

# Data Protection Policy



**Reviewed: June 2015**

**Ratified by the Management Committee: 1<sup>st</sup> July 2015**

**Date of next Review: June 2018**

The Data Protection Act 1998 is the law that protects personal privacy and upholds individual's rights. It applies to anyone who handles or has access to people's personal data.

This policy is intended to ensure that personal information is dealt with properly and securely and in accordance with the Data Protection Act. It will apply to information regardless of the way it is used, recorded and stored and whether it is held in paper files or electronically.

## **1. Scope of the Policy**

Personal information is any information that relates to a living individual who can be identified from the information. This includes any expression of opinion about an individual and intentions towards an individual. It also applies to personal data held visually in photographs or video clips or as sound recordings.

The School collects a large amount of personal data every year including: staff records, names and addresses of those requesting prospectuses, examination marks, references, fee collection as well as the many different types of research data used by the School. In addition, it may be required by law to collect and use certain types of information to comply with statutory obligations of Local Authorities (LAs), government agencies and other bodies.

## **2. The Eight Principles**

The Act is based on eight data protection principles, or rules for 'good information handling'.

1. Data must be processed fairly and lawfully.
2. Personal data shall be obtained only for one or more specific and lawful purposes.
3. Personal data shall be adequate, relevant and not excessive in relation to the purpose(s) for which they are processed.
4. Personal data shall be accurate and where necessary kept up to date.
5. Personal data processed for any purpose(s) shall not be kept for longer than is necessary for that purpose.
6. Personal data shall be processed in accordance with the rights of data subjects under the 1998 Data Protection Act.
7. Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
8. Personal data shall not be transferred to a country outside the EEA, unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

### 3. Responsibilities

#### 3.1 The school must:

- Manage and process personal data properly
- Protect the individuals' right to privacy
- Provide an individual with access to all personal data held on them.

3.2 The school has a legal responsibility to comply with the Act. The school, as a corporate body, is named as the Data Controller under the Act.

Data Controllers are people or organisations who hold and use personal information. They decide how and why the information is used and have a responsibility to establish workplace practices and policies that are in line with the Act.

3.3 The school is required to 'notify' the Information Commissioner of the processing of personal data. This information will be included in a public register which is available on the Information Commissioner's website.

3.4 Every member of staff that holds personal information has to comply with the Act when managing that information.

3.5 The school is committed to maintaining the eight principles at all times. This means that the school will:

- inform Data Subjects why they need their personal information, how they will use it and with whom it may be shared. This is known as a Privacy Notice.
- check the quality and accuracy of the information held
- apply the records management policies and procedures to ensure that information is not held longer than is necessary
- ensure that when information is authorised for disposal it is done appropriately
- ensure appropriate security measures are in place to safeguard personal information whether that is held in paper files or on a computer system
- only share personal information with others when it is necessary and legally appropriate to do so
- set out clear procedures for responding to requests for access to personal information known as subject access in the Data Protection Act (**see appendix 1**)
- train all staff so that they are aware of their responsibilities and of the schools relevant policies and procedures

This policy will be updated as necessary to reflect best practice or amendments made to the Data Protection Act 1998.

## **APPENDIX 1**

### **Procedures for requesting information from the school**

Pupils, parents and staff have the right to access information held by the school. The most important rights are contained in the following legislation:

1. The Data Protection Act 1998
2. The Education (Pupil Information) (England) Regulations 2005
3. The Freedom of Information Act 2000

All requests for information should be made in the same way – by writing to the Headteacher. The school will then decide which act the request falls under and respond accordingly.

#### 1) Requests for information under the Data Protection Act:

A request to access personal data must be made in writing to the Headteacher. A non-refundable fee of £10 will be charged in advance; the school will acknowledge receipt of the request as soon as possible after receipt of the payment of the fee and will aim to comply with the request within the statutory period (40 days). Any delay will be explained in writing to the person making the request.

#### 2) Requests for information under the Freedom of Information Act:

A request for information which falls under the Freedom of Information Act must be made in writing to the Headteacher. The school will acknowledge receipt of the request as soon as possible detailing any costs involved and will aim to comply with the request within the statutory period (20 working days). Any delay will be explained in writing to the person making the request.

#### 3) Requests for information under The Education (Pupil Information) (England) Regulations 2005:

The school will make available a copy of the pupil record if requested to do so in within 15 school days. The school may charge a fee not exceeding the cost of supply. This fee will be set by the governing body.

## **Appendix II**

### **Education (Pupil Information) (England) Regulations 2005**

#### **The Regulations**

Under these regulations, the governing body of a school must make a pupil's educational record available for inspection by the parent, free of charge, within 15 school days of the parent's written request for access to that record.

The school must also provide a copy of the record if requested to do so in writing within 15 school days. The school may charge a fee not exceeding the cost of supply. This fee will be set by the governing body.

The meaning of parent is wider than the definition of who has parental responsibility. Parent means a person with parental responsibility or who has care of the child. Therefore, where a child is living with grandparents, the grandparents have a right to see the child's educational record even though they may not have parental responsibility which would allow them, for example, to change the child's name.

The difference between the Data Protection Act and the Pupil Information Regulations is that under the Pupil Information Regulations, parents have a right to access their child's data and the child cannot prevent this. These Regulations only cover information in the official pupil record.

#### **Exemptions**

A school must not communicate anything to the parent which it could not communicate to the pupil himself under the DPA.

Therefore, the school should bear in mind other individuals' rights under the DPA which could be infringed. For example, where a pupil's parents have divorced and the record consists of letters from the pupil's mother, these should be removed from the record before it is shared with/ copied for the father.

#### **School Reports**

Every parent is entitled to receive an annual report in respect of his or her child. Parents also have the right to make arrangements to discuss the content of the report with the child's teacher. This right remains even if a child no longer lives with the parent, providing that parent has parental responsibility.

## **Appendix III**

### **FREEDOM OF INFORMATION ACT 2000**

#### **Introduction**

From 1 January 2005 when the Freedom of Information Act 2000 (FOIA) came fully into force, there is a legal right for any person to ask a school for access to information that it holds. The FOI Act is overseen by the Information Commissioner who also has responsibility for The Data Protection Act 1998, and The Environmental Information Regulations 2004.

The Data Protection Act 1998 (DPA) enables individuals to access information about themselves;

The Environmental Information Regulations 2004 (EIRs) enable people to access environmental information; and

The Freedom of Information Act enables people to access all other information and the reasoning behind decisions and policies, which do not fall under DPA or EIR.

Although FOI presumes openness, it recognises the need to protect sensitive information in certain circumstances and provides for exemptions.

#### **The School's Obligations Under FOIA**

Schools are under a duty to provide advice and assistance to anyone requesting information. The enquirer is entitled to be told whether the school holds the information (the duty to confirm or deny) except where certain exemptions apply. A well managed records and management information system is essential to help schools to meet requests.

There are prescribed time limits for responding to requests for information. Requests should be dealt with within 20 days excluding school holidays. Wilfully concealing, damaging or destroying information in order to avoid answering an enquiry is an offence.

A valid FOI request should be in writing, state the enquirer's name and correspondence address and describe the information requested.

Expressions of dissatisfaction should be handled through the school's existing complaints procedure