



## BORD OIDEACHAIS AGUS OILIÚNA CHIARRAÍ KERRY EDUCATION AND TRAINING BOARD

### Kerry Education and Training Board Data Protection Policy

#### 1. Data Controller

In this section, we give you further information about Kerry ETB as a data controller.

1.1 Kerry Education and Training Board (Kerry ETB) is the data controller.

Our address and contact details are:

Kerry ETB, Centrepoint, John Joe Sheehy Road, Tralee, Co. Kerry V92 P2FE.

Tel. 066-7193900. Email: [info@kerryetb.ie](mailto:info@kerryetb.ie).

Kerry ETB is established under Section 8 of the Education and Training Boards Act 2013. Kerry ETB provides primary level education, post-primary level education, second chance education; further education and training including apprenticeships; Youthwork, community-based education programmes; outdoor education & training; outreach programmes, specialist and other programmes/courses as may be delivered/funded/sponsored in whole or part or in co-operation with other bodies/agencies etc. Our core functions are set out in Section 10 of the Education and Training Boards Act 2013, together with such other matters as are set out in the Education and Training Boards Act 2013, together with such other legal and statutory obligations as may be imposed on the ETB from time to time.

1.2 Kerry ETB has developed this Data Protection Policy in order to supplement the Privacy Policy. This is in order to be transparent and accountable to data subjects in relation to the processing of their personal data.

1.3 This Policy applies to the schools, centres and programmes established or maintained by Kerry ETB.

1.4 In this Data Protection Policy, the following terms are given the following meanings<sup>1</sup>;

1.4.1 “**article**” means the corresponding Article in General Data Protection Regulations. Unless the context otherwise requires, a reference in this document to a numbered Article is a reference to the Article so numbered of the Data Protection Regulation.

1.4.2 “**binding corporate rules**” means personal data protection policies which are adhered to by a controller or processor established on the territory of a Member State for transfers or a set of transfers of personal data to a controller or processor in one or more third countries within a group of undertakings, or group of enterprises engaged in a joint economic activity;

1.4.3 “**biometric data**” means personal data resulting from specific technical processing relating to the

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<sup>1</sup> Definitions taken from Article 6 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (“GDPR”).

physical, physiological or behavioural characteristics of a natural person, which allow or confirm the unique identification of that natural person, such as facial images or dactyloscopic data;

- 1.4.4 **“child”** For the purposes of the application of the Data Protection Regulation in the State, a reference to “child” shall be taken to be a reference to a person under the age of 18 years.
- 1.4.5 **“controller”** and/or **“data controller”** means Kerry ETB being the legal person which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law
- 1.4.6 **“consent”** of the data subject means any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her;  
**“consent of child in relation to information society services”** (1) the age of a child specified for the purposes of Article 8 is 13 years of age. (2) For the purposes of the application of Article 8 in the State, the reference in that Article to “information society services” does not include a reference to preventative or counselling services.
- 1.4.7 **“cross-border processing”** means either: (a) processing of personal data which takes place in the context of the activities of establishments in more than one Member State of a controller or processor in the Union where the controller or processor is established in more than one Member State; or (b) processing of personal data which takes place in the context of the activities of a single establishment of a controller or processor in the Union but which substantially affects or is likely to substantially affect data subjects in more than one Member State.
- 1.4.8 **“data concerning health”** means personal data related to the physical or mental health of a natural person, including the provision of health care services, which reveal information about his or her health status;
- 1.4.9 **“enterprise”** means a natural or legal person engaged in an economic activity, irrespective of its legal form, including partnerships or associations regularly engaged in an economic activity;
- 1.4.10 **“filing system”** or **“relevant filing system”** means any structured set of personal data which are accessible according to specific criteria, whether centralised, decentralised or dispersed on a functional or geographical basis;
- 1.4.11 **“GDPR”** means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).
- 1.4.12 **“genetic data”** means personal data relating to the inherited or acquired genetic characteristics of a natural person which give unique information about the physiology or the health of that natural person and which result, in particular, from an analysis of a biological sample from the natural person in question;
- 1.4.13 **“group of undertakings”** means a controlling undertaking and its controlled undertakings;
- 1.4.14 **“information society service”** means a service as defined in point (b) of Article 1(1) of Directive (EU) 2015/1535 of the European Parliament and of the Council;
- 1.4.15 **“international organisation”** means an organisation and its subordinate bodies governed by public international law, or any other body which is set up by, or on the basis of, an agreement between two or more countries.
- 1.4.16 **“legal obligation”** means the meaning assigned to that phrase in Article 6(1)(c) GDPR: “processing is necessary for compliance with a legal obligation to which the controller is subject”
- 1.4.17 **“main establishment”** means: (a) as regards a controller with establishments in more than one Member State, the place of its central administration in the Union, unless the decisions on the purposes and means of the processing of personal data are taken in another establishment of the controller in the Union and the latter establishment has the power to have such decisions implemented, in which case the establishment having taken such decisions is to be considered to be the main establishment; (b) as regards a processor with establishments in more than one Member State, the place of its central administration in the Union, or, if the processor has no central administration in the Union, the establishment of the processor in the Union where the main processing activities in the context of the activities of an establishment of the processor take place to the extent that the processor is subject to specific obligations under this Regulation;
- 1.4.18 **“personal data”** means any information relating to an identified or identifiable natural person (a “data subject”); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one

or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;

- 1.4.19 “**personal data breach**” means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;
- 1.4.20 “**Preventative or occupational medicine**” has the meaning given to it in Article 9(2)(h) GDPR, namely that “processing is necessary for the purposes of preventive or occupational medicine, for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services on the basis of Union or Member State law or pursuant to contract with a health professional and subject to the conditions and safeguards referred to in paragraph 3”;
- 1.4.21 “**processing**” means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;
- 1.4.22 “**processor**” means an individual who, or a legal person, public authority, agency or other body that, processes personal data on behalf of a controller, but does not include an employee of a controller who processes such data in the course of his or her employment;
- 1.4.23 “**profiling**” means any form of automated processing of personal data consisting of the use of personal data to evaluate certain personal aspects relating to a natural person, in particular to analyse or predict aspects concerning that natural person's performance at work, economic situation, health, personal preferences, interests, reliability, behaviour, location or movements;
- 1.4.24 “**pseudonymisation**” means the processing of personal data in such a manner that the personal data can no longer be attributed to a specific data subject without the use of additional information, provided that such additional information is kept separately and is subject to technical and organisational measures to ensure that the personal data are not attributed to an identified or identifiable natural person;
- 1.4.25 “**Public Interest**” means the definition taken from Article 6(1)(e), specifically that the 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;
- 1.4.26 “**rectification**”, of or in relation to personal data, includes, where the data concerned are incomplete, the completion of the data, whether by means of a supplementary statement or otherwise;
- 1.4.27 “**recipient**” means a natural or legal person, public authority, agency or another body, to which the personal data are disclosed, whether a third party or not. However, public authorities which may receive personal data in the framework of a particular inquiry in accordance with Union or Member State law shall not be regarded as recipients; the processing of those data by those public authorities shall be in compliance with the applicable data protection rules according to the purposes of the processing;
- 1.4.28 “**relevant and reasoned objection**” means an objection to a draft decision as to whether there is an infringement of this Regulation, or whether envisaged action in relation to the controller or processor complies with this Regulation, which clearly demonstrates the significance of the risks posed by the draft decision as regards the fundamental rights and freedoms of data subjects and, where applicable, the free flow of personal data within the Union;
- 1.4.29 “**representative**” means a natural or legal person established in the Union who, designated by the controller or processor in writing pursuant to Article 27, represents the controller or processor with regard to their respective obligations under this Regulation;
- 1.4.30 “**restriction of processing**” means the marking of stored personal data with the aim of limiting their processing in the future;
- 1.4.31 “**special categories of data**” means personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation;
- 1.4.32 “**supervisory authority**” means an independent public authority which is established by a Member State pursuant to Article 51;
- 1.4.33 “**Substantial Public Interest**” means the definition taken from Article 9(2)(g), specifically that the processing is necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be

proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject;

- 1.4.34 “**supervisory authority concerned**” means a supervisory authority which is concerned by the processing of personal data because: (a) the controller or processor is established on the territory of the Member State of that supervisory authority; (b) data subjects residing in the Member State of that supervisory authority are substantially affected or likely to be substantially affected by the processing; or (c) a complaint has been lodged with that supervisory authority;
- 1.4.35 “**third party**” means a natural or legal person, public authority, agency or body other than the data subject, controller, processor and persons who, under the direct authority of the controller or processor, are authorised to process personal data;
- 1.4.36 “**Vital interests**” means the definition taken from Article 6(1)(d), that the processing is necessary in order to protect the vital interests of the data subject or of another natural person.

Definitions are accurate at 1 May 2018, Irish Data Protection Bill

## 2. Personal Data and Legal Basis

In this section, we give you more information about the type of personal data we collect and the purposes for that data-collection. We also give you more information about what we do with that data, and the lawful basis relied upon. We give more detail around whether the provision of personal data is optional or required.

	Type of personal data	Purposes and whether providing the data is optional or required.	Legal basis
	<b>STUDENT DATA</b>		
<b>1.</b>	<b>Identity and contact details</b>		
	<ul style="list-style-type: none"> <li>• name</li> <li>• address and contact details (to include phone numbers and email addresses)</li> <li>• Family details (In the case of students who are under 18 years at the time of enrolment, we collect the name, address, and contact details of parents/guardians).</li> <li>• gender</li> <li>• date of birth</li> </ul>	<p><b>Optional or required? Required:</b> Without this information, we cannot identify you, or contact you, or enrol you in order to deliver educational services to you.</p> <p><b>Purposes:</b> Kerry ETB adds this personal data to their system in order to add them to the academic register, contact the student about their course, allocate the student to a particular class/programme group, to contact parents/guardians:</p> <ul style="list-style-type: none"> <li>• in case of an emergency (ill-health or injury),</li> <li>• to notify you of school closure (<i>e.g.</i> adverse weather conditions),</li> <li>• to notify parents/guardians of their child's non-attendance or late attendance,</li> <li>• to notify parents/guardians of any other issues relating to their child's welfare or conduct in school,</li> <li>• to communicate with you in relation to your child's social, emotional and educational progress</li> <li>• for other administrative and management tasks.</li> </ul> <p>Pursuant to section 9(g) of the Education Act 1998, we will communicate all matters related to a student's progress with his/her parent/guardian until such time that s/he attains 18-years-of-age. Said communications may include written, oral and electronic communications so as to notify the recipient about other events, <i>e.g.</i> parent teacher meetings, sports days, school concerts/events, arrangements for academic</p>	<p><b>Legal obligation:</b> specifically, section 20 Education Act 1998 that requires a school register to be established and maintained, being a register of all students attending that school, and the provisions of the Education and Training Boards Act 2013.</p> <p><b>Compliance with a Legal Obligation:</b> in exercise of the ETB's official functions and to ensure that Kerry ETB is in a position to discharge its duty of care to the student.</p> <p>Under section 9(g) of the Education Act 1998, all schools are under a duty to <i>"ensure that parents of a student, or in the case of a student who has reached the age of 18 years, the student, have access in the prescribed manner to records kept by that school relating to the progress of that student in his or her education."</i></p> <p><b>Public Interest/Substantial Public Interest:</b> Specifically in respect of education for those under 18 years old, that a child's right to education is recognised under international law: UN Convention on the Rights of the Child: Article 28: "State Parties recognise the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:</p>

		<p>registration, class details, start dates, book lists, subject-selection, school trips etc.</p>	<p>(a) Make primary education compulsory and available free to all,  (b) Encourage the development of different forms of post-primary education, including general and vocational education, make them available and accessible to every child and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;</p> <p>Specifically, in respect of education for those over 18 years, the substantial public interests in giving individuals a second chance to obtain education and training and to “promote opportunities for adults, in particular adults who as children did not avail of or benefit from education in schools, to avail of educational opportunities through adult and continuing education” (section 6(d) Education Act 1998), to enhance their future career and personal development opportunities, facilitate greater social inclusion, on the basis of Union or Member State law (specifically the ETB’s statutory function to provide education and training per Education and Training Boards Act 2013) which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject.</p> <p><b>Vital interests:</b> To enable parent/guardians to be contacted in the case of emergency etc. or to inform parents of their child’s educational progress or to inform parents of school events etc.</p>
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2.	Application information		
	<ul style="list-style-type: none"> <li>• Application Form</li> <li>• Student Transfer Forms (applications to transfer from one post-primary school to another).</li> </ul> <p>These Forms require the applicant to provide the following types of personal data:</p> <ul style="list-style-type: none"> <li>• Name</li> <li>• Address</li> <li>• Date of birth</li> <li>• Contact details (including postal address, mobile phone number, email address etc.).</li> <li>• Parent/guardians' contact details (if applicant is under 18 years) including postal address, mobile phone number, email address etc.</li> <li>• For established Schools: position in family and whether other siblings already in the school.</li> <li>• For Gaelscoil/Gaelcholáiste only, (education through the medium of Irish) details re the student's language and whether Irish is his/her mother tongue and/or whether his/her parent(s) speaks to the child in Irish at home.</li> <li>• For Designated Community Colleges: Only such religious information as is required for the purposes of complying with the school's admissions policy where necessitated by the school's deed of trust/model agreement;</li> <li>• Information on previous academic record (including reports,</li> </ul>	<p><b>Optional or required? Required:</b> We cannot deal with your application, or determine whether you meet the admissions criteria set out in the admissions policy and/or otherwise meets the eligibility requirements if we do not have this information.</p> <p><b>Purposes:</b> Established schools (primary and post-primary), Youthreach centres, other centres of education<sup>2</sup>, further education, adult education, and training centres operating under the remit of Kerry ETB publish their admissions policy and/or programme of available courses, together with any relevant eligibility requirements.</p> <p>In addition, in certain limited situations, students apply to transfer from one post-primary school to another, in which case the student (or his/her parent/guardian) submits a Student Transfer Form. Prospective students (and/or their parents if the prospective student is under 18 years old), are invited to submit Application Forms to schools and/or courses to which they are interested in attending. Kerry ETB processes these Application Forms to establish whether each applicant meets the admissions criteria set out in the admissions policy</p>	<p><b>Compliance with a Legal Obligation:</b> In the case of an established schools (primary and post-primary), Youthreach centres, other centres of education<sup>3</sup>, processing is necessary for compliance with a legal obligation to which the controller is subject, specifically, that collecting of personal data relating to the admissions/enrolment process is required per Section 9(m) Education Act 1998<sup>4</sup>, Section 15(2)(d) Education Act 1998<sup>5</sup>, and Section 19 Education Welfare Act 2000<sup>6</sup>.</p> <p><b>Contract:</b> In the case of further education, adult education, and training centres, processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract.</p> <p><b>Public Interest/Substantial Public Interest:</b> Specifically (a) in respect of education for those under 18 years old, that a child's right to education is recognised under international law<sup>7</sup> and (b) in respect of</p>

<sup>2</sup> As defined in section 2(1) Education Act 1998

<sup>3</sup> As defined in section 2(1) Education Act 1998

<sup>4</sup> Requires that a school establish and maintain an admissions policy which provides for maximum accessibility to the school.

<sup>5</sup> Requires the board to publish the policy of the school concerning admission to and participation in the school, including the policy of the school relating to the admission to and participation by students with disabilities or who have other special educational needs, and to ensure that as regards that policy principles of equality and the right of parents to send their children to a school of the parents' choice are respected, having regard to the characteristic spirit of the school.

<sup>6</sup> Provides that the Board of Management shall not refuse to admit a student except where such refusal is in accordance with the admission policy of the school concerned.

<sup>7</sup> UN Convention on the Rights of the Child: Article 28: "State Parties recognise the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

(a) Make primary education compulsory and available free to all,

(b) Encourage the development of different forms of post-primary education, including general and vocational education, make them available and accessible to every child and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;

(c) (c) Make higher education accessible to all on the basis of capacity by every appropriate means,

	<p>references, assessments and other records from any previous school(s) attended by the student.</p> <ul style="list-style-type: none"> <li>• Other relevant information required in order to ascertain whether the student meets the published Admissions Policy operated by the relevant school/centre and/or otherwise meets the acceptance criteria for the course/programme.</li> <li>• (For admission to a special educational needs unit within a mainstream school) details of any special educational needs.</li> </ul>	<p>and/or otherwise meets the eligibility requirements. Successful applicants are offered placements and the enrolment process then begins (see below). The completed Application Forms are placed on the student's file. The personal data is then used by Kerry ETB for the enrolment process, including communicating to the student about their start date, course details, book list/reading list, information about fees, information about grants and scholarships, and other information relating to registration and course administration. For further information see "Enrolment information" below.</p>	<p>education for those over 18 years, the substantial public interests in giving individuals a second chance to obtain education and training and to "promote opportunities for adults, in particular adults who as children did not avail of or benefit from education in schools, to avail of educational opportunities through adult and continuing education<sup>8</sup>", to enhance their future career and personal development opportunities, facilitate greater social inclusion, on the basis of Union or Member State law (specifically the ETB's statutory function to provide education and training per Education and Training Boards Act 2013) which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject.</p>
<p><b>3.</b></p>	<p><b>Student Enrolment information</b>  <b>Note:</b> In some schools, application and enrolment processes are undertaken as a single process.</p>		
	<p>Once the school/centre has accepted the student's application, and has offered the student a place, in addition to retaining the information set out in the "Application Form" section above, the following personal data is collected:</p> <ul style="list-style-type: none"> <li>• Emergency contact details (and the details re their relationship to the student)</li> <li>• Details of any relevant medical information and details of the student's GP (to be contacted in case of emergency)</li> <li>• Details of any court orders or other arrangements in place governing access to or custody of the child.</li> <li>• Details of any special needs/medical needs that need</li> </ul>	<p><b>Optional or required? Required:</b> We cannot meet our statutory obligation to deliver appropriate education to students and/or we cannot satisfy our duty of care to the student without this information.</p> <p><b>Purposes:</b> to ensure we know who to contact in case of an emergency, to ensure that we have any relevant information as may be necessary to preserve the student's health, to meet the child's medical/care needs, to ensure that the child is released to the care of the correct person at the end of the School day, to apply for resources for the student, to deliver education</p>	<p><b>Compliance with a Legal Obligation:</b> in exercise of the ETB's official functions and to ensure that Kerry ETB is in a position to discharge its duty of care to the student.</p> <p><b>Compliance with a Legal Obligation:</b> to vindicate the student's right to an inclusive education per Education for Persons with Special Educational Needs Act 2004.</p> <p><b>Public Interest/Substantial Public Interest:</b> see (2) above.</p>

—(d) Make educational and vocational information and guidance available and accessible to all children;

(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates".

<sup>8</sup> Section 6(d) Education Act 1998.



	<p>To be accommodated, e.g. medical assessment, psychological assessment/report. Details of whether the student has been in receipt of learning support. Details of whether the student been granted resource teaching hours and/or special needs assistance hours by the NCSE. Details of whether the student received EAL (English as an Additional Language) support. These are required for the purposes of making application to the DES for allocation of resources to support the student in his/her learning.</p> <ul style="list-style-type: none"> <li>• Information on previous academic record</li> <li>• Details re whether the student is exempt from studying Irish (e.g. received primary school up to 11 years of age outside Ireland, evidence of disability, student from abroad etc.). Further details on exemptions and the documentation required to be exhibited to obtain same are available at <a href="http://www.education.ie/en/Parents/Information/IrishExemption">www.education.ie/en/Parents/Information/IrishExemption</a></li> <li>• Consent to standardised testing (for the purposes of assessing literacy/numeracy progress, for Reasonable Accommodation in State Examinations, for assisting in referrals to NEPS, and for career guidance etc.</li> </ul>	<p>appropriate to the needs of the student, to deliver religious instruction, to ascertain whether the student is exempt from the study of Irish (and to arrange the student's timetabling accordingly), to assess the student's educational progress and apply for appropriate accommodation and/or therapeutic support where required.</p>	<p><b>Vital interests:</b> To enable the school/education centre to respond appropriately to the needs of the student in order to protect the student's vital interests.</p>
<b>4.</b>	<b>At Enrolment Stage</b>		
(a)	CCTV images	<p><b>Optional or required? Required:</b> for the purposes outlined in our CCTV Policy, a copy of which is available at <a href="http://www.kerryetb.ie">www.kerryetb.ie</a></p> <p><b>Purposes:</b> CCTV is in operation at the perimeter, exterior and certain internal common areas within the ETB premises. The purposes of CCTV are set out in the CCTV Policy.</p>	<p><b>Vital Interests:</b> specifically, the right of Kerry ETB to protect its property and equipment, and its duty to ensure a safe place of work and study for all who come on to the premises.</p> <p><b>Public interest/substantial public interest,</b> specifically to ensure that Kerry ETB property is protected, deter crime, to detect/investigate/prosecute crime, and to take appropriate action to protect staff and students.</p>
(b)	For Community National Schools, membership of an organised faith / religion only insofar as it is required to enable the school to facilitate the delivery of religious instruction outside of school hours and to liaise with the relevant local faith community in relation to preparation for religious sacraments, on foot of parent's request for same.	<p><b>Optional or required? Optional:</b> If the parent seeks for their child to receive religious instruction in the Community national school outside of school hours.</p>	<p><b>In the public interest:</b> facilitating the exercise of parents' rights under Article 42.1 of the Constitution: <i>"The State acknowledges that the primary and natural educator of the child is the family and guarantees to respect the inalienable</i></p>

		<b>Purpose:</b> to facilitate the use of school buildings outside of school hours for religious instruction.	<i>right and duty of parents to provide, according to their means, for the religious and moral, intellectual, physical and social education of their children”.</i>
	<b>At enrolment stage, the following is also sought on the basis of Consent:</b>		
(c)	Parental/student preferences regarding direct marketing contacts (e.g. promotions, etc.). If they chose to receive such direct marketing, then we will collect mobile phone numbers and/or email addresses for direct marketing purposes.	<b>Optional or required? Optional:</b> you are not required to submit this personal data to us if you do not wish to be contacted for direct marketing.  <b>Purposes:</b> this is so that we know whether we can contact you for the purposes of direct marketing.	<b>Consent:</b> You can give explicit consent to the processing of your personal data for direct marketing if you wish, but this is purely optional. Where you give consent, that Consent can be withdrawn at any time.
(d)	Photographs and recorded images of students/learners (including at school/centre events and noting achievements), but <b>excluding</b> CCTV recordings (dealt with above).	<b>Optional or required? Optional:</b> you are not required to submit this personal data to us if you do not wish to do so.  <b>Purposes:</b> From time to time, photos and recorded images will be processed at school/centre events. Photographs, and recorded images of students/learners are taken to celebrate school/centre achievements, compile yearbooks, establish a school/centre website, record school/centre events, and to keep a record of the history of the school/centre/programme. We ask you for your consent to take your photograph (or the photographs of your child, where appropriate) or your consent to any other form of visual or audio recording (e.g. video, audio etc.) (but excluding CCTV recordings that are dealt with separately below. For further information, please also see our CCTV Policy, a copy of which is available at <a href="http://www.kerryetb.ie">www.kerryetb.ie</a> )	<b>Consent:</b> You are asked to give your explicit consent to the processing of those personal data. This Consent can be withdrawn at any time.
<b>5.</b>	<b>Information transferred from primary school</b>		
	Education Passport (end-of-year 6 <sup>th</sup> Class Report card for transferring to post-primary school),	<b>Optional or required? Required:</b> this is required under the Education (Welfare) Act 2000. We cannot deliver appropriate education to students and/or we cannot satisfy our duty of care to the student without this information.	<b>Compliance with a Legal Obligation:</b> specifically, that processing the personal data is required pursuant to section 20(5)(b)

		<p><b>Purposes:</b> The Education Passport is prepared by primary schools as the end-of-year 6<sup>th</sup> Class Report card for transferring to post-primary school. The NCCA template states: <i>“to support your child’s move to post-primary school, we will send a copy of this report card to his/her new school. We will do so after the post-primary principal has confirmed your child’s enrolment for the new school year”</i>. The protocols supporting this process are set out in DES Circulars 42/2015 and 34/2016.</p>	Education (Welfare) Act 2000 <sup>2</sup> .
<b>6.</b>	<b>Student data (including special category data) shared with the Department of Education and Skills via POD &amp; P-POD</b>		
	<p>The following personal data is transferred to DES:</p> <ul style="list-style-type: none"> <li>• Forename and surname;</li> <li>• PPS number</li> <li>• Mother’s birth name</li> <li>• Student’s date of birth</li> <li>• Class (teacher/class name)</li> <li>• Current Standard (e.g. Senior Infant, 1<sup>st</sup> Class etc.).</li> <li>• Gender</li> <li>• Address including Eircode</li> <li>• Nationality</li> <li>• Enrolment Date</li> <li>• Enrolment Source</li> <li>• Leaving date</li> <li>• Leaving destination</li> <li>• If the student is in a class for students with Special Educational needs, and if so the level of integration of the student, if any, in mainstream class settings</li> <li>• If the student is in a special class, and if so the type of special</li> </ul>	<p><b>Optional or required? Required.</b> However, if this personal data is not provided by the parent/guardian, then the student will not be counted for in the school’s capitation payment and teacher allocation (unless the parent submits a written letter of objection, in which case a partial record will be created for that student on POD and that student will be counted for capitation purposes. For further information, please see <a href="http://www.education.ie/en/Circulars-and-Forms/ActiveCirculars/cl0038_2016.pdf">www.education.ie/en/Circulars-and-Forms/ActiveCirculars/cl0038_2016.pdf</a> )</p> <p><b>Purpose:</b> For primary and post-primary student, personal data is requested by the Department of Education and Skills - POD, P-POD etc.: The Department of Education and Skills requires Kerry ETB to provide student data information to the Department of Education and Skills<sup>3</sup>. The Department of Education</p>	<p><b>Legal obligation and Public interests/substantial public interests:</b> specifically, that the ETB is properly resourced and obtains all grant payments and teacher allocations to which it is eligible in order to deliver appropriate education to students. A specified body (which includes an established schools and centres of education, and an ETB) may share any prescribed information with the Department of Education and Skills or the HEA per section 262(6)(a) Social Welfare Consolidation Act 2005. The list set out herein is the “prescribed” information for the purposes of section 266 Social Welfare Consolidation Act 2005 and S.I.317/2015 (“Social Welfare (Consolidated Claims, Payments and Control) Amendments (No.4) (Sharing of Information) Regulation 2015, amending Article 189 of the Social Welfare</p>

<sup>2</sup> Section 20(5) Education Act 1998: The principal of a recognised school shall, on receiving a notification under subsection (3) in relation to a child, notify the principal of the school first-mentioned in that subsection of—(a) any problems relating to school attendance that the child concerned had while attending the second-mentioned school referred to therein, and (b) such other matters relating to the child’s educational progress as he or she considers appropriate.

<sup>3</sup> For Primary Schools, see circular 0024/2015 available at [www.education.ie/en/Circulars-and-Forms/Active-Circulars/cl0025\\_2015.pdf](http://www.education.ie/en/Circulars-and-Forms/Active-Circulars/cl0025_2015.pdf) Further information available at [www.education.ie/en/Publications/Statistics/Primary-Online-Database-POD-/Post-Primary Schools, see Circular 0023/2016 available at www.education.ie/Circulars-and-](http://www.education.ie/en/Publications/Statistics/Primary-Online-Database-POD-/Post-Primary Schools, see Circular 0023/2016 available at www.education.ie/Circulars-and-)

	<p>class,</p> <ul style="list-style-type: none"> <li>• If the student is in a special school and if so the category of capitation grant that is paid in respect of that student,</li> <li>• Is a new entrant, is repeating a year (and if so, why)</li> <li>• If the student is a short-term placement and if so the duration for which he/she is enrolled</li> <li>• Whether the student boards at his/her school</li> <li>• Irish Exemption (if any, and if so the reason for same)</li> <li>• Learning support (including type)</li> <li>• Mainstream or special class</li> <li>• Whether the student’s mother tongue is English or Irish*</li> <li>• Ethnic/Cultural background*</li> <li>• Religion*</li> </ul> <p>* The items marked * are optional, and parents/guardians do not have to supply this information if they do not consent.</p>	<p>and Skills uses this data to monitor educational progress as students move through the primary education system and on to post-primary. The returns provide the Department of Education and Skills with the information needed to develop and evaluate educational policy, to calculate teacher allocation, capitation, grant payments for schools, to determine resource allocation, for statistical analysis and reporting in the areas of social inclusion and integration of students in the education system, and for planning purposes. The Kerry ETB collects personal data to be transferred to the Department of Education and Skills via the Primary Online Database (“POD”) and/or the Post-Primary Online Database (“P-POD”) systems).</p>	<p>(Consolidated Claims, Payments and Control) Regulations 2007 S.I.142/2007</p> <p><b>Explicit Consent:</b> In respect of the following classes of personal data: “Whether the student’s mother tongue is English or Irish, Ethnic/Cultural background, Religion the student’s parent/guardian is asked to give their explicit consent to the processing of those personal data.</p> <p><b>Important note to Students and Parents:</b> if a student or parent wishes to object to their data being shared with the Department of Education and Skills via the POD/P-POD system, they should write to the School notifying them of their objection. For further information, see Department of Education and Skills Circular 37/2016, page 2 (paragraph 2(a)).</p>
7.	Section 29 Appeals under the Education Act 1998		
	<p>Section 29 Appeals documentation (permanent exclusion, suspension, refusal to enrol etc.). The type of personal data that will be processed as part of this process will include those documents as recommended in the NEWB document: “Developing a Code of Behaviour: Guidelines for Schools”, available at: <a href="http://www.tusla.ie/uploads/content/guidelines_school_codes_eng.pdf">www.tusla.ie/uploads/content/guidelines_school_codes_eng.pdf</a></p>	<p><b>Optional or required? Required:</b> This is a statutory process outlined at Section 29 Education Act 1998. Where a parent makes a Section 29 Appeal, and the internal ETB process is exhausted, by progressing with the appeal the parent acknowledges and understands that the personal data relating to them/their child shall be transferred by the ETB to the Department of Education and Skills for the purposes of their administering the appeal, convening the Section 29 hearing etc.</p> <p><b>Purposes:</b> Section 29 Appeals documentation (permanent exclusion, suspension, refusal to enrol</p>	<p><b>Compliance with a Legal Obligation:</b> Specifically, Section 29 Education Act 1998.</p> <p><b>Public Interest/Substantial Public Interest:</b> Specifically the public interest/substantial public interest of</p> <ul style="list-style-type: none"> <li>• vindicating a child’s right to education and ensuring that any decision to expel, suspend, or refusal to enrol, is lawful and proportionate.</li> <li>• to ensure that other students do not have their learning seriously disrupted by misbehaviour of other students.</li> </ul>

[Forms/Active-Circulars/cl0023\\_2016.pdf](http://Forms/Active-Circulars/cl0023_2016.pdf). Further information available at [www.education.ie/en/Schools-Colleges/Services>Returns/Post-Primary-Online-Database-P-PODProject/](http://www.education.ie/en/Schools-Colleges/Services>Returns/Post-Primary-Online-Database-P-PODProject/)

		<p>etc.). In the case of a school established or maintained by an ETB, an appeal against a decision to permanently exclude a student from the school, or suspend a student from the school for a cumulative period of 20 days, or to refuse to enrol a student in the school is made in the first instance to the ETB<sup>4</sup>. The ETB hearing and appeals process will be heard by a committee established by the ETB for that purpose. By submitting an appeal, a parent/guardian understands and acknowledges that their personal data and that relating to their child data will be transferred to the DES and processed by that committee for the purposes of hearing their appeal and issuing its determination.</p>	<ul style="list-style-type: none"> <li>To ensure that another student's misbehaviour/dangerous behaviour does not cause distress, anxiety, or pose a threat to the physical safety of other students and staff.</li> </ul> <p><b>Vital interests:</b> specifically, to ensure that students and staff are not subjected to potentially dangerous or violent behaviour from another student.</p>
8.	<p><b>Student data (including special category data) sought under the Programme Learner Support System (PLSS)</b></p>		
	<p><b>PLSS: When you apply to attend a FET programme funded through SOLAS</b></p> <p>When you apply to attend a FET programme funded through SOLAS, personal data and information that you provide will be held by one or more of the following entities (SOLAS, the ETB, ETBI, the Higher Education Authority, the Department of Education and Skills, Quality and Qualifications Ireland, the Department of Social Protection, CSO):</p> <ul style="list-style-type: none"> <li>PPSN</li> <li>First Name</li> <li>Last Name</li> <li>Gender</li> <li>Date of Birth</li> <li>Address</li> <li>County</li> <li>Email address</li> <li>Mobile</li> <li>Phone</li> <li>Nationality</li> <li>Country of Birth</li> </ul>	<p><b>Optional or required? Required.</b></p> <p><b>Purpose:</b> it is necessary to process personal data you provide in connection with your application to and attendance on a FET programme funded through SOLAS:</p> <ol style="list-style-type: none"> <li>To contact you about the application.</li> <li>To administer the application and to assess your eligibility for a FET programme funded through SOLAS in a particular academic year.</li> <li>To follow up with you after the application is received, as required.</li> <li>Maintenance of your learner record (including personal and course details).</li> <li>Management of course processes (including commencement, completion, progressions).</li> <li>Providing advice and support through the FET provider Guidance Services, where available.</li> <li>To contact you after the course completion in order to measure course impact in relation to your further education and training participation and/ or employment.</li> </ol>	<p><b>Legal obligation:</b> European Social Fund Regulation (EU) 1304/2013 of the European Parliament and of the Council 17 December 2013 ("ESF Regulation"). Under the ESF Regulation, SOLAS (under the aegis of the DES) has responsibility for coordinating FET provision in Ireland. SOLAS has a number of statutory obligations under the ESF Regulation which confers reporting and operational functions on SOLAS. In order to receive funding, SOLAS must evaluate FET provision for the purposes of reporting to the European Commission on the benefits and uses of ESF co-funding which Ireland has received. An aim of the ESF Regulation is to ensure that the societal and FET needs of various groups within society are catered to. The European Commission requires annual reports to evaluate the provision of ESF co-funding (i.e. the effectiveness and advantages) and to ensure that no group in society is being discriminated against. To do this, a complete data set must exist</p>

<sup>4</sup> Section 29(9) Education Act 1998.

<ul style="list-style-type: none"> <li>• Follow Up Consent</li> <li>• Parental Consent for Persons Under 18 Years of Age</li> <li>• Parental Details for Persons Under 18 Years of Age</li> <li>• Length of Residency In Ireland</li> <li>• Residency Status</li> <li>• Highest Formal Education: (Award), (Level),</li> <li>• Highest Formal Level field (ISCED)</li> <li>• Highest Formal Level Institution Type</li> <li>• Highest Formal Level Country, Duration, Year</li> <li>• Level of English Proficiency</li> <li>• Non-Formal (0-N) Type, Level, Field, Institution,</li> <li>• Delivery Mode, Delivery Method, Duration</li> <li>• Literacy Level</li> <li>• Numeracy Level</li> <li>• ICT Literacy</li> <li>• Funding</li> <li>• Referral/EOI Source</li> <li>• Formal Education History (0-N) Award, Level, Field, Institution, Country, Duration</li> <li>• Non-Formal Education History (0-N) Type, Level, Field, Institution, Duration</li> <li>• RPL</li> <li>• Driver’s Licence</li> <li>• Irish Speaker</li> <li>• Other Languages</li> <li>• Economic Status-current</li> <li>• Economic status - current: start date</li> <li>• If employed, current employment: type, tenure, occupation, sector, duration with current employer</li> <li>• If unemployed, previous employment type, tenure, occupation, sector, duration with last employer</li> <li>• Total work experience: length of time in paid employment (including current employer, if employed)</li> <li>• If unemployed: DSP PEX score (probability of exit)</li> <li>• Employment history (0-N): type, tenure, occupation, sector, duration</li> <li>• On Live Register</li> <li>• In receipt of jobseekers’ benefit, duration</li> <li>• In receipt of jobseekers’ allowance, duration</li> </ul>	<p>8. To track, evaluate and assess the outcomes of the FET programme.</p> <p>9. To comply with European Union monitoring and reporting requirements.</p> <p>10. To check/verify the accuracy of your personal data: to support efficient processing of the application, the ETB may need to check the accuracy of personal information you provide with external data sources. For example, if you have achieved certifications previously from another institution, the FET programme provider may need to contact the other institution(s) for confirmation of any qualifications obtained.</p>	<p>which captures the multiple variables of personal data (e.g. gender, employment status, age, education level and household situation) to form representative of examples for the purposes of reporting on and evaluating the provision of ESF co-funding.</p> <p>Article 125(d) states that SOLAS (as managing authority) shall, 'establish a system to record and store in computerised form data on each operation necessary for monitoring, evaluation, financial management, verification and audit, <b><u>including data on individual participants</u></b> in operations, where applicable' (emphasis added).</p>
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<ul style="list-style-type: none"> <li>• In receipt of credits (Live Register)</li> <li>• In receipt of credits: duration</li> <li>• In receipt of back to work allowance, duration</li> <li>• In receipt of back to education allowance, duration</li> <li>• In receipt of training allowance</li> <li>• In receipt of training allowance: duration</li> <li>• In receipt of one-parent family payment</li> <li>• In receipt of one-parent family payment: duration</li> <li>• In receipt of farm assistance, duration</li> <li>• In receipt of rural social scheme, duration</li> <li>• In receipt of back to work enterprise allowance</li> <li>• In receipt of back to work enterprise allowance: duration</li> <li>• In receipt of family income supplement</li> <li>• In receipt of family income supplement: duration</li> <li>• In receipt of continued child payment, duration</li> <li>• In receipt of any other welfare payment</li> <li>• In receipt of any other welfare payment: type</li> <li>• In receipt of any other welfare payment: duration</li> <li>• In receipt of a Medical Card</li> <li>• Welfare payment history (0-N): type, duration</li> <li>• Homeless</li> <li>• Disability</li> <li>• Parenting/caring duties</li> <li>• In receipt of a disability welfare payment</li> <li>• In receipt of a disability welfare payment: duration</li> <li>• In need of learner supports</li> <li>• Type of learner support required</li> <li>• Refugee</li> <li>• Asylum seeker</li> <li>• Member of a Minority Group</li> <li>• Living in a jobless household</li> <li>• Eligibility Outcome</li> <li>• Suitability Outcome</li> <li>• Start Date</li> <li>• Finish Date</li> <li>• Finish Reason</li> <li>• Progression/Placement</li> </ul> <p>Sensitive information about you such as ethnic or cultural background, living circumstances may be requested by a data</p>		
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	controller listed below, which you may freely decide to give or not – this is an entirely optional disclosure.		
<b>9.</b>	<b>Academic progress and other personal data gathered during the student's time in the School/education centre</b>		
(a)	<ul style="list-style-type: none"> <li>Academic progress and results,</li> <li>State exam results,</li> <li>Results of in-school tests/exams (i.e. end of term, end of year exams, assessment results),</li> <li>Continuous assessment and end of term/year reports,</li> </ul>	<p><b>Optional or required? Required:</b> We cannot meet our statutory obligation to deliver appropriate education to students and/or we cannot satisfy our duty of care to the student without this information.</p> <p><b>Purposes:</b> Kerry ETB processes this personal data in order to deliver education to students, and to evaluate students' academic progress, to register the student for State Examinations (Junior Cycle, Leaving Cycle), to submit the students' work to the recognised accrediting body etc..</p>	<p><b>Compliance with a Legal Obligation:</b> specifically,</p> <ul style="list-style-type: none"> <li>Education Act 1998;</li> <li>Education and Training Boards Act 2013;</li> <li>European Social Fund Regulation (EU) 1304/2013 of the European Parliament and of the Council 17 December 2013.</li> <li>Programme for Employability, Inclusion and Learning 2014-2020</li> </ul>
(b)	Attendance records including Registers and Roll books etc.	<p><b>Optional or required? Required:</b> We are required to collect this data (and in certain situations, transfer this data to TUSLA) pursuant to the Education (Welfare) Act 2000.</p> <p><b>Purposes:</b> Kerry ETB monitors attendance records. Schools are required to make statutory notifications to the Education Welfare Officer (TUSLA) in certain circumstances, such as where the student is suspended for 6 days or more, where the student is absent for an aggregate period of 20 school days during the course of the year, and/or if the Principal is of the opinion that the student is not attending school regularly.</p>	<p><b>Compliance with a Legal Obligation:</b> Specifically, section 21 Education (Welfare) Act 2000<sup>5</sup>.</p> <p><b>Public Interest/Substantial Public Interest:</b> specifically the public interest/substantial public interest of ensuring that students are attending their course, to increase the number of young people staying in full-time education, to improve the number of students successfully completing education courses, and to have a positive impact on retention for young people at risk of early school leaving.</p>
(c)	Records of school tours/trips, including permission slips, itinerary reports, any documents required by Irish Border Control/INIS <sup>13</sup> .	<p><b>Optional or required? Required:</b> Although going on school tours/trips etc. is generally optional (unless it is a field trip and is a core part of the course) if the student does choose to attend, then we require this information in order to make appropriate travel/transportation arrangements,</p>	<p><b>Explicit Consent:</b> as stated, going on these school tours/trips etc. is generally optional. The data subject (and/or their parent/guardian) has given explicit consent to the processing of those personal data.</p>

21.—(1) The principal of a recognised school shall cause to be maintained in respect of each school year a record of the attendance or non-attendance on each school day of each student registered at that school. (2) A record maintained under subsection (1) shall specify the following, that is to say: (a) where a student attends at the school concerned on a school day, the fact of his or her attendance, or (b) where a student fails to so attend, the fact of his or her failure and the reasons for such failure. (3) A record to which this section applies shall be maintained at the recognised school concerned and shall be in such form as may be specified by the Board.

<sup>13</sup> <http://www.inis.gov.ie/en/INIS/Pages/travel-with-children>



		<p>arrange appropriate supervision ratios, engage in responsible planning for the event.</p> <p><b>Purposes:</b> From time to time, students will be invited to go on tours or trips arranged by Kerry ETB. Where a student wishes to do so, personal data will be processed for the purposes of organising that trip, arranging travel plans, insurance etc.</p>	
(d)	Garda vetting form & outcome on students on work experience excluding primary school students	<p><b>Optional or required? Required:</b> Although engaging in work placements is generally not mandatory, if a student wishes to engage with these programmes, statutory vetting may be required. The statutory process for vetting is set down in National Vetting Bureau (Children and Vulnerable Persons) Act 2012 (as amended).</p> <p><b>Purposes:</b> In respect of a work experience placement (where that work experience role requires that the student be Garda vetted) the ETB will assist the student in obtaining their Garda vetting outcome (with the consent of the student and their parent/guardian) in order to furnish a copy of same (with the consent of the student and the student's parent/guardian) to the work experience employer.</p>	<b>Explicit Consent:</b> the data subject (and/or their parent/guardian) has given explicit consent to the processing of that personal data.
(e)	Information about language spoken (for language support) and eligibility for Irish exemption.	<p><b>Optional or required? Required:</b> Information is gathered about the language spoken by the student. Without this, Kerry ETB will not know how to meet the student's needs and to deliver appropriate education.</p> <p><b>Purpose:</b> This is collected to ensure the student has access to language support (where necessary) and can apply for Irish exemption if eligible.</p> <p><b>Important Note:</b> Separately to this, if the student is a primary or post-primary student, the Department of Education and Skills asks Schools to return information about whether the student's mother tongue is English or Irish as part of POD/P-POD.</p>	<b>Interest/Substantial Public Interest:</b> specifically, the public interest/substantial public interest of ensuring that students receive all learning supports and exemptions for which they are eligible in order to ensure that they fulfil their potential to the fullest extent possible.

		This is only provided by the student's parents on an optional basis. For further information, see (9) above.	
(f)	<p>Special needs data, educational support records, medical data etc.</p> <p>Kerry ETB collects information relating to any special educational needs, psychological assessments/reports, information about resource teaching hours and/or special needs assistance hours, etc.</p> <ul style="list-style-type: none"> <li>• Psychological assessments,</li> <li>• Special Education Needs' files, reviews, correspondence</li> <li>• Individual Education Plans,</li> <li>• Notes relating to inter-agency meetings,</li> <li>• Medical information (including details of any medical condition and/or medication/treatment required)</li> <li>• Disclaimers (signed by students undergoing beauty treatments),</li> <li>• Psychological, psychiatric and/or medical assessments</li> </ul>	<p><b>Optional or required?</b> Required: Information is gathered about the student special educational needs and/or other medical and/or care needs. Without this, Kerry ETB will not know what resources need to be put in place in order to meet the student's needs and to deliver appropriate education in-keeping with its statutory obligations under Education for Persons with Special Educational Needs Act 2004.</p> <p><b>Purpose:</b> This is in order to assess their needs, determine whether resources can be obtained and/or made available to support those needs, and to develop individual education plans. ETBs are also required to share this personal data with Special Educational Needs Organisers ("SENOs") employed by the National Council for Special Education (the statutory agency established under the Education for Persons with Special Educational Needs Act 2004. Under Section 14 of the Education for Persons with Special Educational Needs Act, 2004, the School is required to furnish to the National Council for Special Education (and its staff, which would include Special Educational Needs Organisers ("SENOs")) such information as the Council may from time to time reasonably request.</p>	<p><b>Compliance with a Legal Obligation:</b> Specifically, the Education Act 1998 and the Education for Persons with Special Educational Needs Act 2004.</p> <p><b>Contract:</b> In the case of further education, adult education, and training centres, the contract entered into by the learner relating to the programme.</p> <p><b>Public Interest/Substantial Public Interest:</b> specifically, to give "practical effect to the constitutional rights of children, including children who have a disability or who have other special educational needs as they relate to education<sup>6</sup>", and to provide that, "as far as practicable and having regard to the resources available, there is made available to students a level and quality of education appropriate to meeting" their needs and abilities<sup>7</sup>, and to promote "equality of access to and participation in education and to promote the means whereby students may benefit from education<sup>16</sup>". This is order to ensure that people with special educational needs have the same right to avail of and benefit from appropriate education in an inclusive and supportive environment<sup>8</sup>.</p>
(g)	<p><b>Child protection, child welfare, counselling and pastoral care records.</b></p> <ul style="list-style-type: none"> <li>• Child protection records</li> <li>• Other records relating to child welfare and safeguarding</li> </ul>	<p><b>Optional or required?</b> Required: This information is processed pursuant to the ETB's legal obligations including its duty of care, and those statutory duties set out under Children First 2015, the Criminal Justice (Withholding of Information on Offences</p>	<p><b>In relation to child protection and child safeguarding etc.:</b></p> <p><b>Compliance with legal obligation:</b> Specifically, section 14 Children First Act 2015, section 2 Criminal Justice (Withholding</p>

<sup>6</sup> Section 6(a) Education Act 1998.

<sup>7</sup> Section 6(b) Education Act 1998. <sup>16</sup> Section 6(c) Education Act 1998.

<sup>8</sup> Education for Persons with Special Educational Needs Act 2004

<ul style="list-style-type: none"> <li>• Notes of guidance counsellor</li> <li>• Psychological service notes</li> <li>• Referrals to/records relating to therapeutic services and other interventions</li> <li>• Minutes, notes and other records concerning Student Support Team/Pastoral Care Team Meetings</li> <li>• Meitheal meetings convened by TUSLA under Child Care Act 1991, Children Act 2001, and the Child and Family Agency Act 2013</li> </ul>	<p>against Children and Vulnerable Persons) Act 2012, DES Circular 0081/2017 and Child Protection Guidelines.</p> <p><b>Purpose:</b> ETBs and their staff have legal responsibilities to report actual or suspected child abuse or neglect to the Child &amp; Family Agency (“TUSLA”) and to An Garda Síochána.</p> <p>ETBs also provide students with access to guidance counselling services and/or psychological services to provide supports to students, resolve behavioural, motivational, emotional and cognitive difficulties through assessment and therapeutic intervention, to engage in preventative work etc. This personal data (and special category personal data) may be shared with third parties for the purpose of the school/centre/ETB complying with its legal obligations and/or in the student’s vital interest.</p>	<p>of Information on Offences against Children and Vulnerable Persons) Act 2012 and DES Circular 0081/2017 and Child Protection Guidelines.</p> <p><b>Substantial public interest:</b> specifically, the duty of care owed by the ETB to the student and other children, and the substantial public interest in safeguarding children (particularly children at risk), ensuring high standards of child welfare, and ensuring children’s physical and emotional needs are met. To meet the educational, social, physical and emotional requirements of the student.</p> <p><b><u>In relation to the guidance counsellor, psychological services, Student Support Meetings:</u></b></p> <p><b>Vital interests:</b> to protect the student’s vital interests, specifically to obtain all necessary support to assist them and support them where they are experiencing issues with mental health, wellbeing, addiction, abuse etc.</p> <p><b>Legal obligation:</b> in exercise of the ETB’s official functions and to ensure that Kerry ETB is in a position to discharge its duty of care to the student and to other students and staff.</p> <p><b>Public interest/substantial public interest:</b> specifically to vindicate the student’s right to participate in education, to assist them in exercising that right, to support students at risk of dropping out to obtain all necessary supports to stay in education or training, to enhance their future career and personal development opportunities, to facilitate greater social inclusion,</p>
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			<p><b>Preventative or occupational medicine:</b> specifically where supports or therapeutic intervention is delivered by a clinician for the provision of health supports for the student concerned.</p>
(h)	<p><b>Internal school processes (including anti-bullying processes and disciplinary processes)</b></p> <ul style="list-style-type: none"> <li>• Records of complaints made by parents/guardians and others.</li> <li>• Records relating bullying investigations.</li> <li>• Records relating to Code of Behaviour, expulsion, suspension etc.</li> </ul>	<p><b>Optional or required? Required:</b> This information is processed pursuant to the ETB’s duty of care to its students, and to comply with relevant Circulars issued by the Department of Education and Skills from time to time, and in order for the ETB to deliver an efficient and appropriate service.</p> <p><b>Purpose:</b> ETBs have adopted a nationally agreed Code of Practice for dealing with complaints made by parents/guardians of a student or by a student (over 18) years. In addition, ETBs have processes in place to address bullying in accordance with the Department of Education and Skills Circular 45/2013, and to record any incidents and accidents. The data collected in these processes may be transferred to the ETB’s insurance and/or legal advisors as appropriate where required for disputes resolution, fact verification, and for litigation purposes.</p>	<p><b>Legal obligation:</b> in relation to matters relating to bullying and/or complaints of bullying, specifically the Anti-Bullying Procedures for Primary and Post-Primary Schools per Circular 0045/2013.</p> <p><b>Substantial public interest:</b> specifically</p> <ul style="list-style-type: none"> <li>• The substantial public interest in fostering a positive environment for parents, staff, to ensure that complaints are resolved in a prompt and satisfactory manner.</li> <li>• The duty of care owed by the ETB to the student and other children, and the substantial public interest in responding to complaints made against public bodies, to resolve issues relating to the welfare and wellbeing of children (particularly in relation to bullying),</li> <li>• To ensure high standards of child welfare and ensuring children’s physical and emotional needs are met.</li> <li>• To meet the educational, social, physical and emotional requirements of the student.</li> <li>• To vindicate a child’s right to education</li> <li>• To ensure that other students do not have their learning seriously disrupted by the misbehaviour of other students.</li> <li>• To ensure that another student’s misbehaviour/dangerous behaviour does not cause distress, anxiety, or pose a threat to the physical safety of other students and staff.</li> </ul> <p><b>Vital Interests:</b> specifically the right of ETB to protect its property and equipment, and its duty to ensure a safe place of work and study for all who come on to the premises.</p>

(i)	<p><b>Accident and injury reports</b></p> <ul style="list-style-type: none"> <li>• Accident reports</li> <li>• Incident Report Forms</li> <li>• Notifications to insurance company and exchanges with legal advisors.</li> </ul>	<p><b>Optional or required? Required:</b> Without this information the ETB cannot properly comply with its duty to operate a safe environment for students and staff, its duty to identify and mitigate any potential risks, and its duty to report incidents/accidents to its insurance company.</p> <p><b>Purpose:</b> ETBs have processes in place to address complaints made by parents/guardians, to address bullying in accordance with the Department of Education and Skills Circular 45/2013, and to record any incidents and accidents. This may be transferred to the ETB's insurance and/or legal advisors as appropriate.</p>	<p><b>Vital interests:</b> the processing is necessary in order to protect the vital interests of the data subject or of another natural person (to include other students and staff etc.).</p> <p><b>Public interest:</b> the processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in Kerry ETB.</p> <p><b>Substantial public interest:</b> in respect of special category personal data, specifically, the duty of care owed by the ETB to the student, other students, staff, and the substantial public interest in the ETB monitoring data about accidents/incidents (in particular, to ensure that any identified risk is removed or mitigated to prevent reoccurrence), the substantial public interest in the ETB reporting same to its insurance company and/or legal advisors.</p>
(j)	<p><b>Financial information, fees etc.</b></p> <ul style="list-style-type: none"> <li>• Information relating to payment of student fees (including fee support and fee waiver documentation),</li> <li>• Scholarship/Grant applications (including Gaeltacht, book rental scheme etc.).</li> </ul>	<p><b>Optional or required? Required:</b> Without this information, we cannot process applications, make grant payments, or receive payment of fees (<i>e.g.</i> course fees, school trips etc.).</p> <p><b>Purpose:</b> This information is processed in order to process applications, make grant payments, or receive payment of fees (<i>e.g.</i> course fees, school trips etc.). After completion of the payments, the documentation is retained for audit and verification purposes.</p>	

STAFF DATA			
1.	Staff, Volunteers, Board Members, Committee members etc.		
	<p><b>Contact information and details</b></p> <ul style="list-style-type: none"> <li>• Name</li> <li>• address and contact details</li> <li>• emergency contact details</li> <li>• gender</li> <li>• date of birth</li> </ul>	<p><b>Optional or required? Required:</b> Without this information, we cannot contact you about employment applications/appointment processes.</p> <p><b>Purpose:</b> To contact staff, volunteers and board members. To issue employment contracts and/or letters of appointment. To comply with employment law requirements regarding issuance of statement of terms and conditions, adding you to the payroll system etc.</p>	<p><b>Contract:</b> the processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract, specifically a contract of employment.</p> <p><b>Legal obligation:</b> the processing is necessary for a legal obligation, specifically the obligations imposed on the ETB as an employer and/or under the Education and Training Boards Act 2013 and other relevant sectoral Circulars and legislation.</p> <p><b>Public interest, substantial public interest:</b> the 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 ETB.</p>
2.	Staff application, recruitment and promotions documents		
	<ul style="list-style-type: none"> <li>• Applications,</li> <li>• selection criteria,</li> <li>• Interview Board Marking Scheme,</li> <li>• Interview Board marking sheet,</li> <li>• Interview Board Formal Notes,</li> <li>• Database of applications of candidates unsuccessful at interview,</li> <li>• Panel Recommendations by Interview Board,</li> <li>• Details of qualifications (including Teaching Council documentation),</li> <li>• References,</li> <li>• Letters of invitation to interview, correspondence relating to outcome (including responses to requests for feedback).</li> </ul>	<p><b>Optional or required? Required:</b> Without this information, we cannot administer the selection and recruitment process.</p> <p><b>Purpose:</b> To administer the selection and recruitment process, to convene interviews, to recruit staff, to inform participants of the outcome of the recruitment process, to issue letters of offer, to deal with request for feedback. For verification and dispute resolution purposes. To defend litigation.</p>	<p><b>Contract:</b> the processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract, specifically a contract of employment.</p> <p><b>Legal obligation:</b> the processing is necessary for a legal obligation, specifically the obligations imposed on the ETB as an employer and/or under the Education and Training Boards Act 2013 and other relevant sectoral Circulars and legislation.</p> <p><b>Public interest, substantial public interest:</b> the processing is necessary for the performance of a</p>

			task carried out in the public interest or in the exercise of official authority vested in the ETB and to ensure that recruitment is being conducted in fair and proper manner.
<b>3.</b>	<b>Pre-employment vetting</b>		
	Pre-employment checks: Garda vetting outcome and/or Teaching Council vetting document	<p><b>Optional or required? Required.</b></p> <p><b>Purpose:</b> To comply with National Vetting Bureau (Children and Vulnerable Persons) Acts 2012 – 2016. This processing is carried out only under the control of official authority (the National Vetting Bureau) and under Irish law (specifically, the 2012-2016 Acts referred to above) providing for appropriate safeguards for the rights and freedoms of data subjects.</p>	<p><b>Legal obligation:</b> the processing is necessary for a legal obligation, specifically the vetting legislation, the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 -2016, and all associated DES Circulars and guidance regarding vetting procedures and child protection.</p> <p><b>Public interest, substantial public interest:</b> the 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 ETB, specifically to ensure those working in the ETB are suitable to work with children and/or vulnerable adults.</p>
<b>4.</b>	<b>Pre-employment Medical records</b>		
	<ul style="list-style-type: none"> <li>Occupational health referrals</li> <li>Occupational health reports</li> <li>Medical records</li> <li>Correspondence with data subject and clinicians</li> <li>Any documentation regarding reasonable accommodation</li> </ul>	<p><b>Optional or required? Required</b> to comply with DES occupational health requirements and for access to the occupational pension scheme.</p> <p><b>Purpose:</b> to assess a person’s fitness for a particular post or occupation having regard to the requirements of that post, to ensure they can perform the tasks associated with the role, to safeguard occupational health, to advise on reasonable accommodation, to comply with the following DES requirements: Occupational Health Advice on Medical Fitness to Teach (Published July 2008, revised October 2011) Occupational Health Service for Teachers and Special Needs Assistants – Standard Operating Procedures Manual (Publicised June 2015) Necessary for the purpose of accessing the</p>	<p><b>Contract:</b> the processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract, specifically a contract of employment.</p> <p><b>Legal Obligation:</b> the processing is necessary for a legal obligation, specifically the obligations imposed on the ETB as an employer under the Safety Health and Welfare at Work Act 2005, DES Circulars and manuals, and other relevant sectoral legislation.</p> <p><b>Public interest, substantial public interest:</b> the processing is necessary for the performance of a</p>

		<p>occupational pension scheme; identifying conditions in event of alleged work-related injury and litigation; for verification and dispute resolution purposes; for the purposes of litigation.</p>	<p>task carried out in the public interest or in the exercise of official authority vested in the ETB, and to ensure that staff are fit for work and to ensure occupational health is preserved.</p> <p><b>Employment:</b> the processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the ETB and/or the data subject in the field of employment authorised by law and/or a collective agreement providing for appropriate safeguards for the fundamental rights and the interests of the data subject.</p>
<b>5.</b>	<b>Employment terms, personnel files, payroll/salary details</b>		
	<ul style="list-style-type: none"> <li>• Contract for service or terms and conditions of employment,</li> <li>• general job description,</li> <li>• letter of appointment,</li> <li>• probation letters/forms,</li> <li>• Leadership &amp; Management applications and correspondence (whether successful or not),</li> <li>• details of Calculation of service,</li> <li>• promotions/Leadership &amp; Management assessment reports files,</li> <li>• Files relating to staff training, including Continuous Professional Development, performance management, details of conferences/workshops attended, health and safety training, manual handling training etc.</li> <li>• Records of previous service (incl. correspondence with previous employers)</li> </ul>	<p><b>Optional or required? Required:</b> Without this information, we cannot issue the employment contract, deal with appointments/promotions, comply with other HR requirements etc.</p> <p><b>Purpose:</b> To issue employment contracts and/or letters of appointment. To comply with employment law requirements.</p>	<p><b>Legal obligation:</b> the processing is necessary for a legal obligation, specifically the Terms of Employment (Information) Acts 1994 - 2014.</p> <p><b>Public interest, substantial public interest:</b> the 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 ETB, specifically to ensure that IR/HR is administered properly and effectively, and to ensure all staff are appropriately trained.</p> <p><b>Employment:</b> the processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the ETB and/or the data subject in the field of employment authorised by law and/or a collective agreement providing for appropriate safeguards for the fundamental rights and the interests of the data subject.</p>



<b>6.</b>	<b>IR/HR workplace processes and litigation</b>		
	<ul style="list-style-type: none"> <li>• Disciplinary records and performance management records</li> <li>• Records relating to meetings with personnel from HR</li> <li>• Allegations/complaints</li> <li>• Industrial relations correspondence, minutes of meeting, reports,</li> <li>• Dignity at Work case files,</li> <li>• Grievance case files and records,</li> <li>• Employee Assistance Programme service referral letters</li> <li>• OHS: referral letters, management report, assessment, absence records etc.</li> <li>• Files relating to Workplace Relations Commission hearings (including ERS process), Labour Court hearings/appeals, Labour Court IR recommendations, Court processes etc.</li> </ul>	<p><b>Optional or required? Required:</b></p> <p><b>Purpose:</b> To ensure (and demonstrate) that the ETB is being run in a proper manner, to properly address under-performance, disciplinary, grievance, bullying, harassment, and other work-related issues in the public sector in line with the nationally agreed procedures.</p>	<p><b>Legal obligation:</b> to comply with the Industrial Relations Act 1990 Code of Practice on Grievance and Disciplinary Procedures (Declaration) Order 2000 (prepared by the Labour Relations Commission under section 42 Industrial Relations Act 1990), and to comply with DES Circular 71/2014.</p> <p><b>Public interest, substantial public interest:</b> the 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 ETB, specifically to ensure (and demonstrate) that the ETB is being run in a proper manner, to properly address under-performance, disciplinary, grievance, bullying, harassment, and other work-related issues in the public sector in line with the nationally agreed procedures.</p>
<b>7.</b>	<b>Records relating to leave and service</b>		
(a)	<ul style="list-style-type: none"> <li>• Leave of absence applications</li> <li>• Job share</li> <li>• Career Break</li> <li>• Maternity leave, (including records relating to maternity protection health and safety leave, the Maternity Pay Scheme), adoptive leave, paternity leave, parental leave, force majeure leave, carer's leave records</li> <li>• Working Time Act records (attendance hours, holidays, breaks)</li> <li>• Annual Leave Records</li> <li>• Records documenting staff member's authorisation for non-statutory payroll deductions</li> <li>• Salary claim forms</li> <li>• Records documenting calculation and payment of payroll payments (including salary and overtime)</li> <li>• Records documenting adjustment on promotion of staff member, documents relating to approval for incremental credit, and</li> </ul>	<p><b>Optional or required? Required:</b> required for employment purposes.</p> <p><b>Purpose:</b> To process the payment of salary, benefits, expenses claims, paid- and unpaid-leave, and other emoluments. To issue payslips in the required form. To comply with the Payment of Wages Act and the Organisation of Working Time Act. For occupational pension purposes. Required for the calculation of increments and seniority. For organisational administration, verification and dispute resolution purposes, to defend litigation, for accounting and audit purposes.</p>	<p><b>Legal obligation:</b></p> <ul style="list-style-type: none"> <li>• Organisation of Working Time Act 1997</li> <li>• Payment of Wages Act 1991</li> <li>• Maternity Protection Acts 1994 and 2004</li> <li>• Maternity Protection (Health and Safety Leave Remuneration) Regulations</li> <li>• S.I.20/1995</li> <li>• S.I.51/2006 (Maternity Protection Act 1994 (Extension of Periods of Leave) Order 2006</li> <li>• Parental Leave Acts 1998 and 2006</li> <li>• S.I.81/2013 EU (Parental Leave) Regulations 2013</li> <li>• Carer's Leave Act 2001</li> <li>• Paternity Leave and Benefit Act 2016</li> </ul> <p>And in order for the ETB to comply with all the DES Circulars issued extending or implementing the above.</p>

	<p>incremental approvals</p> <ul style="list-style-type: none"> <li>• Superannuation (Pension) Calculations</li> <li>• Superannuation Files</li> <li>• Records documenting payment of employer and employee contributions to pension schemes</li> <li>• Expenses records and reimbursement records • Payroll Listings</li> </ul>		<p><b>Public interest, substantial public interest:</b></p> <p>The 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 ETB.</p>
(b)	<p><b>Pensions</b> (For current and former staff)</p> <ul style="list-style-type: none"> <li>• Final Pension benefit calculations</li> <li>• Service history</li> <li>• Any records re a pensions adjustment order (to include information relating to the spouse/former spouse)</li> <li>• Any correspondence relating to pensions</li> </ul>	<p><b>Optional or required? Required</b></p> <p><b>Purpose:</b> So that the retired person has access to a pension scheme. For further information re staff other than teachers, please refer to: <a href="http://www.etbi.ie/wp-content/uploads/2013/09/6-Staffother-than-Teachers-Preserved-Benefits.doc">www.etbi.ie/wp-content/uploads/2013/09/6-Staffother-than-Teachers-Preserved-Benefits.doc</a></p>	<p><b>Contract:</b> the processing is necessary for the performance of a contract to which the data subject is party.</p>
<b>8.</b>	<b>Occupational health and sick-leave documents</b>		
	<ul style="list-style-type: none"> <li>• Pre-employment medical assessment</li> <li>• Sickness absence records</li> <li>• Sick certificates</li> <li>• Absence records</li> <li>• Occupational health referrals, Medical assessments</li> <li>• Correspondence re retirement on ill-health grounds</li> <li>• Other records documenting the operation of the public service Sick Pay Scheme</li> </ul>	<p><b>Optional or required? Required-</b></p> <p><b>Purpose:</b> To process the payment of salary for staff on sick leave, to administer applications for critical illness leave and Temporary Rehabilitation Remuneration, to refer staff to occupational health specialists, to manage occupational health, to make reasonable accommodation, to comply with DES Circulars relating to occupational health/sick leave and specifically to comply with the DES “Occupational Health Service for Teachers and SNAs Standard Operating Procedures Manual”, to process applications relating to retirement on grounds of ill health, for verification and dispute resolution purposes, to defend litigation, for accounting and audit purposes.</p>	<p><b>Legal obligation:</b></p> <ul style="list-style-type: none"> <li>• Safety Health and Welfare at Work Act 2005, the Labour Court recommendations LCR20335 (19<sup>th</sup> July 2012) and LCR 20667 (20<sup>th</sup> December 2013) re sick-leave arrangements in the public service, Public Service Management (Recruitment and Appointments) (Amendment) Act 2013, and the regulations made thereunder, specifically, S.I.124/2014 and S.I.384/2015 sets out the terms for the granting of sick leave in the public service. In the ETB, these are implemented by way of the following DES Circulars:</li> <li>• 0053/2015 (registered teachers)</li> <li>• 0054/2015 (SNAs)</li> <li>• 0063/2015 (all staff in ETBs other than registered teachers and SNAs)</li> </ul> <p><b>Public interest, substantial public interest:</b></p> <p>The 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 ETB.</p>

<b>9.</b>	<b>Health and safety documents</b>		
	<ul style="list-style-type: none"> <li>• Accident reports, Incident Report, documents re injuries</li> <li>• Forms, notifications to insurance company, and/or HAS</li> <li>• Hazard Report Forms</li> <li>• DES Display Screen Assessments</li> <li>• Pregnant Employee Assessment Forms</li> <li>• Manual Handling Risk Assessment</li> <li>• Inspection Checklists H&amp;S Head Office &amp; Safety Rep</li> <li>• Internal Audits and Reviews</li> <li>• Fire Drills Log</li> <li>• Accident Statistics</li> <li>• Copies of Safety Training Materials + record of who received training</li> <li>• Safety Inspections (HSA)</li> </ul>	<p><b>Optional or required? Required</b> for occupational health, and health and safety.</p> <p><b>Purpose:</b> To comply with the employer’s duty of care to staff and others, to comply with all relevant health and safety legislation, to ensure occupational health.</p>	<p><b>Legal obligation:</b></p> <ul style="list-style-type: none"> <li>• Duty of care,</li> <li>• Safety, Health and Welfare at Work Act 2005 and all the regulations made thereunder (including all relevant Safety Health and Welfare at Work (General Application) Regulations 2007</li> <li>• Fire Services Act 1981</li> </ul>
<b>10.</b>	<b>Governance/electoral information</b>		
	<ul style="list-style-type: none"> <li>• Electoral role containing names and addresses of eligible staff for election to the board</li> </ul>	<p><b>Optional or required? Required</b></p> <p><b>Purpose:</b> to administer the election of staff process in compliance with S.I. 270/2014 Education and Training Boards Act 2013 (Election of Staff) Regulations 2014 made under section 3 Education and Training Boards Act 2013.</p>	<p><b>Legal obligation:</b> Compliance with S.I. 270/2014 Education and Training Boards Act 2013 (Election of Staff) Regulations 2014 made under section 3 Education and Training Boards Act 2013.</p>

11.	Governance documents relating to Kerry ETB		
	<ul style="list-style-type: none"> <li>• Records relating to the successful appointment of Committee members</li> <li>• Records relating to unsuccessful committee applicants</li> <li>• Register of Appointment as a Committee member</li> <li>• Records of declarations from committee members, spouses, children etc.</li> <li>• Register of Members Interests</li> <li>• Agendas &amp; Minutes</li> <li>• Correspondence and Reports considered at Board Meetings</li> <li>• Attendance Sheets</li> <li>• Records documenting training &amp; development of Committee members</li> <li>• General correspondence in relation to elections</li> <li>• Disciplinary appeals documentation,</li> <li>• Board's deliberations, other relevant material</li> <li>• Expenses records and reimbursement records.</li> </ul>	<p><b>Optional or required? Required</b></p> <p><b>Purpose:</b> to comply with Education and Training Boards Act 2013 and all regulations made thereunder. For verification and audit purposes.</p>	<p><b>Legal obligation:</b></p> <ul style="list-style-type: none"> <li>• S.I. 270/2014 Education and Training Boards Act 2013 (Election of Staff) Regulations 2014.</li> <li>• S.I.272/2014 Education and Training Boards Act 2013 (Composition of Local Authority Membership) Regulations 2014</li> <li>• S.I.271/2014 Education and Training Boards Act 2013 (Local Authority Members) Regulations 2014</li> <li>• S.I.269/2014 Education and Training Boards Act 2013 (section 32) Order 2014 (ineligible persons) Circular Letter 0018/2015</li> </ul> <p><b>Public Interest, substantial public interest:</b> The processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority in the ETB.</p>

### Section 3: Recipients of the personal data

We share and transfer student data to other data controllers. In this section we give you further information about the types of recipients or categories of recipients of your personal data. Please note that this list is not exhaustive, and we will transfer personal data to other third parties where required or permitted by law. Furthermore, please note that the ETB reserves the right to contact appropriate third parties in the event of an emergency.

**3.1 Parents / guardians:** Kerry ETB share information on educational progress and child welfare with a student's parent/guardian where the student is under 18 years.

- (a) **Educational progress:** Section 9(g) Education Act 1998 provides that: *"A recognised school shall provide education to students which is appropriate to their abilities and needs and, without prejudice to the generality of the foregoing, it shall use its available resources to — [...] (g) ensure that parents of a students, or in the case of a student who has reached the age of 18 years, the student, have access in the prescribed manner to records kept by that school relating to the progress of that student in his or her education"*. Section 22(2) states that the Principal and teachers shall *"(b) regularly evaluate students and periodically report the results of the evaluation to the students and their parents"*.
- (b) **Freedom of Information Act 2014:** where requested Kerry ETB may release personal data relating to a student to his/her parent or guardian if that parent/guardian's access to the child's records would *"having regard to all the circumstances be in the [Child's] best interests"*<sup>9</sup>. For further information, see Regulation 5 of S.I. 218/2016 "Freedom of Information Act 2014 (section 37(8)) Regulations 2016.
- (c) **Data access request:** where requested Kerry ETB will consider an access-request made by a parent/guardian on behalf of their child pursuant to Article 15 GDPR. In considering such a request, Kerry ETB shall have regard to the fact that the right to access to one's personal data is the right of the data subject themselves, and in this regard the guidance of the UK's Information Commissioner's Office: *"Even if a child is too young to understand the implications of subject access rights, data about them is still their personal data and does not belong to anyone else, such as a parent or guardian"*<sup>10</sup>. Kerry ETB shall also have regard to the guidance of the Irish Office of the Data Protection Commissioner<sup>11</sup>: *"Legal guardians can make an access request on behalf of a child. However, once a child is capable of understanding their rights to privacy and data protection, the child should normally decide for themselves whether to request access to data and make the request in their own name. Where an organisation receives an access request from a legal guardian on behalf of a child who has had direct interaction with that organisation, and/or where that child is capable of understanding their own rights to privacy and data protection, the organisation must take account of the child's rights in deciding how to respond to the access request"*. The ETB shall have regard to the UN Convention on the Rights of the Child<sup>12</sup>, and in particular balance the following interests:

<sup>9</sup> S.I.218/2016 at regulation 6 thereof.

<sup>10</sup> ICO Subject Access Request Code of Practice, available at: [www.ico.org.uk/media/1065/subjectaccess-code-of-practice.pdf](http://www.ico.org.uk/media/1065/subjectaccess-code-of-practice.pdf)

<sup>11</sup> Access Rights and Responsibilities A guide for Individuals and Organisations, available at <https://dataprotection.ie/documents/AccessGuidance.pdf>

<sup>12</sup> Available at [www.ohchr.org/Documents/ProfessionalInterest/crc/pdf](http://www.ohchr.org/Documents/ProfessionalInterest/crc/pdf)

- Article 16(1) of which provides that “no child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour”.
- Article 5 “rights and duties of parents ... to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognised in the present Convention”.

In considering such parental requests, the ETB shall have regard to the best interests of the child, the age of the child, their evolving capacity and level of maturity. Where the child’s age and maturity has reached a point where he/she would have a reasonable expectation of having an input into what happens to their personal data and would reasonably expect to be consulted about to whom their data are released, the ETB shall consult with the child in an age-appropriate way (if it is appropriate in the circumstances) and to take the child’s views into consideration. This is to ensure that the voice of the child is heard in matters relating to his/her personal affairs where it is age-appropriate to do so. Kerry ETB will consider the following factors<sup>13</sup> when determining a request for records made by a parent/guardian on behalf of their child:

- i. Where possible, the child’s level of maturity and their ability to make decisions like this
- ii. The nature of the personal data.
- iii. Any court orders relating to parental access or responsibility that may apply.
- iv. Any duty of confidence owed to the child or young person.
- v. Any consequences of allowing those with parental responsibility access to the child’s or young person’s information. This is particularly important if there have been allegations of abuse or ill treatment
- vi. Any detriment to the child or young person if individuals with parental responsibility cannot access this information.
- vii. Any views the child or young person has on whether their parents should have access to information about them
- viii. Any child who is capable of forming his or her own views on whether their parent(s) should have access to information about them shall have their views ascertained and the data controller shall give due weight to those views having regard to all the circumstances including the age and maturity of the child and any other relevant considerations such as the child’s safety, health, welfare, and wellbeing.

(d) **Emergency Contact:** Where the parent/guardian has been nominated as the student’s Emergency Contact, as per section 3.4 below.

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<sup>13</sup> Factors (i) – (vii) being taken from the UK Information Commissioner’s Office: “Subject Access Code of Practice – Dealing with requests from individuals for personal information available at <https://ico.org.uk/media/1065/subject-access-code-of-practice.pdf>

**3.2 Student support team/Pastoral Care team meetings:** Schools and centres within Kerry ETB routinely hold student support meetings which are designed to identify students in need of additional supports and to put plans in place as to how best to meet the student's needs. This is generally for the following purposes:

- (a) supporting the student in motivation and learning, and encouraging school completion,
- (b) supporting the student where there are substance abuse or addiction issues at home,
- (c) supporting the student through a difficult period, e.g. grief, loss, bullying, abuse at home;
- (d) supporting the student exhibiting self-harm and/or engaging in suicidal thoughts,
- (e) addressing challenging behaviour;
- (f) resolving behavioural, motivational, emotional and cognitive difficulties;
- (g) engaging with therapeutic and psychological services to obtain supports to students, through assessment and therapeutic intervention (including to obtain access to the Child and Adolescent Mental Health Service (CAMHS).
- (h) engaging in preventative work (drugs, alcohol, criminal behaviour, anti-social behaviour, etc.).

These meetings are generally held in the School/Centre building and are attended by the following types of personnel within the ETB: Principal of School/Head of Centre, Deputy Principal, Guidance Counsellor, Pastoral Care Team personnel, Year-Head (where appropriate). The ETB recognises that a co-ordinated inter-agency approach will be required in order to take a student-focused approach to addressing these complex issues: Accordingly, the school/centre may invite the following types of third parties to participate in such meetings:

- the student's parent/guardian (where the student is under 18 years)
- TUSLA (social worker, child protection team, and school completion programme team)
- An Garda Síochána (including Garda Juvenile Liaison Officer, and other juvenile/youth diversion programme personnel)
- Neighbourhood youth initiative projects, and/or youth project workers and other voluntary groups working in the sector
- Local Drugs Task Force
- HSE
- Foróige
- Local Drug Prevention and Education Project workers.

These Student Support meetings/Pastoral Care Team meetings are designed to support the student's best interests. The outcome of these meetings may result in the student being referred on for specific assessments and/or therapeutic treatments (e.g. CAMHS, NEPs etc.).

Where the student is under 18 years, their parent/guardian will be informed that these meetings are taking place and shall be furnished with appropriate information and/or leaflets (where appropriate and where available) to explain the capacity in which third parties attend these meetings.

While each of the third parties engaging in these Student Support Meetings may hold their own files and/or personal data relating to the student (which would be governed by the data protection policy of the organisation which they represent), Kerry ETB will be the data controller in respect of the official minutes produced at the conclusion of any such of these meetings.

3.3 **Emergency Contact:** Emergency contact information is gathered and retained for the purpose of communicating information about the data subject to said Emergency Contact in situations affecting or potentially affecting the data subject's vital interests. Such circumstances include, but are not limited to, perceived health risks and/or injury to the data subject, emergency situations etc.

3.4 **Sharing student data with Department of Education Student data, and Data-sharing with the Department of Education and Skills for POD, P-POD etc.:** The Department of Education and Skills requires Kerry ETB to provide student data information to the Department of Education and Skills<sup>23</sup>.

3.4.1 Kerry ETB collects personal data to be transferred to the Department of Education and Skills via the Primary Online Database ("POD") and/or the Post-Primary Online Database ("P-POD") systems. The school asks parents/guardians and students to complete a document called "October Returns" for the purposes of complying with DES requirements to determine staffing and resource allocations. The October Returns are submitted to the DES electronically. The DES has their own policy governing the security of the data sent to them by all post-primary schools.

3.4.2 The main purpose of the October Returns is for the DES to determine whether the student qualifies for English language support and/or additional resources and support to meet their particular educational needs. The Department of Education and Skills uses this data for its own internal processes, including monitoring educational progress as pupils move through the primary education system and on to post-primary. The returns provide the Department of Education and Skills with the information needed to develop and evaluate educational policy, to calculate teacher allocation, capitation, grant payments for schools, to determine resource allocation, for statistical analysis and reporting in the areas of social inclusion and integration of students in the education system, and for planning purposes. The details of the personal data submitted to the DES via POD/P-POD are outlined at Section 2 of this Policy. Certain of the items are optional, and parents/guardians do not have to supply this information if they do not consent (see further Section 2).

<sup>23</sup> For Primary Schools, see circular 0024/2015 available at [www.education.ie/en/Circulars-andForms/Active-Circulars/cl0025\\_2015.pdf](http://www.education.ie/en/Circulars-andForms/Active-Circulars/cl0025_2015.pdf)

Further information available at [www.education.ie/en/Publications/Statistics/Primary-Online-Database-POD-/](http://www.education.ie/en/Publications/Statistics/Primary-Online-Database-POD-/)

Post-Primary Schools, see Circular 0023/2016 available at [www.education.ie/Circulars-and-Forms/Active-Circulars/cl0023\\_2016.pdf](http://www.education.ie/Circulars-and-Forms/Active-Circulars/cl0023_2016.pdf).

Further information available at

[www.education.ie/en/SchoolsColleges/Services>Returns/Post-Primary-Online-Database-P-POD-Project/](http://www.education.ie/en/SchoolsColleges/Services>Returns/Post-Primary-Online-Database-P-POD-Project/)



3.4.3 The DES transfers some of this personal data to other Government departments and other State bodies, such as transfers to the Department of Employment Affairs and Social Protection: pursuant to the Social Welfare Acts, transfers to the State Examinations Commission, transfers to the Educational Research Centre, and transfers to the Central Statistics Office pursuant to the Statistics Acts. The data will also be used by the DES for statistical, policy-making and research purposes. However, the DES advises that it does not use individual data, but rather aggregated data is grouped together for these purposes. The DES has a data protection policy which can be viewed on its website ([www.education.ie](http://www.education.ie)). The DES has also published a “Fair Processing Notice” to explain how the personal data of students and contained in October Returns is processed. This can also be found on [www.education.ie](http://www.education.ie) (search for Circular Letter 0047/2010 in the “Circulars” section).

3.4.4 If a parent/guardian objects to their child’s personal data being submitted to the Department of Education and Skills via the POD/P-POD system, they submit a written objection to the School (see Department of Education and Skills Circular 37/2016, page 2 (paragraph 2(a))).

3.5 **Sharing student data with the Department of Education and Skills for NEPS:** The National Educational Psychological Service is a service provided by the DES. NEPS employ psychologists who work with primary and post-primary school students. NEPS works with students, parents, and teachers to help children and deliver a range of services. For further information, see <https://www.education.ie/en/Schools-Colleges/Services/National-EducationalPsychological-Service-NEPS-/Information-for-Parents.html>

3.6 **Sharing staff data with the Department of Education and Skills:** Kerry ETB shares data with the Department of Education and Skills relating to:

- (a) **Matters that are the subject of parliamentary questions in the Dáil:** ETBs are statutorily required to provide the Minister for Education and Skills with information regarding, inter alia, the performance of a chief executive’s functions (section 15(3) Education and Training Boards Act 2013), information relating to the performance of the board’s functions (section 40(9) of the 2013 Act); and such reports and returns and such information as the Minister “may from time to time require) (per section 9 (5) of Schedule 3 to the 2013 Act).
- (b) **Staff and staff levels:** the staffing budget and staffing levels within ETBs are calculated on the basis of aggregated returns made by ETBs.
- (c) **Information regarding disability:** this is reported (on an aggregated, anonymised basis) to the Department of Education and Skills on the target for employment of persons with disability under the Disability Act 2005.
- (d) **The Inspectorate:** section 13 Education Act 1998 (as amended) created the Inspectorate, being comprised of the child inspector and such inspectors as the Minister for Education considers appropriate. It is the function of the inspectorate to visit recognised schools and centres for education in order to evaluate the organisation and operation of those schools and centres and the quality and effectiveness of the education provided in those schools or centres, including the quality of teaching and effectiveness

of individual teachers; evaluate the education standards in such schools or centres; assess the implementation and effectiveness of any programmes of education which have been devised in respect of individual students who have a disability or other special educational needs; and report to the Minister (or to the board of management, patron or such other bodies as may be prescribed) on these and other appropriate matters. As part of their inspection, the Inspector may require to see personal data relating to staff and/or students in order to conduct their assessment. Recognised schools and centres are required to cooperate with the Inspectorate, and section 13(12A) of the Education Act 1998 (as amended) creates an offence of obstructing or interfering with the inspectorate in the course of their role.

- (e) **Section 29 Committees:** where there has been a decision to (a) permanently exclude a student from the school, or (b) suspend a student from the school for a cumulative period of 20 school days in any one school year, or (c) refuse to enrol a student in the school, section 29 Education Act 1998 outlines that an appeal can be made against that decision. Circular letter M48/01 outlines the Appeal Procedures under Section 29 of the Education Act, 1998 applies. In the case of a school which is established or maintained by an Education and Training Board (ETB), the appeal against the decision of the board of management of the school shall be made, in the first instance, to its ETB. In the event that the matter cannot be resolved at ETB stage, the parent (or student, if they are over 18 years) can make an application to the Secretary General of the Department of

Education and Skills. The DES establishes an Appeals Committee to hear the section 29 Appeal, and the data relating to the suspension/expulsion/refusal to enrol the student (as appropriate) is submitted to that Appeals Committee in order for them to hear all the evidence and reach a decision. The documentation submitted to the section 29 Appeals Committee can include:

- Records relating to Code of Behaviour (complaints, investigations, minutes, letters)
- CCTV showing incidents that are alleged to have breached the Code of Behaviour (for further information, please see the CCTV Policy).
- Any other data as may be relevant to the Appeal.

Parents (and students over the age of 18 years) are furnished with a copy of the relevant section 29 documentation, and in advance of lodging their appeal they acknowledge and understand that the ETB will share and transfer data to that Appeals Committee in order for them to hear the Appeal and adjudicate on the matter.

### 3.7 TUSLA:

- 3.7.1 Child protection, child safeguarding, child welfare and social work:** ETBs are required to seek advices from and/or make referrals to the statutory bodies established for law enforcement and child protection if they suspect any form of child abuse or receive a disclosure of child abuse. These obligations are set down in section 14 Children First Act 2015, section 2 Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 and DES Circular 0081/2017 and the accompanying Child Protection Guidelines. Where child protection, child safeguarding, and/or child welfare matters arise, the ETB may be asked to participate in child protection conferences (all party meetings between TUSLA, the School and other bodies). ETB will also share and transfer personal and sensitive personal data to TUSLA in respect of members of staff and/or third parties (a student's parent, another family

member) where the concern/disclosure relates to an alleged wrongdoing on their part. Pursuant to the Protection for Persons Reporting Child Abuse Act 1998 and the Children First Act, 2015, a person is protected from civil liability for informing TUSLA and/or An Garda Síochána of his/her suspicion that (a) a child has been or is being assaulted, ill-treated, neglected or sexually abused, or (b) a child's health, development or welfare has been or is being avoidably impaired or neglected, (unless it is proved that he or she has not acted reasonably and in good faith in forming that opinion and communicating it TUSLA and/or An Garda Síochána).

**3.7.2 Meitheal support groups:** TUSLA co-ordinated inter-agency response to assessing the needs of children and families that have come to the attention of social work practitioners (including because of child welfare or safety concerns).

**3.7.3 EWO/NEWB: attendance, suspensions, and expulsions etc.:**

- (a) **Attendance:** pursuant to the Education (Welfare) Act 2000, recognised schools and centres are required to collect data relating to students' attendance. Section 21 states that the principal of a recognised school shall cause to be maintained a record of the attendance or non-attendance on each school day of each student registered at that school; it further provides that where a student fails to so attend school, the register should state the fact of his or her failure and the reasons for such failure. Where the student is absent from school for an aggregate number of 20 school days during a school year (or where the principal forms the opinion that the student is not attending school regularly) the Principal is statutorily required to inform the Education Welfare Officer of this in writing.
- (b) **Suspension:** where a student is suspended from a recognised school for a period of not less than 6 days, (or 20 days cumulatively over a school year, per (a) above), the Principal is required to inform the Education Welfare Officer of this in writing, per section 21 Education (Welfare) Act 2000.
- (c) **Expulsion:** pursuant to section 24 Education (Welfare) Act 2000, where it is decided that a student should be expelled from a school, the School is required to notify the Educational Welfare Officer of this fact "and the reasons therefor" in writing.

**3.8 An Garda Síochána:**

**3.8.1 Child abuse and child protection:** per section 2 Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012. See further (3.8.1) above.

**3.8.2 Other criminal matters:** ETBs will report matters of alleged criminal acts, criminal behaviour, criminal damage etc. to An Garda Síochána in order to the Gardaí to prevent, detect and investigate of offences, and pursuant to the ETB's duty of care to all students, staff, and others.

**3.9 NCSE: SENOs etc.:** Special Educational Needs Organisers ("SENOs") are employed by the National Council for Special Education (a statutory body established by section 19 of the Education for Persons with Special Educational Needs Act 2004). A SENO deals with applications for additional teaching and Special Needs Assistant support for children with special educational needs from all schools. The SENO assists in allocation of resources. The statutory role of the SENO is set out in section 26 of the Education for Persons with Special Educational Needs Act 2004, and it is their role to obtain from the school copies of any medical reports and/or assessments, Individual Education Plans, and/or such other documentation

relating to the needs of the student with special educational needs. Pursuant to section 26(6), the board of management, principal, teachers and other members of staff of a school are statutorily required to give all such assistance as may reasonably be required by the special educational needs organiser in the performance by him or her of his or her functions. When parents and/or clinicians are furnishing copies of medical reports and/or assessments to the school in order to ensure their child/patient obtains all necessary supports and assistance, they do so on the fully informed basis that same will be disclosed to the SENO in order to obtain those supports, resources, and other assistance for the student.

- 3.10 **HSE:** the ETB may be asked by the HSE to circulate HSE information materials about a vaccination programme or similar public health issues, particularly relating to particular ages/groups of students. This is generally so that the HSE can invite them to participate in vaccination programmes or other public health initiatives. When parents receive the information leaflets, the parent/guardian engages directly with the HSE and (if they wish) consent to the provision of information to the HSE by the completion and returning of the relevant documents to the HSE. Participation in the vaccine/programme is entirely a matter for the parents, and for them to pursue directly with the HSE. The ETB may offer the HSE temporary facilities within an ETB premises in order to comply with section 32 of the Health Act 1953 (“affording of facilities for health examination of children at schools”). In certain instances, Kerry ETB may accept / collect forms from students for returning to the HSE where such processing is in the public interest.
- 3.11 **Work placement providers and/or employers:** for those students going on work-experience and/or work placement, and/or apprenticeships.
- 3.12 Data-sharing with SOLAS and others via the Programme Learner Support System (“PLSS”)
- 3.12.1 Kerry ETB is a programme provider of further education and training (“FET”), and offers many courses to adult learners. These FET programmes are funded through SOLAS (An tSeirbhís Oideachas Leanúnaigh agus Scileanna) established under the Further Education and Training Act 2013 as the national further education and training authority.
- 3.12.2 As a condition of application for or enrolment in a FET course funded through SOLAS, your personal data (and that of third parties, such as your next of kin) are collected using the Programme Learner Support System (“PLSS”). PLSS is a joint project between SOLAS and other participants (including Education and Training Boards Ireland (ETBI)). PLSS is a suite of software applications that are designed to provide an integrated approach to the collection and processing of personal data of users of PLSS and FET programmes funded through SOLAS, and the outputs, outcomes and performance of such programmes.
- 3.12.3 When you apply for a FET programme funded through SOLAS, you will be asked to provide:
- (a) Your personal data and information about yourself. The personal data will include your PPSN, first name, surname, name as per your birth certificate or passport, address, date of birth, gender, nationality, whether you are in receipt of a Department of Employment Affairs and Social Protection: (DSP) payments (and if so, the nature of those payments, and other DSP data) and/or employment details for those of you that are in employment

and/or attended higher education, whether you have previously attended a FET programme funded through SOLAS.

- (b) Special category personal data, such as whether you have a disability. Ethnic or cultural background, living circumstances may be requested, which you may freely decide to give or not – this is an entirely optional disclosure. If you provide this information, the data will be reported, in aggregate form, for statistical and research purposes and to compare the progress of such groups with other groups. Such statistics and research will assist in identifying gaps in the system and assisting in the development and implementation of appropriate policies (e.g. equal opportunity policies) and interventions for future learners. If you decide to provide this information you are giving your explicit permission for the data to be processed for these purposes

Further details of the data to be processed are listed in section 2 of this policy, and also at Appendix 2 of the PLSS Data Protection Statement, available at: [www.kerryetb.ie](http://www.kerryetb.ie).

3.12.4 The personal data stored on PLSS are processed for the following purposes:

- (a) To contact you about the application for the FET programme.
- (b) To administer the application and to assess your eligibility for a FET programme funded through SOLAS in a particular academic year.
- (c) To follow up with you after the application is received, as required.
- (d) Maintenance of your learner record (including personal and course details).
- (e) Management of course processes (including commencement, completion, progressions)
- (f) Providing advice and support through the FET provider Guidance Services, where available.
- (g) To record the course you enrolled in and your award (if any).
- (h) To contact you after the course completion in order to measure course impact in relation to your further education and training participation and/or employment.
- (i) To track, evaluate and assess the outcomes of the FET programme.
- (j) To comply with European Union monitoring and reporting requirements.
- (k) To check/verify the accuracy of your personal data: to support efficient processing of the application, the ETB may need to check the accuracy of personal information you provide with external data sources. For example, if you have achieved certifications previously from another institution, the FET programme provider may need to contact the other institution(s) for confirmation of any qualifications obtained.

3.12.5 SOLAS is required under the Further Education and Training Act 2013 to (among other things) to assist in the co-ordination and provision of training by others and conduct research into the functions of SOLAS. This might include tracking involvement in, conducting impact evaluations on and assessing outcomes of, FET

programmes funded through SOLAS. Accordingly, pursuant to agreed protocols and arrangements, SOLAS may provide to and receive from other Governmental, regulatory and/or public bodies (including those listed in Appendix 3), limited and specific types of data about you or provided by you in your application for a FET programme. For example, FET providers are required to disclose some of your personal data to SOLAS for statistical purposes. In addition, if you are attending a European Union co-funded programme the Department of Education and Skills is required to provide some of your personal data to allow monitoring, reporting and evaluating programmes to which they provide funds.

- 3.12.6 The following parties participate in the PLSS scheme (referred to in this section as “**PLSS Participants**”) and have access to an extract of the data generated from the PLSS system:
- (a) The Department of Education and Skills (“**DES**”).
  - (b) CSO Administrative Data Centre: PLSS data will be pseudonymised by a CSO statistician and linking of PLSS learners with the Revenue, DEASP, QQI and HEA data will be done using the CSO unique identifier (i.e. CSO PPSN).
  - (c) Department of Employment and Social Protection: To validate information on applicants in receipt of social welfare payments.
  - (d) Quality and Qualifications Ireland (QQI): To verify information regarding applicant’s certification outputs as a result of attending an FET Programme.
  - (e) Higher Education Authority (“**HEA**”): Not currently shared directly but in the event of being shared, to verify and validate applicants who progress to higher education.
- 3.12.7 Once uploaded to the PLSS, there is "cross data sharing" of that personal data by other PLSS Participants, so your personal data could be obtained by those PLSS Participants even if the applicant/learner has not previously engaged with those bodies. There are written Data-sharing Protocols between the Department of Social Protection, the Higher Education Authority and QQI with SOLAS. A Data Processing Services Agreements has been put in place between Kerry ETB and SOLAS. Each of these agreements dictate the scope and parameters of permissible usage of and access to learner/applicant personal data.
- 3.12.8 Each of PLSS Participants will process personal data and information that you provide and, in some instances where relevant, information provided to them by third parties such as other Governmental/public sector bodies, and made available to affiliated entities, agents, service providers, advisers and data processors and other Governmental, regulatory and/or public sector bodies. For further information, please see the PLSS Data Protection Statement, available at [www.kerryetb.ie](http://www.kerryetb.ie).
- 3.12.9 At national level (section 7 Further Education and Training Act 2013) and European level, SOLAS must report, as a statutory requirement for funding, on the FET sector pursuant to the European Social Fund Regulation (EU) 1304/2013 of the European Parliament and of the Council 17 December 2013. Until 2027, under the Programme for Employability, Inclusion and Learning 2014-2020 (“**PEIL**”), SOLAS must justify the ESF co-funding that it seeks via the DES by way of reporting. The PEIL requires the national authority in each Member State

charged with the function of FET provision to collect and store detailed data about each learner in receipt of ESF co-funding. For this, SOLAS must be able to gather evidence which it obtains from its evaluation of FET outcomes including improved employability and the social inclusion of various groups in society (e.g. youth, females, long term unemployed, immigrants, persons with disabilities, socio-economic disadvantaged, etc.). SOLAS may also be randomly audited by the European Commission to verify and validate Ireland's ESF claim for funding. In the event that such ESF auditors were to make a finding of poor data or information quality, ESF co-funded provision could be suspended. This would have a serious knock-on effect on FET funding in Ireland (not least through a potential funding deficit) and therefore its provision in Ireland and SOLAS' legislative mandate under the FET Act would not be fulfilled. In the context operating PLSS for the above purposes, SOLAS will act as a data controller over the information it collects from learners and from the other PLSS Participants for this purpose.

### 3.13 **Data-sharing with third party vender MIS systems via the Programme Learner Support System ("PLSS")**

Kerry ETB uses other Management information Systems (MIS) such as Salespulse, VS-Ware, MIT Enrol and various SOLAS software data packages for ease of transfer of data through the various platforms in the ETB. From student enrolment at the beginning of the process right through to examination/certification in the final stages. In accordance with Article 28, Kerry ETB enters into agreements with these third parties to ensure that the rights of students to data privacy and security under GDPR are upheld.

- 3.14 **SUSI:** SUSI is a business unit of City of Dublin ETB, which is the single national student grant awarding authority designated by the Minister for Education and Skills under the Student Support Act 2011. SUSI administers applications under the annual Student Grant Scheme for higher and further education grants. CDETB is the joint Data Controller with the Department of Education and Skills for student grant applications under the Student Grant Scheme. SUSI processes information submitted via an online application process. In submitting a single online application, personal details of all parties to the application together with their income details are provided to SUSI. All parties are required to acknowledge that they have read the SUSI data protection statement (a summary text and link to the full text are provided at this point in the application form) and to confirm that the information they provide is complete and accurate (a form of declaration to this effect is provided at this point). The categories of personal data provided by parties to an application and collected by SUSI for the purpose of assessment are: name, address and contact details, date of birth, PPS number; nationality; employment details; bank details. As part of conducting an assessment and ongoing grant management and payment, SUSI may share some or all of the data provided by parties to an application with other Government bodies and agencies set out in Schedule 2 of the Student Support Act 2011. The third parties with whom SUSI exchanges data include the Department of Education and Skills, the Department of Employment Affairs and Social Protection, the Revenue Commissioners, the Central Applications Office, the HSE and former awarding authorities, *i.e.* ETBs. All data sharing arrangements are governed by respective data sharing agreements with each of the data sharing bodies. Section 28(5) of the Student Support Act 2011 provides for the relevant purpose of collecting, processing and sharing the information submitted to SUSI. The purposes include obtaining information to determine whether an applicant is eligible for a grant; verifying data supplied as part of the application process; assisting in the processing of an application for a grant by a student and assisting in the

payment of grants to students, and verifying that a student is enrolled or registered, in accordance with the rules of an approved institution, and continuing to attend an approved course at an approved institution.

3.15 **Teaching Council:** The Teaching Council is the statutory body that regulates the teaching profession in Ireland. It was established by the Teaching Council Acts 2001 -2015. Personal data is shared by Teaching Council and the ETB for the purposes of the Teaching Council performing its statutory functions (including regulating the teaching profession and promoting professional standards), including to fulfil the statutory functions set out below:

- (a) **Data-sharing of information from the register:** Section 30 of the Teaching Council Acts 2001 – 2015 requires all teachers to register with the Council if they are to be paid from State funds. It states that if the teacher is not registered, or is otherwise removed or suspended from the register, they shall not be remunerated out of moneys provided by the Oireachtas. Section 7 of the Education (Amendment) Act 2012 provides that the Teaching Council shall provide each ETB with information held by the Council in respect of each person who is or was a registered teacher, and to provide the ETB with information regarding whether that person's conditional registration lapses, or if the person is removed from the teaching register. The Teaching Council operates a "*paymaster interface to the Register of Teachers*" in order to facilitate ETBs verifying the teacher's eligibility for payroll pursuant to section 30 Teaching Council Acts 2001 – 2015, and for verifying qualifications for the calculation of qualification allowances etc.
- (b) **Data-sharing re vetting:** The Teaching Council is responsible for co-ordinating statutory vetting of the teaching profession, and shares teachers' personal data (including special category data) with the National Vetting Bureau for that purpose. The statutory process for conducting vetting applications is prescribed by the National Vetting Bureau (Children and Vulnerable Persons) Acts 2012 to 2016. Where an applicant applies for a position in a school/centre (or otherwise pursuant to the retrospective vetting provisions prescribed by the Department of Education and Skills) the Teaching Council is required to release a copy of the Vetting Outcome/disclosure to that school/centre, and therefore there is data-sharing between the ETB and the Teaching Council as part of this process.
- (c) **Data-sharing re fitness to teach/regulatory procedures:** The Teaching Council is required to undertake investigative and disciplinary functions. This includes conducting inquiries into matters such as professional misconduct, poor professional performance, and fitness to teach. The Teaching Council may call upon any person in attendance as a witness before a panel under section 43 Teaching Council Act produce any documentation in his or her power or control lawfully required by the panel to be produced by him/her. Pursuant to section 43B of the Teaching Council Acts 2001 - 2015 it shall be an offence to refuse such a request.

For more information in relation to data processing within the Teaching Council, please refer to [www.teachingcouncil.ie/en/About-Us/Data-Protection-Compliance-Policy](http://www.teachingcouncil.ie/en/About-Us/Data-Protection-Compliance-Policy)

3.16 **Central Statistics Office:** The Department of Education and Skills and ETBs make aggregated, cumulative, statistical data available to the Central Statistics Office, under the Statistics Acts to assist with the compilation of national statistics.

3.17 **Revenue Commissioners:** For payroll purposes, to remit employers' tax and staff' PRSI, PAYE etc. and other tax deductions to the Revenue Commissioners.



- 3.18 **The Department of Employment Affairs and Social Protection:** The Department of Employment Affairs and Social Protection: may require the ETB to provide it with certain personal data relating to a student/learner (and/or his/her parents where the student is under 18 years). Section 265(1) of the Social Welfare (Consolidated) Act 2005 provides that a specified body (of which the ETB is one) may share information with another specified body (of which the Department of Employment Affairs and Social Protection: is another). Such data-sharing, where requested, will proceed if it complies with the Data Protection Commissioner's Guidance note on "Data Sharing in the Public Sector<sup>14</sup>", and in particular the advices: "*public bodies who engage in data sharing arrangements should, in advance of any such sharing, inform all individuals whose personal data is being shared of the data sharing arrangement by outlining the information as required to be provided as per Section 2(2D) of the DPA*".
- 3.19 **Financial institutions:** Data is transferred to financial institutions for the purposes of administering staff payroll, payment of expenses, processing of student fees and grants etc.
- 3.20 **Past and future employers:** to obtain/furnish References, and/or service records.
- 3.21 **Financial Accounts, Audits, and Auditors:** the ETB is required to prepare financial statements (see section 51 Education and Training Board Act 2013) and to comply with the Comptroller and Auditor General in respect of its statutory audit function, and pursuant to section 25 Education and Training Board, to report to the Public Accounts Committee of Dáil Éireann and give evidence to that committee regarding the propriety of the affairs of the ETB.
- 3.22 **Pension administrators, companies offering Additional Voluntary Contribution (AVC) pension products (where relevant), financial organisations offering income continuity policies (where relevant):** for any occupational pension scheme to be operated, transfers of service executed, contributions to be remitted and pension benefits paid and the implementation of family law pension adjustment orders etc. If the employee is participating in an AVC or income-continuity policy, and requires the employer to transmit information or remit payments to that entity, the ETB will facilitate same where directed to do so by the employee. Pension's data will also be transferred to the Revenue Commissioners and the Department of Employment Affairs and Social Protection: where required by law.
- 3.23 **Trade unions:** staff may be members of recognised unions, and they may wish to be represented by their trade union official (and/or shop steward) in certain IR/HR matters in the workplace. These are dealt with in the relevant workplace policies and sectoral Circulars issued by the Department of Education and Skills.
- 3.24 **ETBs' Insurer and/or Legal Advisors, including the Legal Services Support Unit, Education and Training Boards' Ireland:** the ETB transfers and shares data with its insurers, Irish Public Bodies, and their duly appointed workplace investigators, claims handlers, and legal advisors, pursuant to the ETB's insurance policy. The ETB also shares and transfers personal data to its legal advisors to obtain legal advices and for the taking and defending of legal claims. These transfers are for the purposes of obtaining legal advices, resolving disputes, and defending, compromising or otherwise settling litigation.

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<sup>14</sup> <https://dataprotection.ie/docs/Data-Sharing-in-the-Public-Sector/m/1217.htm>

- 3.25 **Service providers (CCTV, security, IT support, payments solutions platforms, direct marketing agencies or printing companies, plagiarism detection services/software, service providers delivering services to students, e.g. Apps, Tablets etc.).** To obtain appropriate expertise and support, and to ensure that the ETB is being properly managed. These service providers shall be retained pursuant to a written [Service Level Agreement/Data Processing Agreement].
- 3.26 **Health & Safety Authority (HSA):** To report matters including workplace accidents and dangerous occurrences pursuant to the Safety, Health and Welfare at Work (General Application) Regulations 2016.
- 3.27 **Paymaster General:** the body that administers the payment of pensions to pensioners. For further information, please see [www.pssc.gov.ie/about-pssc](http://www.pssc.gov.ie/about-pssc) (under the aegis of the Department of Public Expenditure and Reform).
- 3.28 **Payroll Shared Services:** when implemented, ETBs will transfer data in accordance with a Data Sharing Agreement and/or Memorandum of Understanding/Service Level Agreement.
- 3.29 **Financial Shared Services:** when implemented, ETBs will transfer data in accordance with a Data Sharing Agreement and/or Memorandum of Understanding/Service Level Agreement.
- 3.30 **Education and Training Boards' Ireland:** the ETB shares data with its national representative body, Education and Training Boards Ireland (ETBI) as recognised under section 2 of the Education and Training Boards Act, 2013. ETBI operates pursuant to its Constitution and to collectively represent its member ETBs and promote their interests, as set out in the Education and Training Boards Act 2013.
- 3.31 **Public Service Transfer Network:** where an employee requests a transfer of service to and from the civil service, Garda Síochána, national and post-primary teaching sector, and the Defence Forces, this scheme permits them to transfer pensionable/reckonable service for the purposes of the superannuation provisions applying to persons employed in a pensionable capacity. The transfer of information to the new employer is at the specific request of the employee. For further information, and a list of the current participants in the network, please see [www.etbi.ie/wp-content/uploads/2014/02/pstn\\_list\\_of\\_participants\\_17\\_2\\_14.pdf](http://www.etbi.ie/wp-content/uploads/2014/02/pstn_list_of_participants_17_2_14.pdf)

This is an indicative list of the bodies to whom we transfer data, but it is not an exhaustive list. We will disclose to other third parties (who are not necessarily listed here) where there is a legal basis, and/or we are legally required to do so.

#### Section 4: Third country/international transfers

We do not transfer your personal data to a third country or international organisation. Certain companies who process personal data on behalf of Kerry ETB may transfer personal data for processing/hosting outside the EU, however this will only be done with the agreement of Kerry ETB and with the assurance that appropriate safeguarding measures are in place to protect the data.

#### Section 5: Automated Decision Making / Profiling

We do not engage in automated decision making/profiling.

#### Section 6: Records' Retention

In this section, we will give you further information about the period for which your personal data will be stored (or if that is not possible, the criteria used to determine that period). The ETB Records Retention Schedule is available [Link to Kerry ETB Records Retention Schedule](#). Please note the retention schedule is subject to ongoing review and monitoring.

#### Section 7: Your rights

In this section, we will give you further information about your rights as a data subject. In our Privacy Notice and in this Data Protection Policy, we give you information in order to ensure that the processing of your personal data is fair and transparent. If you have any additional queries, please contact our Data Protection Officer (contact details in Section 8).

- 7.1 **Right to complain to the Data Protection Commissioner:** Please let us know if you have any comments or queries. If you wish, you have the right to lodge a complaint to the Data Protection Commissioner. Their contact details are set out below:

<b>Telephone</b>	+353 57 8684800 +353 (0)761 104 800
<b>Lo Call Number</b>	1890 252 231
<b>Fax</b>	+353 57 868 4757
<b>E-mail</b>	info@dataprotection.ie
<b>Postal</b>	Data Protection Commissioner Canal House, Station Road Portarlinton, Co. Laois R32 AP23

## 7.2 Right of access:

- 7.2.1 You have the right to obtain confirmation as to whether or not your personal data are being processed by Kerry ETB, and, where that is the case, access to the personal data and the following information:
- a) the purposes of the processing;
  - b) the categories of personal data concerned;
  - c) the recipients or categories of recipient to whom your personal data have been or will be disclosed, in particular recipients in third countries or international organisations; (and where your data are transferred to a third country or to an international organisation, you shall have the right to be informed of the appropriate safeguards).
  - d) where possible, the envisaged period for which the personal data will be stored, or, if not possible, the criteria used to determine that period;
  - e) the existence of the right to ask the ETB to rectify or erase your personal data or restrict the processing of your personal data or to object to such processing;
  - f) the right to lodge a complaint with the Data Protection Commissioner;
  - g) where your personal data are not collected directly from you, any available information as to their source;
  - h) the existence of automated decision-making, including profiling, and, meaningful information about the logic involved, as well as the significance and the possible consequences of such processing for you.
- 7.2.2 Where we receive such a request, Kerry ETB reserves the right to request such official identification documentation (e.g. passport or driver's licence) from you.
- 7.2.3 Where a valid request has been received, Kerry ETB shall provide a copy of the personal data undergoing processing. For any further copies requested by the data subject, Kerry ETB reserves the right to charge a reasonable fee based on administrative costs.
- 7.2.4 Where you make the request by electronic means, and unless otherwise requested by you, the information shall be provided in a commonly used electronic form.
- 7.2.5 The right to obtain a copy of your data shall not adversely affect the rights and freedoms of others.
- 7.2.6 If data relating to a third party is involved, it will not be disclosed without the consent of that third party or alternatively the data will be anonymised in order to conceal the identity of the third party.
- 7.2.7 The ETB reserves the right to supply personal information to an individual in an electronic format e.g. on tape, USB, CD etc. If the requested data are CCTV recordings, the ETB reserves the right to release this either (a) in soft copy footage, or (b) in still images (photos) at a rate of one photograph per second of video<sup>15</sup>. If the CCTV footage includes images of other people, their images may be pixilated or otherwise blanked out.

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<sup>15</sup> See page 10 of guidance issued by the ODPC:  
<https://dataprotection.ie/documents/AccessGuidance.pdf>

### 7.3 Right to rectification

- 7.3.1 Where Kerry ETB is processing inaccurate personal data, you have the right to have those inaccuracies rectified.
- 7.3.2 Taking into account the purposes of the processing (see Section 2 of this Policy), you have the right to have incomplete personal data completed (including by means of you providing us with a supplementary statement).

### 7.4 Right to be forgotten

- 7.4.1 You may have the right to be forgotten/the right to erasure of your personal data, subject to certain conditions.
- 7.4.2 The Right to be Forgotten shall apply only where:
  - a. the personal data is no longer necessary in relation to the purposes for which they were collected or otherwise processed;
  - b. where the processing is based on Consent (see Section 2 above) and there is no other legal ground for the processing, and you now wish to withdraw that consent;
  - c. you object to the processing pursuant to Article 21(1) and there are no overriding legitimate grounds for the processing, or the data subject objects to the processing pursuant to Article 21(2) (direct marketing);
  - d. your data has been unlawfully processed;
  - e. your data has to be erased for compliance with a legal obligation in Union or Member State law to which the controller is subject;
  - f. your data has been collected in relation to the offer of information society services referred to in Article 8(1).
- 7.4.3 Notification: Where Kerry ETB has made the personal data public and is obliged pursuant to Article 17(1) GDPR to erase the personal data, the ETB, taking account of available technology and the cost of implementation, shall take reasonable steps, including technical measures, to inform controllers which are processing the personal data that the data subject has requested the erasure by such controllers of any links to, or copy or replication of, those personal data.
- 7.4.4 The Right to be Forgotten (and the notification referred to at (7.4.3) above) shall **not** apply to the extent that the processing is necessary:
  - a. for exercising the right of freedom of expression and information;
  - b. for compliance with a legal obligation which requires processing by Union or Member State law to which Kerry ETB is subject or for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;
  - c. for reasons of public interest in the area of public health in accordance with Article 9(2)(h) and (i), as well as Article 9(3);
  - d. for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) in so far as the right referred to in paragraph 1 is likely to render impossible or seriously impair the achievement of the objectives of that processing; or
  - e. for the establishment, exercise or defence of legal claim.

## 7.5 Right to restrict processing

- 7.5.1 You have the right to request us to restrict our processing your personal data subject to the conditions set out in Article 18 GDPR.
- 7.5.2 The right to restriction arises one of the following applies:
- a. You are contesting the accuracy of your personal data, for a period enabling Kerry ETB to verify the accuracy of your personal data;
  - b. the processing is unlawful and you are opposing the erasure of the personal data and are requesting the restriction of the use of your data instead;
  - c. Kerry ETB no longer needs the personal data for the purposes of the processing, but they are required by you for the establishment, exercise or defence of legal claims;
  - d. You have objected to processing pursuant to Article 21(1) pending the verification whether the legitimate grounds of the controller override those of the data subject.
  - e.
- 7.5.3 Where processing has been restricted, such personal data shall (with the exception of storage) only be processed with your consent or for the establishment, exercise or defence of legal claims or for the protection of the rights of another natural or legal person or for reasons of important public interest of the Union or of a Member State.
- 7.5.4 Where you have restricted our processing of your data pursuant to Article 18(1), you shall be informed by Kerry ETB before the restriction of processing is lifted.

## 7.6 Right to data portability

- 7.6.1 You shall have the right to data portability per Article 20 GDPR. This means that you shall receive your personal data, which you have provided to Kerry ETB, in a structured, commonly used and machine-readable format.
- 7.6.2 The right to data portability applies where:
- (a) the processing is based on Consent (Article 6(1)(g) or Article 9(2)(a)), or on a Contract Article 6(1)(b); **and**
  - (b) the processing is carried out by automated means.
- 7.6.3 For the avoidance of doubt, the right to data portability does not apply to processing necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.
- 7.6.4 The right to data portability shall not adversely affect the rights and freedoms of others.
- 7.6.5 You have the right to transmit those data to another controller without hindrance from Kerry ETB to which the personal data has been provided.
- 7.6.6 In exercising your right to data portability, you shall have the right to have the personal data transmitted directly from one controller to another, where technically feasible.

## **7.7 Right to object**

- 7.7.1 You shall have the right to object, on grounds relating to your particular situation, at any time, to processing of your personal data based on:
- (a) Public Interests (Article 6(1)(e))
  - (b) Legitimate interests (Article 6(1)(f)).
- including the right to object to profiling based on those provisions.
- 7.7.2 Kerry ETB will no longer process your personal data unless it demonstrates compelling genuine grounds for the processing which override your interests, rights and freedoms, or for the establishment, exercise or defence of legal claims.
- 7.7.3 Where personal data is processed for direct marketing purposes, you shall have the right to object at any time to processing of your personal data for such marketing, which includes profiling to the extent that it is related to such direct marketing.
- 7.7.4 Where you object to processing for direct marketing purposes, your personal data shall no longer be processed for such purposes
- 7.7.5 You have the right to object to processing based solely on automated means, including profiling, which produces legal effects concerning you or similarly significantly affects you however Kerry ETB does not engage in automated decision making.

## **7.8 Data controller's obligation to notify others**

- 7.8.1 Kerry ETB shall communicate any rectification (7.3 above), or erasure (7.4 above) of personal data, or restriction of processing (7.5 above) carried out to each recipient to whom the personal data has been disclosed, unless this proves impossible or involves disproportionate effort.
- 7.8.2 Kerry ETB shall inform you about those recipients if you request it.

## **7.9 General information relating to all the rights referred to above**

- 7.9.1 Upon receipt of a valid request, Kerry ETB shall attend to your request without undue delay and in any event within one month of receipt of the request. That period may be extended by two further months where necessary, taking into account the complexity and number of the requests. Kerry ETB shall inform you of any such extension within one month of receipt of the request, together with the reasons for the delay.
- 7.9.2 In the case of an access request (see section 7.2 above, "Right of Access") where a subsequent or similar access request is made after the first request has been complied with, the ETB has discretion as to what constitutes a reasonable interval between access requests and this will be assessed on a case-by case basis.
- 7.9.3 If Kerry ETB does not take action on foot of the request of the data subject, the controller shall inform you without delay and at the latest within one month of receipt of the request of the reasons for not taking action and on the possibility of lodging a complaint with the Data Protection Commissioner and seeking a judicial remedy.
- 7.9.4 Where requests from you are manifestly unfounded or excessive, in particular because of their repetitive character, Kerry ETB may either: (a) charge a reasonable fee taking into account the administrative costs of providing the information or communication or taking the action requested; or (b) refuse to act on the request.

**You can exercise these rights at any time. For further information, on an interim basis, please contact CS&CD Department, Kerry ETB, in relation to Data Protection.**

*Tel. 066-7193900.*

*Email: [corporateaffairs@kerryetb.ie](mailto:corporateaffairs@kerryetb.ie).*

If you have any queries, please consult our Data Protection Policy (available at [www.kerryetb.ie](http://www.kerryetb.ie)) or contact the CS&CD Department, Kerry ETB.

#### **Section 8: Contact our DPO**

On an interim basis, please contact CS&CD Department, Kerry ETB, in relation to Data Protection.

#### **Section 9: ETB Approval**

The Kerry Education and Training Board Data Protection Policy was formally approved by the Board of Kerry Education and Training Board on 4<sup>th</sup> December, 2018.

**Signature:** \_\_\_\_\_

***Mr. Colm Mc Evoy***  
***Chief Executive Officer***