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Data Subject Rights

1. Scope

This policy supplements other policies such as those relating to information security and data protection. We may supplement or amend this policy by additional policies and guidelines from time to time. Any new or modified policies will be communicated to all employees.

2. The Legislation

This policy is based on the requirements of the United Kingdom General Data Protection Regulations (UK GDPR) and the Data Protection Act 2018. The legislation applies to personal information relating to living individuals who can be identified from it.

Under data protection legislation, a person whose data we hold has a number of rights, which are:

- The right to be informed – being told about the type of information we collect and how we use and look after it
- The right of access – being given a copy of the personal data we hold about the individual
- The right to rectification – having inaccurate personal data corrected
- The right to erasure – having personal data deleted from records or records deleted entirely
- The right to restrict processing – requiring us to store but not use personal data concerning the individual
- The right to data portability – being provided with an electronic copy of certain records to use for a different purpose
- The right to object – to put a case forward for stopping processing, including marketing
- Rights in relation to automated decision making and profiling – to have a human reconsider automated decisions and profiling

The following sections explain these rights in more detail, and how they can be exercised.

3. Lawful Basis Processing

We acknowledge that processing may only be carried out where a lawful basis for that processing exists and we have assigned a lawful basis against each processing activity.

Where no other lawful basis applies, we may seek to rely on the employee's consent in order to process data. However, we recognise the high standard attached to its use. We understand that consent must be freely given, specific, informed and unambiguous.

Where consent is to be sought, we will do so on a specific and individual basis where appropriate. Employees will be given clear instructions on the desired processing activity, informed of the consequences of their consent and of their clear right to withdraw consent at any time.

No charge will be made for complying with a request unless the request is manifestly unfounded, excessive or repetitive, or unless a request is made for duplicate copies to be provided to parties other than the employee making the request. In these circumstances, a reasonable charge will be applied.

4. Your Rights

All individuals who have their information processed by Red Balloon Educational Trust have the following rights in relation to the personal data we hold:

4.1. The Right to be Informed

In order to keep you informed about how we use your data, we have privacy notices for employees, job applicants, pupils, volunteers and donors.

All notices are published online on our website for all individuals to access. You will not be charged for receiving our privacy notices.

Our privacy notices set out:

- a) the types of data we hold and the reason for processing the data
- b) our lawful basis for processing it
- c) details of who your data is disclosed to and why, including transfers to other countries. Where data is transferred to other countries, the safeguards used to keep your data secure are explained
- d) how long we keep your data for, or how we determine how long to keep your data for
- e) where your data comes from
- f) your rights as a data subject
- g) your absolute right to withdraw consent for processing data where consent has been provided and no other lawful basis for processing your data applies
- h) your right to make a complaint to the Information Commissioner if you think your rights have been breached
- i) whether we use automated decision making and if so, how the decisions are made, what this means for you and what could happen as a result of the process
- j) the contact details of our Data Protection Officer.

4.2 The Right of Access

You have the right to access your personal data which is held by us. You can find out more about how to request access to your data by reading our Subject Access Request Policy.

4.3 The Right of Reflection

If you discover that the data we hold about you is incorrect or incomplete, you have the right to have the data corrected.

Usually, we will comply with a request to rectify data within one month unless the request is particularly complex in which case we may write to you to inform you that we require an extension to the normal timescale. The maximum extension period is two months.

You will be informed if we decide not to take any action as a result of the request. In these circumstances, you are able to complain to the Information Commissioners Office (ICO) and have access to a judicial remedy.

Third parties to whom the data was disclosed will be informed of the rectification.

4.4 The Right of Erasure

In certain circumstances, we are required to delete the data we hold on you. Those circumstances are:

- where it is no longer necessary for us to keep the data
- where we relied on your consent to process the data and you subsequently withdraw that consent
- where you object to the processing (see below) and the Company has no overriding lawful basis to continue the processing
- where we have unlawfully processed your data
- where we are required by law to erase your data

We will consider each request individually, however, you must be aware that processing may continue under one of the lawful basis. Where this happens, you will be informed of the continued use of your data and the reason for this.

Third parties to whom the data was disclosed will be informed of the erasure where possible unless to do so will cause a disproportionate effect on us.

4.5 The Right of Restriction

You have the right to restrict the processing of your data in certain circumstances.

We will be required to restrict the processing of your personal data in the following circumstances:

- where you tell us that the data we hold on you is not accurate. Where this is the case, we will stop processing the data until we have taken steps to ensure that the data is accurate
- where the data is processed for the performance of a public interest task, legal obligation, performance of a contract, or because of our legitimate interests and you have objected to the processing of data. In these circumstances, the processing may be restricted whilst we consider whether our lawful basis mean it is appropriate to continue to process it
- when the data has been processed unlawfully

- where we no longer need to process the data but you need the data in relation to a legal claim.

Where data processing is restricted, we will continue to hold the data but will not process it unless you consent to the processing, or processing is required in relation to a legal claim. Where the data to be restricted has been shared with third parties, we will inform those third parties of the restriction where possible, unless doing so will cause a disproportionate effect on us.

You will be informed before any restriction is lifted.

4.6 The Right to Data Portability

You have the right to obtain the data that we process on you and transfer it to another party. Where our technology permits, we will transfer the data directly to the other party.

Data which may be transferred is data which:

- a) you have provided to us; and
- b) is processed because you have provided your consent or because it is needed to perform the employment contract between us; and
- c) is processed by automated means.

We will respond to a portability request without undue delay, and within one month at the latest unless the request is complex or we receive a number of requests in which case we may write to you to inform you that we require an extension and reasons for this. The maximum extension period is two months.

We will not charge you for access to your data for this purpose.

You will be informed if we decide not to take any action as a result of the request, for example, because the data you wish to transfer does not meet the above criteria. In these circumstances, you are able to complain to the Information Commissioners Office (ICO) and have access to a judicial remedy.

The right to data portability relates only to data defined as above. You should be aware that this differs from the data which is accessible via a Subject Access Request.

4.7 The Right to Object

You have a right to require us to stop processing your data; this is known as data objection.

You may object to processing where it is carried out:

- a) in relation to the Company's legitimate interests;
- b) for the performance of a task in the public interest;
- c) in the exercise of official authority; or
- d) for profiling purposes.

In some circumstances we will continue to process the data you have objected to. This may occur when:

- a) we can demonstrate compelling legitimate reasons for the processing which are believed to be more important than your rights; or
- b) the processing is required in relation to legal claims made by, or against, us.

If the response to your request is that we will take no action, you will be informed of the reasons.

4.8 The Right to Not Have Automated Decisions Made About You

You have the right not to have decisions made about you solely on the basis of automated decision making processes where there is no human intervention, where such decisions will have a significant effect on you.

At present, no automated decision making takes place at Red Balloon Educational Trust.

5. Responsibilities

In order to protect the personal data processed by Red Balloon Educational Trust, all staff within our organisation have been made aware of our policies on data protection and receive regular training.

We have also appointed employees with responsibility for reviewing and auditing our data protection systems.

6. Contact

In order to exercise any of the rights outlined within this policy, please contact the Red Balloon Educational Trust DPO by email: dpo@rbet.ac.