



## Data Protection and Freedom of Information Policy

The purpose of this policy is to ensure that data collected by the School is protected in accordance with current legislation and that adults have reasonable access to their own personal data in accordance with legal guidelines.

The term “data subject” refers to the individual about which the personal data is held.

The Headteacher is the designated Data Control Officer, who is responsible for all information matters including compliance.

### Background

The Data Protection Act 1998 (the Act) came into force on 1 March 2000. It regulates the holding and processing of personal data, which is information relating to living individuals, held either on computer, tablet or iPad or in manual form. Personal data can consist of paper files, CCTV images and photographs.

The School as a Data Controller undertakes to:

- Notify the Information Commissioners Office (ICO) as detailed below
- Comply with the eight data protection principles which together form a framework for the proper handling of personal data

### Registering and Notification under the act

The School has made the initial notification to the ICO on behalf of the governing body and Headteacher.

In addition, the School responds to renewal notices sent out annually by the ICO to ensure that it includes any new category of processing undertaken.

### Eight Principles of Data Protection

The eight principles of Data Protection that the School abides by are:

1. Personal data shall be processed fairly and lawfully. Individuals should be informed of who is collecting the data, for what purpose and whether there will be any third party disclosures
2. Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or purposes
3. Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes 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 or purposes shall not be kept for longer than is necessary
6. Personal data shall be processed in accordance with the rights of data subjects under

this Act

7. Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction or damage to personal data
8. Personal data shall not be transferred to a country or territory outside the European Economic Area, 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

## **Data subjects rights**

### **Right to know**

Data subjects have the right to know what data is held about them, who is collecting it, for what purpose it is collected and who will see it. The school undertakes to provide this information when collecting personal data.

### **Right to prevent processing causing damage or distress**

Subject to certain exemptions, data subjects have the right to serve a notice on data controllers requiring them to stop processing personal data in a way which is likely to cause substantial unwarranted damage or distress to that data subject or another.

### **Right to correct inaccurate data**

Data subjects may also apply for a court order to require the data controller to rectify, block, erase or destroy inaccurate data about the data subject. The School therefore ensures that it has procedures in place to respond to any requests to amend inaccurate data.

### **Requests for personal data by Pupil/Parent - What rights exist for access to a pupil's personal information?**

Under the Education (Pupil Information) (England) Regulations 2005, a parent has the right to access their child's Nursery educational record, as their child is not of an age to act on their own behalf. The meaning of parent is wider than the definition of who has parental responsibility. Parent means the biological parent, a person with parental responsibility or someone 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. (Please see 'West Sussex County Council Guidance on Information Law for Schools' for further information regarding Parental Responsibility)

### **Information that can be withheld**

Under the current legal framework the School reserves the right to withhold:

1. Information about another person (including a parent) without consent of that person.
2. Information about the data subject where:
  - Information might cause serious harm to the physical or mental health of the pupil or another individual;
  - The disclosure would reveal a child is at risk of abuse;
  - Information is contained in adoption and parental order records
  - Information is given to a court in proceedings under the Magistrates' Courts (Children and Young Persons) Rules 1992;
  - Information is contained in legal advice which is protected by legal professional privilege.

### **What are the timescales for dealing with requests?**

In compliance with legislation, requests for information from parents, for information that contains, wholly or partly, an educational record will receive a response within 15 school days. However, should a subject access request be made just for personal information outside the

educational record, a response will be made promptly and at most within 40 calendar days. The governors may choose to charge a fee for this service.

### **Requests from police/fraud office**

In accordance with Section 29(3) of the Act the School will disclose personal data to the police where it is necessary for the prevention or detection of crime, the apprehension or prosecution of offenders or the assessment or collection of any tax or duty or similar. However, the police will need to show that if the School does not disclose the information, the above purposes would be prejudiced. They will be asked to make the request in writing on headed paper and the School will check that the individual making the request is indeed from the police/ fraud office. The sort of information the police usually require is the current address of a child's parents.

### **Court orders for disclosure**

The School will refer such requests, which may come from the police, the Crown Prosecution Service or the defence team in a court case, to the Legal Services Unit at West Sussex County Council.

### **Disclosures to Educational Agencies and others**

As a general rule the School will not disclose personal data to third parties unless it has the consent of the data subject. For instance, the school would normally pass on the telephone number of the person seeking information to the parent rather than vice versa.

### **Disclosures concerning Young Parents**

The School are aware of the Gillick and Fraser guidelines (<http://www.nspcc.org.uk/preventing-abuse/child-protection-system/legal-definition-child-rights-law/gillick-competency-fraser-guidelines/>) when working with young parents. We would refer and take guidance from this should we need to assess a young person's competency to make decisions.

### **Best Practice on disclosures**

The School undertakes to:

- Take care to make no wider disclosures than necessary, and to avoid inadvertently giving out information relating to others
- Take care when processing sensitive data on race, political opinion, religious belief, TU membership, physical or mental health, sexual life, commission of offences, criminal proceedings and sentences
- Keep a record of disclosures

### **Security of data:**

The school undertakes to keep data safe by ensuring that:

- Personal data is not left where it can be accessed by unauthorised persons
- Procedures relating to access to the building and IT security are adhered to
- Personal data which is no longer required is destroyed appropriately, for example, by shredding or, in the case of computer records, secure deletion
- Personal information is securely deleted using appropriate software tools when computers are disposed of in accordance with the Council's policy for IT Asset Management, and that personal data is destroyed in accordance with the Council's retention schedule
- Staff working from home are also compliant with this policy

### **Penalties for non compliance with the Data Protection Act**

The School understands that there are various criminal offences created by the Act, which can be committed by the School itself or by a member of staff, including:

Failure to register/notify

Procuring and selling offences

## **Complaints**

Complaints relating to Data Protection and Freedom of Information will be dealt with in accordance with the School's Complaints Policy.

For further information, please contact the Legal Services on 01243 777901.

This policy is based on West Sussex County Council Guidance on Information Law for Schools and should also be read in conjunction with Chichester Nursery School's Acceptable Use Policy

**Dated: Spring 2017**

**To be reviewed: Spring 2018**