who has good reason for wishing details in these lists or categories to remain confidential should contact a designated data controller.

(See also Nescot's Freedom of Information registration.)

Subject Consent

In many cases, Nescot can only process personal data with the consent of the individual. In some cases, if the data is sensitive, **express consent** must be obtained. Agreement to Nescot processing some specified classes of personal data is a condition of acceptance of a student onto any course, and a condition of employment for staff. This includes information about previous criminal convictions.

Some jobs or courses will bring the applicants into contact with children, including young people between the ages of 16 and 18. Nescot has a duty under the Children Act and other enactments to ensure that staff are suitable for the job, and students for the courses offered. Nescot also has a duty of care to all staff and students and must therefore make sure that employees and those who use Nescot facilities do not pose a threat or danger to other users.

Nescot will also ask for information about particular health needs, such as allergies to particular forms of medication, or any conditions such as asthma or diabetes. Nescot will only use the information in the protection of the health and safety of the individual, but will need consent to process in the event of a medical emergency, for example.

Processing Sensitive Information

Sometimes it is necessary to process information about a person's health, criminal convictions, race and gender and family details. This may be to ensure Nescot is a

safe place for everyone, or to operate other College policies, such as the sick pay policy or equal opportunities policy. It is also necessary to meet the College's obligations to disabled staff and students under the provisions of the Disability Discrimination Act. Because this information is considered sensitive, and it is recognised that the processing of it may cause particular concern or distress to individuals, staff and students will be asked to give express consent for Nescot to do this. Therefore, all prospective staff will be asked to give their consent to processing sensitive data on the appropriate forms: Application Form, Consent to Process Medical Information Form and Equal Opportunities Monitoring Form. Students will be asked to for consent to process information on the enrolment form and to sign a "Sharing Information Agreement" when there is a need to process sensitive information. Offers of employment or course places may be withdrawn if an individual refuses to consent to this, without good reason. More information is available from the Personnel Services Unit (staff) or the Advice & Recruitment Centre (students).

The Data Controller and the Designated Data Controllers

Nescot as a body corporate is the data controller under the Act, and the Corporation is therefore ultimately responsible for implementation. However, designated data controllers will deal with day to day matters.

The role of the Data Controller is to:

- to ensure that all data is processed fairly;
- to ensure that the data is accurate, and that processes exist to check and amend data as necessary;
- to ensure that consent is obtained either generally or expressly;
- to ensure that policies and procedures are in place to enable access by those whom the data concerns;
- to ensure that data is kept securely and disposed of properly;
- to make sure the notification requirements are satisfied;
- to make determinations regarding processing of data without consent, in cases of necessity or public interest.

This College has 11 designated data controllers. They are:

Dario Stevens	Assistant Principal Information Services & Systems
Barry Wastnidge	Assistant Principal Corporate Services
Carol Oxlade	Assistant Principal Human Resources
Rob Greening	Director of Faculty
Colin Smith	Director of Faculty
Andrew Taylor	Director of Faculty
Mark Foster	Director of Higher Education
Janice Davies	Director of Skills for Life & Learning Support
Lindsey Biggs	Director of Employer Responsiveness
Iain Gibbins	Director of Information Learning Technology
Jacqui Udy	Director of Learner Services & Marketing

Examination Marks

Students will be entitled to information about their marks for both coursework and examinations. However, this may take longer than other information to provide. Nescot may withhold certificates, accreditation or references in the event that the full course fees have not been paid, or all College books and equipment have not been returned to the College.

Retention of Data

Nescot will keep some forms of information for longer than others. Because of storage problems, information about students cannot be kept indefinitely, unless there are specific requests to do so. In general information about students will be kept for a minimum of six years after they leave Nescot. This will include

- name and address,
- academic achievements, including marks for coursework and
- copies of any reference written.

All other information, including any information about health, race or disciplinary matters will be destroyed within three years of the course ending and the student leaving Nescot.

Nescot will also need to keep information about staff. In general, all information will be kept for six years after a member of staff leaves Nescot. Some information however will be kept for much longer. This will include information necessary in respect of pensions, taxation, potential or current disputes or litigation regarding the employment, and information required for job references. A full list of information with retention times is available from the designated data controllers.

Conclusion

Compliance with the 1998 Act is the responsibility of all members of Nescot. Any deliberate breach of the data protection policy may lead to disciplinary action being taken, or access to College facilities being withdrawn, or even a criminal prosecution. Any questions or concerns about the interpretation or operation of this policy should be taken up with the designated data controller.

Appendix 1 to Data Protection Policy

Staff Guidelines for Data Protection

1. All staff will process data about students on a regular basis, when marking registers, writing reports or references, or as part of a pastoral or academic supervisory role. Nescot will ensure through registration procedures, that all students give their consent to this sort of processing, and are notified of the categories of processing, as required by the 1998 Act. The information that staff deal with on a day-to-day basis will be 'standard' and will cover categories such as:
 - General personal details such as name and address,
 - Details about class attendance, course work marks and grades and associated comments.
 - Notes of personal supervision, including matters about behaviour and discipline.
2. Information about a student's physical or mental health; sexual life; political or religious views; trade union membership or ethnicity or race is sensitive and can only be collected and processed with the students' consent. If staff need to record this information, they should use the standard College form.

Eg: recording information about dietary needs, for religious or health reasons prior to taking students on a field trip; recording information that a student is pregnant, as part of pastoral duties; recording information about a student's learning support needs.
3. All staff have a duty to make sure that they comply with the data protection principles, which are set out in Appendix 3 of the Nescot Data Protection Policy. In particular, staff must ensure that records are:
 - accurate;
 - up-to-date;
 - fair;
 - kept and disposed of safely, and in accordance with Nescot policy.
4. Nescot staff must seek and get specific authorisation from a designated Data Controller to hold or process data that is:
 - not standard data (this is data that is used in the normal course of their work, such as any data that is not collected centrally by the College via college wide processes)
 - sensitive data (eg the sort of information described in 2 above).

The only exception to this will be if a non-authorised staff member is satisfied that the processing of the data is necessary:

- in the best interests of the student or staff member, or a third person, or Nescot; AND
- he or she has either informed the authorised person of this, or has been unable to do so and processing is urgent and necessary in all the circumstances.

This should only happen in very limited circumstances, e.g. a student is injured and unconscious, but in need of medical attention, and a staff tutor tells the hospital that the student is pregnant or a Jehovah's witness.

5. Authorised staff will be responsible for ensuring that all data is kept securely.
6. Staff must not disclose personal data to any student, unless for normal academic or pastoral purposes, without authorisation or agreement from the data controller, or in line with Nescot policy.
7. Staff shall not disclose personal data to any other staff member except with the authorisation or agreement of the designated data controller, or in line with College policy.
8. Before processing any personal data, all staff should consider the checklist.

Staff Checklist for Recording Data

- Do you really need to record the information?
- Is the information 'standard' or is it 'sensitive'?
- If it is sensitive, do you have the data subject's express consent?
- Has the student been told that this type of data will be processed?
- Are you authorised to collect/store/process the data?
- If "yes", have you checked with the data subject that the data is accurate?
- Are you sure that the data is secure?
- If you do not have the data subject's consent to process, are you satisfied that it is in the best interests of the student or the staff member to collect and retain the data?
- Have you reported the fact of data collection to the authorised person within the required time?

Appendix 2 to Data Protection Policy

Standard Request Form for Access to Data

I, [insert name] wish to have access to either [delete as appropriate]

1. All the data that Nescot currently has about me, either as part of an automated system or part of a relevant filing system; or
2. Data that Nescot has about me in the following categories:
 - Academic marks or course work details
 - Academic or employment references
 - Disciplinary records
 - Health and medical matters
 - Political, religious or trade union information
 - Any statements of opinion about my abilities or performance
 - Personal details including name, address, date of birth etc.
 - Other information

[Please tick as appropriate]

I understand that I will have to pay a fee of £10.

Signed

Dated

Appendix 3 to Data Protection Policy

The Eight Data Protection Principles

1. Personal Data must be processed fairly and lawfully and shall not be processed unless certain conditions are met.
2. Data must be obtained only for specified and lawful purposes and must not be processed in any way that is incompatible with that purpose.
3. Personal data shall be adequate, relevant and not excessive in relation to the purposes for which they are processed.
4. Personal Data shall be accurate and kept up-to-date.
5. Personal Data processed for any purposes shall not be kept for longer than is necessary for those purposes.
6. Personal data shall be processed in accordance with the rights of the data subjects under this Act [Data Protection Act 1998].
7. Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
8. Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

Appendix 4 to Data Protection Policy

Guidelines for Retention of Personal Data

(This is not an exhaustive list. Medical records are kept for a variety of health and safety reasons, and will carry their own retention times.)

Type of Data	Suggested Retention Period	Reason
Personnel files including training records and notes of disciplinary and grievance hearings.	6 years from the end of employment	References and potential litigation
Application forms/interview notes	At least 1 year from the date of the interviews.	Time limits on litigation
Facts relating to redundancies where less than 20 redundancies	3 years from the date of redundancy	As above
Facts relating to redundancies where 20 or more redundancies	12 years from date of redundancies	Limitation Act 1980
Income Tax and NI returns, including correspondence with tax office	At least 3 years after the end of the financial year to which the records relate	Income Tax (Employment) Regulations 1993
Statutory Maternity Pay records and calculations	As Above	Statutory Maternity Pay (General) Regulations 1986
Statutory Sick Pay records and calculations	As Above	Statutory Sick pay (General) Regulations 1982
Wages and salary records	6 years	Taxes Management Act 1970
Accident books, and records and reports of accidents	3 years after the date of the last entry	RIDDOR 1985
Health records	During employment	Management of Health and Safety at Work Regulations
Health records where reason for termination of employment is connected with health, including stress related illness.	3 years	Limitation period for personal injury claims
Medical records kept by reason of the Control of Substances Hazardous to Health Regulations 1994	40 years	COSHH 1994
Student records, including academic achievements, and conduct.	At least 6 years from the date the student leaves Nescot in case of litigation for negligence. At least 10 years for personal and academic references, with the agreement of the student.	Limitation period for negligence