

ERSKINE STEWART'S MELVILLE SCHOOLS

PRIVACY NOTICE FOR STAFF, PUPILS, PARENTS AND CARERS

BCM

Updated December 2023

Who We Are

The Erskine Stewart's Melville Schools (ESMS) is part of Edinburgh Merchant Company Education Board, with the charity registration number SC009747. ESMS is made up of The Mary Erskine School, Stewart's Melville College and ESMS Junior School (the "Schools"). Since 1989, powers have been devolved to the Erskine Stewart's Melville Schools' Governing Council, a sub-committee of Edinburgh Merchant Company Education Board. This Privacy Notice applies to staff and pupils of the Schools and parents and carers.

ESMS' main offices are located at The Mary Erskine School, Ravelston, Edinburgh, EH4 3NT and it is at this address that you can contact our Data Controller should you have any queries about how we use the data we gather.

About this Privacy Notice

At the Erskine Stewart's Melville Schools your privacy is important and we will treat any personal information you provide in accordance with the Data Protection Act 2018 and UK General Data Protection Regulation ("Data Protection Legislation").

This policy is intended to provide information about how the Schools will use (or "process") personal data about individuals including: their staff; their current, past and prospective pupils; and their pupils' parents, carers or guardians (referred to in this policy as "parents").

This information is provided, in accordance with the rights of individuals under Data Protection Legislation, to help you understand how your data is used. Staff, parents and pupils are encouraged to read this Privacy Notice and understand the Schools' obligations, as a "data controller", to their entire community.

This Privacy Notice applies alongside any other information the Schools may provide about the use of personal data, for example when collecting data via an online or paper form.

This Privacy Notice also applies in addition to the Schools' other relevant terms and conditions and policies, including:

- any contract between the Schools and their staff or the parents of pupils, including the Enrolment Document
- the policy on Taking, Storing and Using Images of Children
- the CCTV policy
- the Biometric Data policy
- the Retention of Records policy
- the Child Protection/Safeguarding policy
- the Data Protection policy for staff

- the Health and Safety policy
- the Security policy
- ICT policies, including the Acceptable Use (Computers) policies
- Confidentiality Policy.

Anyone who works for or acts on behalf of the Schools (including staff, volunteers, governors and service providers) should also be aware of, and comply with, this Privacy Notice and the Schools' Data Protection Policy for staff, which also provides further information about how personal data is used.

Contact Details

If you have any questions in relation to how we use your personal data or want to exercise any of your rights under the Data Protection Legislation you can contact our Data Controller (DC) by emailing bursar@esms.org.uk or by writing to The Mary Erskine School, Ravelston, Edinburgh, EH4 3NT.

Why the Schools Needs to Process Personal Data

As part of their daily operations, and in order to carry out their ordinary duties to pupils, parents and staff, the Schools may process a wide range of personal data about individuals.

Some of this activity is carried out so that the Schools can fulfil their legal rights, duties or obligations – including those under a contract - with staff, pupils, or parents of their pupils.

Other uses of personal data will be made in accordance with the Schools' legitimate interests, or the legitimate interests of another, provided that these are not outweighed by the impact on individuals and provided it does not involve special or sensitive types of data.

The Schools will process personal data for the following purposes:

- For the purposes of pupil selection (and to confirm the identity of prospective pupils and their parents)
- To provide education services, including musical education, physical training or spiritual development, career services and extra-curricular activities to pupils, and monitoring pupils' progress and educational needs
- Maintaining relationships with alumni and the school community, including direct marketing or fundraising activity
- For the purposes of donor due diligence, and to confirm the identities of prospective donors and their backgrounds and relevant interests
- For the purposes of management planning and forecasting, research and statistical analysis, including that imposed or provided for by law (such as diversity or gender pay gap analysis and taxation records)
- To enable relevant authorities to monitor the performance of the Schools and to intervene or assist with incidents as appropriate
- To give and receive information and references about past, current and prospective pupils, including relating to outstanding fees or payment history, to/from any educational institution that the pupil attended or where it is proposed they attend; and to provide references to potential employers of past pupils

- To enable pupils to take part in national or other assessments, and to publish the results of public examinations or other achievements of pupils of the Schools
- To safeguard pupils' welfare and provide appropriate pastoral care
- To monitor (as appropriate) use of the Schools' IT and communications systems in accordance with the Acceptable Use (Computers) Policy
- To make use of photographic and video recorded images of pupils internally in school publications, and on the Schools' intranets in accordance with the policies on taking, storing and using images of children
- To make use of photographic and video recorded images of pupils externally, online and in print, for example in newspapers or magazines, on the Schools' website and official social media channels for marketing purposes or to celebrate the achievements of pupils and in accordance with the Schools' policies on taking, storing and using images of children and use of social media
- For security purposes, including CCTV in accordance with the Schools' CCTV policy
- Where otherwise reasonably necessary for the Schools' purposes, including to obtain appropriate professional advice and insurance for the Schools.

Special Category Personal Data

In addition, the Schools may need to process special category personal data (concerning health, ethnicity, religion, biometrics or sexual life) or criminal records information (such as when carrying out Disclosure Scotland checks) in accordance with rights or duties imposed on it by law, including as regards safeguarding and employment, or from time to time by explicit consent where required. These reasons will include:

- To safeguard pupils' welfare and provide appropriate pastoral (and where necessary, medical) care, and to take appropriate action in the event of an emergency, incident or accident, including by disclosing details of an individual's medical condition or other relevant information where it is in the individual's interests to do so: for example, for medical advice, for social protection, safeguarding and cooperation with police or social services, for insurance purposes or to caterers or organisers of school trips who need to be made aware of dietary or medical needs
- To provide educational services in the context of any special educational needs of a pupil
- In connection with employment of their staff, for example Disclosure Scotland checks, welfare or pension plans
- To run any of their systems that operate on biometric data, such as the library;
- As part of any school or external complaints, disciplinary or investigation process that involves such data, for example if there are SEN, health or safeguarding elements
- For legal and regulatory purposes (for example child protection/safeguarding, diversity monitoring and health and safety) and to comply with their legal obligations and duties of care.

Types of Personal Data we collect

The types of personal data we collect will include (by way of example):

- names, addresses, telephone numbers, email addresses and other contact details
- car details (about those who use the car parking facilities)

- biometric information, which will be collected and used by the Schools in accordance with their Biometric Data policy
- bank details and other financial information, e.g. about parents who pay fees to the Schools
- past, present and prospective pupils' academic, disciplinary, admissions and attendance records (including information about any special needs) and examination scripts and marks
- personnel files, including in connection with academics, employment or safeguarding
- where appropriate, information about individuals' health, and contact details for their next of kin
- references given or received by the Schools about pupils and staff and information provided by previous educational establishments and/or other professionals or organisations working with individuals
- images of pupils (and occasionally other individuals including staff and parents) engaging in school activities, and images captured by the CCTV system (in accordance with the Schools' policies on the use of CCTV, taking, storing and using images of children and social media).

How the Schools Collect Data

Generally, the Schools receive personal data from the individual directly (including, in the case of pupils, from their parents). This may be via a form, or simply in the ordinary course of interaction or communication (such as email or written assessments).

However, in some cases, personal data may be supplied by third parties (for example another school, or other professionals or authorities working with that individual); or collected from publicly available resources.

Who Has Access to Personal Data and Who the Schools Share It With

Occasionally, the Schools will need to share personal information relating to their community with third parties, such as the NHS, SQA and alumni organisations.

For the most part, personal data collected by the Schools will remain within the Schools and will be processed by appropriate individuals in accordance with access protocols (i.e. on a 'need-to-know' basis). Particularly strict rules of access apply in the context of:

- medical records held and accessed only by appropriate medical staff or those under their supervision, or otherwise in accordance with express consent
- pastoral or safeguarding files.

However, a certain amount of relevant information for any pupil with Special Educational Needs (SEN) will need to be provided to staff more widely in the context of providing the necessary care and education that the pupil requires.

Staff, pupils and parents are reminded that the Schools are under duties imposed by law and statutory guidance, including that set out in the Children's Hearings (Scotland) Act 2011 (implemented in 2013), the National Guidance for Child Protection in Scotland 2014 and the Children and Young People (Scotland) Act 2014, to record or report incidents and concerns that arise or are reported to them, in some cases regardless of whether they are proven, if they meet a certain threshold of seriousness in their nature or regularity. This is likely to include file notes on personnel or safeguarding files and, in some cases, referrals to relevant authorities. For further information about this, please view the Child Protection/Safeguarding Policy.

Finally, in accordance with Data Protection Legislation, some of the Schools' processing activity is carried out on their behalf by third parties, such as IT systems, web developers or cloud storage providers. This is always subject to contractual assurances that personal data will be transferred and kept securely and only processed in accordance with our instruction.

Whenever we transfer your personal data out of the UK, we ensure a similar degree of protection is afforded to it by ensuring at least one of the following safeguards is implemented:

- We will only transfer your personal data to countries that have been deemed to provide an adequate level of protection by the UK government.
- We will ensure appropriate safeguards are in place including binding corporate rules, standard contractual clauses approved for use in the UK (this includes those adopted by the European Commission prior to 1 January 2021), an approved code of conduct, or an approved certification mechanism.
- Where we use certain service providers, we may use specific contracts approved for use in the UK which give personal data the same protection it has in the UK.
- You have provided your explicit consent to the transfer of your personal data outside of the UK.
- The transfer is necessary for the purposes of performing a contract between us and you.

Where we transfer or host data outside the UK, we shall ensure there are appropriate safeguards in place, that you have enforceable rights and effective legal remedies and any data processor complies with its obligations under data protection legislation.

How Long We Keep Personal Data

The Schools will retain personal data securely and only in line with how long it is necessary to keep for a legitimate and lawful reason. Typically, the legal recommendation for how long to keep ordinary staff and pupil personnel files is up to 7 years following departure from the Schools. However, incident reports and safeguarding files will need to be kept much longer, in accordance with specific legal requirements.

If you have any specific queries about how this policy is applied or wish to request that personal data which you no longer believe to be relevant is considered for erasure, please contact the DC at bursar@esms.org.uk. However, please bear in mind that the Schools may have lawful and necessary reasons to hold on to some personal data even following such a request.

A limited and reasonable amount of information will be kept for archiving purposes, for example; even where you have requested we no longer keep in touch with you, we will need to keep a record of the fact in order to fulfil your wishes (called a "suppression record").

Keeping in Touch and Supporting the Schools

The Schools will use the contact details of parents, alumni and other members of the school community to keep them updated about the activities of the Schools, or alumni and parent events of

interest, including by sending updates and newsletters, by email and by post. Unless the relevant individual objects, the Schools will also:

- Share personal data about parents and/or alumni, as appropriate, with organisations set up to help establish and maintain relationships with the school community, such as The Mary Erskine School FP Guild, Melville College Trust and Stewart's Melville College FP Club
- Contact parents and/or alumni including via The Mary Erskine School FP Guild, Melville College Trust and Stewart's Melville College FP Club by post and email in order to promote and raise funds for the Schools
- Should you wish to limit or object to any such use, or would like further information about it, please contact the Development Office Manager in writing at development@esms.org.uk. You always have the right to withdraw consent, where given, or otherwise object to direct marketing or fundraising. However, the Schools are nonetheless likely to retain some of your details (not least to ensure that no more communications are sent to that particular address, email or telephone number).

Statistical or aggregated data

Personal data may be converted into statistical or aggregated data which cannot be used to re-identify you. Aggregated data is anonymous information that is grouped together to generate statistics, research and reports. It is not considered personal data as it never directly or indirectly reveals your identity.

Your Rights

Rights of Access

Individuals have various rights under Data Protection Legislation to access and understand personal data about them held by the Schools, and in some cases, ask for it to be erased or amended or have it transferred to others, or for the Schools to stop processing it - but subject to certain exemptions and limitations.

Any individual wishing to access or amend their personal data, or wishing it to be transferred to another person or organisation, or who has some other objection to how their personal data is used, should put their request in writing to the Data Protection Officer.

The Schools will endeavour to respond to any such written requests as soon as is reasonably practicable and in any event within the statutory time limits (30 days in the case of requests for access to information).

The Schools will be better able to respond quickly to smaller, targeted requests for information. If the request is manifestly excessive or similar to previous requests, the Schools may ask you to reconsider your request, request a proportionate fee, or, where Data Protection Legislation allows it, refuse your request.

Requests that cannot be fulfilled

You should be aware that the right of access is limited to your own personal data, and certain data is exempt from the right of access. This will include information which identifies other individuals (and parents need to be aware this may include their own children, in certain limited situations – please see

further details below), or information which is subject to legal privilege (for example legal advice given to or sought by the school, or documents prepared in connection with a legal action).

The Schools are also not required to disclose any pupil examination scripts (or other information consisting solely of pupil test answers), provide examination or other test marks ahead of any ordinary publication, nor share any confidential reference given by the Schools themselves for the purposes of the education, training or employment of any individual.

However, we will sometimes have compelling reasons to refuse specific requests to amend, delete or stop processing your (or your child's) personal data: for example, a legal requirement, or where it falls within a legitimate interest identified in this Privacy Notice. All such requests will be considered on their own merits.

Pupil Requests

Pupils can make subject access requests for their own personal data, provided that, in the reasonable opinion of the Schools, they have sufficient maturity to understand the request they are making (see section 'Whose Rights?' below). A pupil of any age may ask a parent or other representative to make a subject access request on their behalf.

Indeed, while a person with parental responsibility will generally be entitled to make a subject access request on behalf of younger pupils, the law still considers the information in question to be the child's: for older pupils, the parent making the request may need to evidence their child's permission to make the specific request.

Pupils at Senior School are generally assumed to have this level of maturity, although this will depend on both the child and the personal data requested, including any relevant circumstances at home. Slightly younger children/older Junior School children may however be sufficiently mature to have a say in this decision, depending on the child and the circumstances.

Parental requests

It should be clearly understood that the rules on subject access are not the sole basis on which information requests are handled. Parents may not have a statutory right to information, but they and others will often have a legitimate interest or expectation in receiving certain information about pupils without their consent. The Schools may consider there are lawful grounds for sharing with or without reference to that pupil.

Parents will in general receive education and pastoral updates about their children, in accordance with the parent contract. Where parents are separated, the school will aim to provide information to each parent or legal guardian with parental responsibility, in accordance with choices indicated in the parent contract, but may need to factor in all the circumstances, including the express wishes of the child.

Consent

Where the Schools are relying on consent as a means to process personal data, any person may withdraw this consent at any time (subject to similar age considerations as above). Examples of when we do rely on consent are: biometrics, certain uses of images, certain types of marketing and fundraising activity. Please be aware however that the Schools may not be relying on consent but have another lawful reason to process the personal data in question even without your consent.

That reason will usually have been asserted under this Privacy Notice, or may otherwise exist under some form of contract or agreement with the individual (e.g. an employment or parent contract, or because a purchase of goods, services or membership of an organisation such as an alumni or parents' association has been requested).

Whose Rights?

Rights under the Data Protection Legislation belong to the individual to whom the data relates. However, the Schools will often rely on parental authority or notice for the necessary ways they process personal data relating to pupils – for example, under the parent contract, or via a form. Parents and pupils should be aware that this is not necessarily the same as the Schools relying on strict consent (see section on Consent above).

Where consent is required, it may in some cases be necessary or appropriate – given the nature of the processing in question, and the pupil's age and understanding – to seek the pupil's consent. Parents should be aware that in such situations they may not be consulted, depending on the interests of the child, the parents' rights at law or under their contract, and all the circumstances.

In general, the Schools will assume that pupils' consent is not required for ordinary disclosure of their personal data to their parents, e.g. for the purposes of keeping parents informed about the pupil's activities, progress and behaviour, and in the interests of the pupil's welfare. That is unless, in the opinion of the Schools, there is a good reason to do otherwise.

However, where a pupil seeks to raise concerns confidentially with a member of staff and expressly withholds their agreement to their personal data being disclosed to their parents, the Schools may be under an obligation to maintain confidentiality unless, in the Schools' opinion, there is a good reason to do otherwise; for example, where the Schools believe disclosure will be in the best interests of the pupil or other pupils, or if required by law.

Pupils are required to respect the personal data and privacy of others, and to comply with the Schools' Acceptable Use (Computers) Pupils policy and the school rules. Staff are under professional duties to do the same covered under the Acceptable Use (Computers) Staff policy, Data Protection Policy, policy on taking, storing and using images of children and Social Media Policy.

Data Accuracy and Security

The Schools will endeavour to ensure that all personal data held in relation to an individual is as up-to-date and accurate as possible. Individuals must notify the relevant school office of any significant changes to important information, such as contact details, held about them.

An individual has the right to request that any out-of-date, irrelevant or inaccurate information about them is erased or corrected (subject to certain exemptions and limitations under Data Protection Legislation): please see above for details of why the Schools may need to process your data, and whom you may contact if you disagree.

The Schools will take appropriate technical and organisational steps to ensure the security of personal data about individuals, including policies around the use of technology and devices, and access to school systems. All staff and governors will be made aware of these policies and their duties under Data Protection Legislation and will receive relevant training.

This Policy

The Schools will update this Privacy Notice from time to time. Any substantial changes that affect your rights will be provided to you directly as far as is reasonably practicable.

Queries and Complaints

Any comments or queries on this policy should be directed to the Data Controller by writing to them at The Mary Erskine School, Ravelston, Edinburgh, EH4 3NT.

If an individual believes that the Schools have not complied with this policy or acted otherwise than in accordance with Data Protection Legislation, they should utilise the Schools' complaints procedure and should also notify the Data Controller. A referral or complaint may also be lodged with the Information Commissioner's Office (ICO), although the ICO recommends that steps are taken to resolve the matter with the Schools before involving the regulator. You can contact the ICO by phone: 0303 123 1113 or through their website <https://ico.org.uk/make-a-complaint/>