

Processing of Special Category Data Policy

Introduction

Purpose

Under the General Data Protection Regulation (GDPR) and Data Protection Act 2018, additional protections for job applicants, employees and other data subjects apply if an employer is processing "special categories" of personal data and criminal records data. These protections also extend to applicants applying to and students at Churchill College.

One of these protections is a requirement to have an appropriate policy document in place. This policy sets out the organisation's approach to processing special category personal data and criminal records data. It supplements the college's data protection policy.

Definitions

"Special category personal data" means information about an individual's racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, health, sex life or sexual orientation and genetic or biometric data.

"Criminal records data" means information about an individual's criminal convictions and offences, and information relating to criminal allegations and proceedings.

Why Churchill College processes special category personal data and criminal records data: job applicants and employees

Churchill College processes special category personal data and criminal records data for the following purposes:

Equal opportunities monitoring

Data related to racial and ethnic origin, religious and philosophical beliefs, health (including information on whether or not an individual has a disability) and sexual orientation are processed for equal opportunities monitoring purposes.

Health

Data related to health (including information on whether or not an individual has a disability) is processed to:

- ensure that Churchill College is complying with its health and safety obligations;
- assess whether or not an employee is fit for work;
- carry out appropriate capability procedures if an employee is not fit for work;
- ensure that an employee receives sick pay or other benefits to which they may be entitled under their contract of employment or other policies; and
- allow Churchill College to comply with its duties under the Equality Act 2010 for individuals with a disability.

Racial or ethnic origin

Data related to data subjects' nationality is processed to ensure that Churchill College is complying with its obligations to check that they are entitled to work in the UK.

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Criminal records data

Criminal records data is processed as part of recruitment processes and, where necessary, in the course of employment to verify that candidates are suitable for employment or continued employment and to comply with legal and regulatory obligations to which the College is subject.

Why Churchill College processes special category personal data and criminal records data: applicants and students

Churchill College processes special category personal data for the following purposes:

Health

Data related to health (including information on whether or not an individual has a disability) is processed to:

- ensure that Churchill College is complying with its health and safety obligations;
- ensure that Churchill College can make informed decisions on special arrangements for students in exams and make appropriate adjustments throughout the admissions process;
- allow Churchill College to comply with its duties under the Equality Act 2010 for individuals with a disability.

Racial or ethnic origin

Data related to data subjects' nationality is processed to ensure that Churchill College is complying with its obligations to check that they are entitled to study in the UK.

Compliance with data protection principles

Churchill College processes special category personal data and criminal records data in accordance with the following data protection principles.

(1) Churchill College processes personal data lawfully, fairly and in a transparent manner and for specified, explicit and legitimate purposes.

Organisations can process special category personal data only if they have a legal basis for processing and, in addition, one of the specific processing conditions relating to special category personal data, or criminal records data, applies.

Churchill College processes special category personal data and criminal records data for the purposes outlined above and in compliance with the following legal conditions for processing.

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Legal basis for processing	Special category personal data/criminal records data processing condition
Equal opportunities data (job applicants and employees only)	
Processing is in the organisation's legitimate interests. These interests are not outweighed by the interests of data subjects.	Processing is necessary for monitoring equality of opportunity or treatment, as permitted by the Data Protection Act 2018.
Health data	
Processing is necessary for compliance with legal obligations (e.g. assessing an employee's fitness for work, complying with health and safety obligations, carrying out capability procedures and complying with Equality Act 2010 duties).	Processing is necessary for the purposes of performing or exercising obligations or rights imposed by law in connection with employment (for job applicants and employees) or protection of vital interests (for applicants and students).
Processing is necessary for the performance of a contract and/or complying with legal obligations (e.g. administering sick pay and other benefits).	Processing is necessary for the purposes of performing or exercising obligations or rights imposed by law in connection with employment (for job applicants and employees) or protection of vital interests (for applicants and students).
Racial or ethnic origin data	
Processing is necessary for compliance with legal obligations (e.g. checking job applicants' and employees' right to work in the UK).	Processing is necessary for the purposes of performing or exercising obligations or rights imposed by law in connection with employment.
Processing is necessary for compliance with legal obligations (e.g. checking applicants' and students' right to study in the UK)	Processing is necessary for the purposes of performing or exercising obligations or rights imposed by law in connection with immigration.
Criminal records data (job applicants and employees only)	
Processing is necessary for compliance with legal obligations (i.e. the organisation's legal requirement to carry out criminal records checks on those working with children or vulnerable adults).	Processing is necessary for the purposes of performing or exercising obligations or rights imposed by law in connection with employment.

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Processing is in the organisation's legitimate interests. These interests are not outweighed by the interests of data subjects.

Processing is also necessary to comply with regulatory requirements to establish whether or not someone has committed an unlawful act or been involved in dishonesty, malpractice or other seriously improper conduct.

The organisation has conducted a data protection impact assessment in relation to each processing operation to understand how processing may affect data subjects. The impact assessment balances the importance to the organisation of the reasons for processing special category personal data and criminal records data with the possible adverse impact on data subjects (for example in relation to intrusion into an individual's private life and the impact on the duty of trust and confidence between employer and employee).

The impact assessment concluded in each case that processing is necessary and proportionate in light of the other safeguards in place and does not pose a high risk to individuals. This conclusion was endorsed by the College Data Protection Lead officer.

Churchill College explains to data subjects how special category personal data and criminal records data is used when it collects the data. This information is set out in the college's privacy notices. This policy is also made available to employees and students through the college's intranet and handbooks for staff and students.

Churchill College does not use the data for any other purpose. The college will not do anything unlawful with personal data.

Special category personal data and criminal records data are not disclosed to third parties, except in the context of seeking medical advice from the college's occupational health adviser or other medical advisers who are subject to a professional duty of confidentiality. Churchill College complies with the Access to Medical Reports Act 1988 where relevant.

(2) Churchill College processes personal data only where the data is adequate, relevant and limited to what is necessary for the purposes of processing.

Churchill College collects and retains the minimum amount of information necessary to achieve the purposes outlined above.

As far as possible, information required for equal opportunities monitoring purposes is kept in an anonymised form. Monitoring forms are kept under review to ensure that the information collected is accurate and not excessive.

As far as possible, Churchill College relies on health questionnaires, rather than medical testing, to obtain necessary information. Any medical testing that is carried out is relevant to the purpose for which it is undertaken and is focused on those performing high-risk roles.

Criminal records checks are carried out only for individuals undertaking roles where Churchill College is under a legal obligation [or regulatory requirement] to perform such checks.

(3) Churchill College keeps accurate personal data and takes all reasonable steps to ensure that inaccurate personal data is rectified or deleted without delay.

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Churchill College takes reasonable steps to ensure that the personal data that it holds is accurate. Special category personal data and criminal records data is obtained:

- directly from job applicants, employees; or
- directly from student applicants and students; or
- from external sources that the college is entitled to assume will provide accurate information, such as the Disclosure and Barring Service in the case of criminal records data, or medical professionals in the case of health data.

Churchill College will erase or rectify inaccurate data that it holds without delay in accordance with our data protection policy if an individual notifies it that their personal data has changed or is otherwise inaccurate, or if it is otherwise found to be inaccurate.

(4) Churchill College keeps personal data only for the period necessary for processing.

Churchill College retains and processes special category personal data for:

- the duration of an individual's employment,
- the duration of a student's relationship with the college.

The periods for which special category personal data is retained after the end of employment or after the end of a student's relationship with the college are set out in the college retention schedules and reflected in the relevant privacy statements, which are available online (<https://www.chu.cam.ac.uk/about/official-documents/data-protection-resources/>). At the end of the relevant retention period, Churchill College erases or securely destroys special category personal data and criminal records data.

(5) Churchill College adopts appropriate measures to make sure that personal data is secure and protected against unauthorised or unlawful processing, and accidental loss, destruction or damage.

Churchill College takes the security of special category personal data and criminal records data seriously. The organisation has internal policies and controls in place to protect personal data against loss, accidental destruction, misuse or disclosure, and to ensure that data is not accessed, except by employees in the proper performance of their duties.

Electronic data is held within databases on a secured network and access to the databases is restricted to individuals, who have a legitimate need to access or process the data. Paper records are stored in secured, access-restricted areas.

Review and retention of policy and provision to Information Commissioner

This policy on processing special category personal data and criminal records data is reviewed annually and, if necessary, amended to ensure that it remains up to date and accurately reflects Churchill College's approach to processing such data.

This policy will be retained by Churchill College while special category personal data and criminal records data is being processed and for a period of at least six months after the college stops carrying out such processing.

A copy of this policy will be provided on request and free of charge to the Information Commissioner.

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Reviewed by Hannah James (CDPL)