

East Midlands Academy Trust

NHS Track and Trace Privacy Notice 2020/2021

'Every child deserves to be the best they can be'

Scope: East Midlands Academy Trust & Academies within the Trust	
Version: V1	Filename: EMAT NHS Track and Trace Privacy Notice.docx
Approved: September 2020 Approved by the Trust Board	Next Review: September 2021 This policy will be reviewed annually by the A&R committee
Owner: Head of Shared Services – Central Services	Union Status: n/a

COVID-19: Public health advice to minimise coronavirus (COVID-19) risks - Guidance for full opening schools, September 2020.

Schools must comply with health and safety law, which requires them to assess risks and put in place proportionate control measures. Schools should thoroughly review their health and safety risk assessments and draw up plans for the autumn term that address the risks identified using the system of controls.

Linked with re-opening, there are some elements of risk-minimisation which need to be considered. The Trust has conducted a **COVID-19 Risk Assessment** across the MAT and each school has adapted the document to suit their own unique circumstances. The Risk Assessment will be kept under constant review during the duration of the crisis. Track and Trace is addressed in the document.

EMAT NHS Track & Trace Privacy Notice 2020

Information

Responding to the Coronavirus advice from the Government is an obligation on all schools and academies in England. The East Midlands Academy Trust (EMAT) must all ensure that this obligation is met. The development of the NHS 'Track and Trace' scheme is a key part of the government plan to manage Coronavirus. As more pupils are returning to our schools, the safety and wellbeing of pupils, staff and their families is a priority. Planning to manage a safe return is in place, however or responsibility extends beyond the school gates.

Sharing Data

The trust maintains a large amount of data, and it may be necessary for us to share a limited amount of your data on request from authorised NHS Track and Trace workers as required in line with legislation and government guidance. We will do this and will play our part in making this process as effective as possible. It is likely that we will be asked to provide contact details of those who may have been put at risk of exposure if a case of Coronavirus or a suspected case arises in one of our academies. There is an obligation to support the government planning. We will provide details as requested to do this. We will be sharing data on the basis that this is a Public Duty (see below) and that in the case of any health data it is necessary for the public interest, as set out. Please be assured that we will keep a record of information that we share and only share the minimum amount of personal data required for this purpose. This notice is in addition to the information included in your overall privacy notice and should be read in conjunction with this. . If you have any questions, please contact the Trust using the email address dataprotectionofficer@emat.uk.

NHS Test and Trace and the law

The law on protecting personally identifiable information, known as the EU General Data Protection Regulation and the UK Data Protection Act, allows Public Health England to use the personal information collected by NHS Test and Trace.

Under Data Protection law personal data can only be processed if there is a clear lawful basis to do so. In relation to processing personal and more sensitive special categories data (such as health data) for Covid purposes, the following sections of the GDPR apply.

- Article 6(1)(e) *'processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller'* As information about health is a special category of personal information, a further section of the GDPR applies:
- Article 9(2)(i) *'processing is necessary for reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of quality and safety of healthcare'*
- Public Health England also has special permission from the Secretary of State for Health and Social Care to use personally identifiable information without people's consent where this is in the public interest. This is known as 'Section 251' approval and includes the use of the information collected by NHS Test and Trace to help protect the public from coronavirus. The part of the law that applies here

is Section 251 of the National Health Service Act 2006 and the associated Health Service (Control of Patient Information) Regulations 2002.

Test and Trace

All schools and academies are in a very difficult situation. The tracing process of 'Test and Trace' is made more difficult as schools are public authorities. They have a legal duty to protect and promote the welfare of pupils and a duty of care to staff. It is hoped that additional government guidance will be provided for schools. As a private individual, compliance with the scheme is optional, you cannot at the present time be forced to provide details.

As a school or academy in a trust, it is more complicated. If a person in a school or academy has Covid or symptoms they will be sent home as will other people in school who have had contact and who may be at risk. In school or academy, it would be most unusual for any one person to know the details of everyone else who may be affected. It is only the school or academy that will have that data. We would notify individuals about a risk, and in many instances that will be sufficient.

However, the Department of Education Guidance goes onto say '*As part of the national test and trace programme, if other cases are detected within the child or young person's cohort or in the wider education or childcare setting, Public Health England's local Health Protection Teams will conduct a rapid investigation and will advise schools and other settings on the most appropriate action to take.*' So, in this situation it is not a matter of giving consent to share data, there is a **Public Duty** to do so.

All schools and academies within EMAT will co-operate with such requests. Schools or academies are under an obligation to share appropriate data. At no point we will we share data without a sound legal basis, but please be aware that we will share data where necessary and compelled to do so.

DPO Contact

For further information or guidance on any area covered within this notice please contact the Data Protection Officer (DPO):

- **Paul Wheeler**
Director of Finance and Operations
Paul.wheeler@emat.uk

Monitoring

A report will be provided to the Trustees on the results of any confidentiality audit which will include privacy notices. Outcomes from audits will feed into the risk log and information breach management processes as appropriate.

Rights of the Data Subject

To understand your rights as a data subject please refer to the Trust's our overall privacy notice

Reference

Coronavirus information hub: <https://ico.org.uk/global/data-protection-and-coronavirus-information-hub>