

Data Protection Policy

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This policy sets out the requirements and management of **Data Protection for the School**.

Notes:

The school's **Freedom of Information Scheme** is contained in a separate policy document.

Data and computer security policies and procedures are contained in the **School e-Safety Policy**

1. POLICY STATEMENT

- a. The School recognises and accepts its responsibility as set out in the Data Protection Act 1998 and sub-legislation. The School, as a Data Controller, will take all reasonable steps to meet this responsibility and to promote good practice in the handling and use of personal information. In particular the School will comply with the Data Protection Principles (see below) set out in the 1998 Act.
- b. This policy statement applies to all School governors and staff, and individuals about whom the School processes personal information, as well as other partners and companies with which the School undertakes its business.

2. THE LAW

- i. The Data Protection Act 1998
- ii. The Education (Pupil Information) (England) Regulations 2005

3. SCOPE

- a. The School needs to collect and use certain types of personal information about people with whom it deals in order to operate. These include current, past and prospective staff, pupils, parents and carers, suppliers and others with whom it communicates. In addition, it may be required by law to collect and use certain types of information to comply with the requirements of government departments.
- b. Personal Data must be dealt with properly and in accordance with the Data Protection Act, in particular the eight Data Protection Principles (see below). This applies however it is collected, recorded and used - whether on paper, in a computer, or recorded on other material.
- c. Detailed information and FAQs concerning Data Protection are available on the Information Commissioner's (ICO) website at:
http://www.ico.gov.uk/for_organisations/data_protection.aspx

4. MAIN PROVISIONS OF THE DATA PROTECTION ACT

- a. Data controllers, (the school is a data controller) must supply certain information to the ICO who maintains a public register of the types of information organisations process, where it gets it from and what it does with it.
- b. The school must observe the eight Data Protection Principles (see below).
- c. The school must allow the data subject to exercise his/her rights and have right of access to their personal information, what is held, how it is processed, to whom it is disclosed and to be told of the logic behind automated decisions. Such access requests must be complied within 40 days of receiving both all the information to process the request and the fee (but see below under The Parents' Right Of Access To Their Child's Educational Record, Timescales). The maximum chargeable fee is £10.

5. DEFINITIONS

- a. **Data Controller:** Any individual or organisation who controls personal data, in this instance the School.
- b. **Personal Data:** Information held on a relevant filing system, accessible record or computerized record (as well as digital audio or video equipment), which identifies living individuals.
- c. **Sensitive Personal Data:** Personal data relating to an individual's race or ethnic origin, political opinions, religious beliefs, physical/mental health, trade union membership, sexual life and criminal activities.
- d. **Relevant Filing System:** Also known as manual records i.e. a set of records which are organised by reference to the individual/their criteria and are structured in such a way as to make specific information readily accessible e.g. personnel records, microfiches.
- e. **Data Subject:** An individual who is the subject of the personal data, for example, employees, pupils, claimants etc.
- f. **Processing:** Obtaining, recording or holding data or carrying out any operation on the data including organising, adapting, altering, retrieving,

consulting, using, disclosing, disseminating, aligning, blocking, erasing or destroying the data.

- g. **Accessible Records:** Any records which are kept by the Organisation as part of a statutory duty, e.g. pupil records, social services records.

6. DATA PROTECTION PRINCIPLES

- a. Under the Act there are eight data protection principles which require that:
1. Personal Data shall be processed fairly and lawfully and, in particular, shall not be processed unless specific conditions as set out in the 1998 Act are met.
 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 those 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 shall not be kept for longer than is necessary for that purpose or those purposes.
 6. Personal Data shall be processed in accordance with the rights of the data subject under the 1998 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 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.

7. MANAGEMENT

- a. The Headteacher is ultimately responsible for data protection and compliance with the Data Protection Act within the school and will ensure that:
- i. All staff involved in collecting and/or processing data are fully conversant with the provisions of this policy.
 - ii. Staff training is provided, as required, for:
 1. Compliance with this policy and in particular with the eight Data Protection Principles (see above)
 2. Data security in accordance with the School's e-Safety Policy.
- b. The Administration Officer is responsible to the Headteacher for ensuring that:
- i. The school's Data Protection registration with the ICO is accurate and up to date.
 - ii. Information required by the ICO is supplied accurately and on time.

- iii. Data access requests from data subjects are processed correctly and complied with on time (see also below). If in any doubt about the legality or illegality (see below) of the potential disclosure, the Headteacher will be consulted.
 - iv. Correct procedures are followed for parents' rights of access to their child's educational record (see below).
 - v. The Data Access log book is correctly maintained and up to date.
- c. All staff who are involved in any way with personnel data are to be familiar with and comply with this policy.

8. PERSONAL LIABILITY OF STAFF

- a. It should be noted that:
- i. Individual members of staff can be personally liable in law under the terms of the Data Protection Act.
 - ii. Individual members of staff may be subject to claims for damages from persons who believe that they have been harmed as a result of inaccuracy, unauthorised use or disclosure of their data.
 - iii. A deliberate breach of this Data Protection Policy will be treated as disciplinary matter, and serious breaches could lead to dismissal.

9. PROCESSING SUBJECT ACCESS REQUESTS (but see below for parents right of access to their child's educational record)

- a. Requests for access must be made in writing to the Administration Officer using the Data Subject Access form at the end of this policy and also available from the School Administration Office.
- b. Provided that there is sufficient information to process the request, an entry will be made in the Subject Access log book, showing the date of receipt, the data subject's name, the name and address of requester (if different), the type of data required (e.g. Student Record, Personnel Record) and the planned date of supplying the information (normally not more than 40 days from the request date (but see below)). Should more information be required to establish either the identity of the data subject (or agent) or the type of data requested, the date of entry in the log will be date on which sufficient information has been provided.

10. THE PARENTS' RIGHT OF ACCESS TO THEIR CHILD'S EDUCATIONAL RECORD

- a. The Education (Pupil Information) (England) Regulations 2005 give a parent their own independent right to a copy of their child's educational record.
- b. The Regulations provide a legal definition of an 'educational record', (mirrored in Schedule 11 of the Data Protection Act with the addition of any statement of special educational needs and any personal educational plan). The definition is wide and includes, regardless of its form, any information about current and past pupils that is processed by or for school's governing body or teacher. It includes a 'curricular record', defined as a formal record of a pupil's academic achievements, other skills and abilities and progress in school. The educational record is confined to information that comes from a teacher or other employee of a local authority or school, the pupil or their parents. Communications about a particular child from head teachers and teachers at a school and

other employees at an education authority will therefore form part of that child's official educational record, as will correspondence from an educational psychologist engaged by the governing body under a contract of services. It may also include information from the child and their parents, such as information about the health of the child. Information kept by a teacher solely for their own use does not form part of the official educational record.

c. A parent should make the request in writing to the Governing Body via the School Administration Office, using the Data Subject Access Form at the end of this policy and also available from the School Administration Office. The request will be passed to the Headteacher who has been given delegated authority by the Full Governing Body at its meeting of 31 March 2011 to approve or deny such requests.

d. **Withholding Information.** There are situations when information may be withheld:

i. When it is covered by an exemption in the Act. The main exemptions are:

1. Information which might cause serious harm to the physical or mental health of the pupil or another individual.

2. Cases where the disclosure would reveal a child is at risk of abuse.

3. Information contained in adoption and parental order records.

4. Information given to a court in proceedings under the Magistrates' Courts (Children and Young persons) Rules 1992.

5. Copies of examination scripts.

6. Providing examination marks before they are officially announced.

ii. If the information relates to exam marks and scripts, please see ICO guidance on 'Individuals' rights of access to examination records' which can be found at:

http://www.ico.gov.uk/~media/documents/library/Data_Protection/Practical_application/DATA_PROTECTION_GOOD_PRACTICE_NOTE_ACCESS_TO_EXAM_RESULTS.pdf

iii. Information may also be withheld when the cost of supplying information held in an unstructured way would exceed the set limits. This needs to be distinguished from personal information held in highly or partly structured files, such as a teacher's own records with sections for different classes and pupils, to which the normal rules of subject access apply. Where the request is for unstructured personal information, the school is entitled to ask for a description of the information to help find it. They do not have to supply the information, or confirm whether or not it exists, if it would cost more than £450 to do either of these things. This cost structure is in The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.

e. **Timescales.** Requests for information from pupils, or parents, for information that contains, wholly or partly, an educational record must receive **a response within 15 school days of receipt of completed documentation and any payment.** Unless a parent simply asks to see the official educational record under the Regulations, schools and authorities are entitled to receive any fee first (see below). Most requests for

information are likely to ask for at least some information in the educational record. However, should a subject access request be made just for personal information outside the educational record, a response must be made promptly and at most within 40 calendar days (see above under Main Provisions of the Data Protection Act).

f. Charges.

- i. If a parent makes a subject access request for personal information containing, in whole or part, the 'educational record', the amount that can be charged depends on the number of pages provided. The fees work on a scale basis as shown below:

No. of Pages	Max Fee	No. of Pages	Max Fee	No. of Pages	Max Fee	No. of Pages	Max Fee
1-19	£1	60-69	£6	150-199	£15	400-449	£40
20-29	£2	70-79	£7	200-249	£20	450-499	£45
30-39	£3	80-89	£8	250-299	£25	500+	£50
40-49	£4	90-99	£9	300-349	£30		
50-59	£5	100-149	£10	350-399	£35		

- ii. If a parent makes a subject access request which does not include any information from the educational record, the maximum fee which can be charged is £10.
- iii. If a parent exercises their independent right under the Regulations simply to view the educational record, then this should be free of charge. If a copy of the educational records is supplied under the Regulations, a fee can be charged by the Board of Governors. This fee must not exceed the cost of supplying the information.
- iv. Full details are provided in a Technical Guidance Note at the Information Commissioner's Office at:

http://www.ico.gov.uk/~media/documents/library/Data_Protection/Detailed_specialist_guides/TECHNICAL_GUIDANCE_NOTE_ACCESS_TO_PUPILS_INFORMATION_HELD_BY_SCHOOLS_IN_ENGLAND.ashx

II. AUTHORISED DISCLOSURES

- a. The School will, in general, only disclose data about individuals with their consent. However there are circumstances under which the School may need to disclose data without explicit consent for that occasion.
- b. These circumstances are strictly limited to:
 - i. Pupil data disclosed to authorised recipients related to education and administration necessary for the school to perform its statutory duties and obligations.
 - ii. Pupil data disclosed to authorised recipients in respect of their child's health, safety and welfare.
 - iii. Pupil data disclosed to parents/carers in respect of their child's progress, achievements, attendance, attitude or general demeanour within or in the vicinity of the school.
 - iv. Staff data disclosed to relevant authorities e.g. in respect of payroll and administrative matters.
 - v. Unavoidable disclosures, for example to an engineer during maintenance of the computer system. In such circumstances the engineer would be required to sign a form promising not to disclose the data outside the school. Officers and IT

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personnel writing on behalf of the LEA are IT liaison/data processing officers, for example in the LEA, are contractually bound not to disclose personal data.

- vi. Only authorised and trained staff are allowed to make external disclosures of personal data. Data used within the school by staff and welfare officers will only be made available where the person requesting the information is a professional legitimately working within the school who **needs to know** the information in order to do their work. The school will not disclose anything on pupils' records which would be likely to cause serious harm to their physical or mental health or that of anyone else – including anything which suggests that they are, or have been, either the subject of or at risk of child abuse.

- c. A **"legal disclosure"** is the release of personal information from the computer to someone who requires the information to do his or her job within or for the school, provided that the purpose of that information has been registered.

- d. An **"illegal disclosure"** is the release of information to someone who does not need it, or has no right to it, or one which falls outside the School's registered purposes.

SUBJECT ACCESS REQUEST FORM

(Guidance notes are provided on the following page)

1. Personal details

Surname:	Former surname (if applicable for finding data):
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Mr / Mrs / Ms / Miss:	First name(s):
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Present address:	Postcode:
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Phone number:	Mobile number:
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E-mail address:

If you have lived at the above address for less than two years (see guidance notes)

Previous address:	Postcode:
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2. Details of the information you require

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3. Proof of Identification (if applicant is not known to the school)

Documents/identification supplied (See note in guidance section):

Please note that the above information will be recorded for administrative purposes and may be used for statistical analysis

4. Payment

Please enclose a cheque for £10 made payable to **CHARLES DICKENS SCHOOL**. The completed application form, fee and supporting proof of identity should be taken or sent to:
The Administration Officer, Charles Dickens Primary School, Toulmin St, Southwark, London, SE1 1AF

Signature (of applicant) Date

<p>For office use only: Fee: £Cheque/cash. Date request accepted</p> <p>Date reply required by (within 40 days of request acceptance or 15 School days for parent/carer's own child school record). Date reply sent</p>
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Guidance notes

1. **Personal details:** Please complete your personal details as requested. Please tell us if you have been previously known by any other name and if you have lived at your present address for less than two years, your previous address. If you are requesting historical information then provide as many details as possible; for example, previous addresses with dates. Use a separate sheet of paper if required. Depending on data required we may need additional information such as national insurance number and date of birth.
2. **Details of the information you require:** You should give as much assistance as you can about particular areas to search so that we can give you what you require without further correspondence. You should also give any relevant reference numbers that might be used for you. These details are required to assist location of your information so you can be given a copy of everything held about you, as required by the Act.
3. **Proof of identification:** If you are not known personally to us, proof of name and address is required to ensure we only give information to the correct person. We require two original pieces of documentation, for example, a recent utility bill, bank statement (photocopies are not acceptable) showing your name *and* address. In some cases additional details such as a passport or photo ID driving licence may be required due to the sensitive nature of information held. Release of financial, social care or education records will normally require this additional information.
4. **Keep your documents secure:** Always send important documents by recorded / special / registered delivery as appropriate. The School cannot be held liable for items lost in the post.
5. **Payment:** Normally a search fee of £10.00 is required for each separate request. The fee is not refundable if the result of the search shows that there is no information to be supplied.
6. Please make cheques payable to **CHARLES DICKENS PRIMARY SCHOOL**

If you have any questions relating to identification requirements or any other aspect of a subject access request, you can email us at office@charlesdickens.southwark.sch.uk

Date: November 2013