



KENILWORTH SCHOOL & SIXTH FORM

DATA PROTECTION POLICY

JANUARY 2017

POLICY DETAILS

Date of policy: January 2017
Date of next review: January 2019

Member of staff responsible for overseeing that this policy is implemented and regularly reviewed:

Richard Garratt (Assistant Head)

Kenilworth School and Sixth Form Data Protection Policy

Kenilworth School and Sixth Form collects and uses personal information about staff, pupils, parents and other individuals who come into contact with the school. This information is gathered in order to enable it to provide education and other associated functions. In addition, there may be a legal requirement to collect and use information to ensure that the school complies with its statutory obligations.

Schools have a duty to be registered, as Data Controllers, with the [Information Commissioner's Office](https://ico.org.uk/) (<https://ico.org.uk/>) (ICO) detailing the information held and its use. These details are then available on the ICO's website. Schools also have a duty to issue a Privacy Notice to all pupils/parents, this summarises the information held on pupils, why it is held and the other parties to whom it may be passed on. The privacy notice (See Appendix 1)

Purpose

This policy is intended to ensure that personal information is dealt with correctly and securely and in accordance with the Data Protection Act 1998, and other related legislation. It will apply to information regardless of the way it is collected, used, recorded, stored and destroyed, and irrespective of whether it is held in paper files or electronically.

All staff involved with the collection, processing and disclosure of personal data will be aware of their duties and responsibilities by adhering to these guidelines.

What is Personal Information?

Personal information or data is defined as data which relates to a living individual who can be identified from that data, or other information held.

Data Protection Principles

The Data Protection Act 1998 establishes eight enforceable principles that must be adhered to at all times:

1. Personal data shall be processed fairly and lawfully;
2. Personal data shall be obtained only for one or more specified and lawful purposes;
3. Personal data shall be adequate, relevant and not excessive;
4. Personal data shall be accurate and where necessary, kept up to date;
5. Personal data processed for any purpose 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 data subjects under the Data Protection Act 1998;
7. Personal data shall be kept secure i.e. protected by an appropriate degree of security whether it is held internally or cloud based (1)
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 data protection.

(1) **Cloud** computing, the word **cloud** (also phrased as "the **cloud**") is used as a metaphor for "the Internet," so the phrase **cloud** based means "a type of Internet-based data storage.,"

General Statement

The school is committed to maintaining the above principles at all times. Therefore the school will:

- Inform individuals why the information is being collected when it is collected
- Inform individuals when their information is shared, and why and with whom it is shared
- Check the quality and the accuracy of the information it holds
- Ensure that information is not retained for longer than is necessary
- Ensure that when obsolete information is destroyed that it is done so appropriately and securely
- Ensure that clear and robust safeguards are in place to protect personal information from loss, theft and unauthorised disclosure, irrespective of the format in which it is recorded
- Share information with others only when it is legally appropriate to do so
- Set out procedures to ensure compliance with the duty to respond to requests for access to personal information, known as Subject Access Requests (See Appendix 2)
- Ensure our staff are aware of and understand our policies and procedures

Complaints

Complaints will be dealt with in accordance with the school's complaints policy. Complaints relating to information handling may be referred to the Information Commissioner (the statutory regulator).

See Complaints Policy – <http://www.ksn.org.uk/School-Policies>

Review

This policy will be reviewed as it is deemed appropriate, but no less frequently than every 2 years. The policy review will be undertaken by the Headteacher, or nominated representative.

Contacts

If you have any enquires in relation to this policy, please contact the Headteacher who will also act as the contact point for any subject access requests.

Further advice and information is available from the Information Commissioner's Office, <https://ico.org.uk> or telephone 01625 545745 3

Appendix 1

How the Local Authority uses data

Privacy Notices: Children and young people: information held by local authorities

The **Local Authority (LA)** uses information about children and families for whom it provides services, to enable it to carry out specific functions for which it is responsible, for example the assessment of any special educational needs a child may have. It also uses the information to derive statistics to inform decisions on, for example, the funding of schools and to assess the performance of schools.

The Local Authority will use information about its school workforce for research and statistical purposes, and to evaluate and develop education policy and strategies. The statistics are used in such a way that individual staff cannot be identified from them. The LA may also use it to support and monitor schools regarding sickness and recruitment of staff.

Legislative provision governing data sharing by a local authority:

1. Section 68 of the Education and Skills Act 2008 (Support Services: Provision by local education authorities), states that:

(1) A local education authority in England must make available to young persons and relevant young adults for whom it is responsible such services as it considers appropriate to encourage, enable or assist the effective participation of those persons in education or training.

(2) Subsection (1) is subject to any direction given by the Secretary of State under section 69.

(3) For the purposes of this section and section 69, a local education authority makes services available if it:

- (a) provides them, or
- (b) makes arrangements with another local education authority or another person for their provision.

2. Section 77 of the Education and Skills Act 2008 (Supply of information by public bodies), states that:

(1) Any of the persons or bodies mentioned in subsection (2) may supply information about a young person or relevant young adult to any person or body involved in the provision of services in pursuance of section 68 or 70(1)(b) for the purpose of the provision of those services.

(2) Those persons and bodies are:

- (a) a local authority
- (b) the Secretary of State (includes the Education Funding Agency),
- (c) Central Government Departments,
- (d) a Health Authority,
- (e) the Police,
- (f) a provider of probation services
- (g) a local probation board, and

(h) a youth offending service

Information, Advice and Guidance (IAG) Services - For pupils aged 13 years and over, schools are legally required to pass on certain information to the LA commissioned provider of IAG services in their area. The school must provide the name and address of the pupil and their parents and any further information relevant to the support services' role. In addition, the date of birth of the pupil is supplied.

Until pupils are aged 16 or older, their parent(s) can ask that no information beyond their children's name, address and date of birth (and their own name and address) be passed to the Information, Advice and Guidance services. This right transfers to the pupil on their 16th birthday. Pupils and/or parents will need to inform the school if this is what they wish.

Post 16 providers of further education

The LA holds information about young people living in their area, including data about their education and training history. This is to support the provision of education up to the age of 20 (and beyond this age for those with a special education need or disability).

The LA shares some of the information collected with the Department for Education (DfE) to enable them to; produce statistics, assess the LA's performance, determine the destinations of young people after they have left school or college and to evaluate Government funded programmes.

The LA also shares student information with post 16 education and training providers (after the young person has enrolled at the post 16 provider) to secure appropriate support for these students, including the most vulnerable. In order to achieve and support this, the LA will share some student level details captured when they attended a state-funded school within the LA's boundaries. This data may include the students pupil premium status, free school meal eligibility, special educational need status and whether the student was ever a looked after child. All post 16 providers must obtain the consent of students on their roll prior to the LA sharing this data with them.

The two relevant legislative provisions for sharing this data are sections 68 and 77 of the Education and Skills Act 2008. Section 77 allows a local authority to supply information about young people to an organisation that is providing services under section 68.

The Department for Education (DfE) considers that by putting in place a written agreement on how they will work with the providers, local authorities will be entering into arrangements with those providers for the provision of section 68 services. This allows the local authority to provide details of eligible young people to the providers in their area. It will also allow the local authority to confirm the status of young people who have been identified independently by the provider.

In keeping with normal practice, both providers and local authorities will ensure that the use of young peoples' data is consistent with their Data Controller and data sharing registrations and privacy notices prior to sharing data.

In addition, local authorities and providers must comply with the Data Protection Act, applying the normal data protection principles that relate to processing personal data.

The National Troubled Families agenda

Troubled families are those that have problems and cause problems to the community around them, putting high costs on the public sector:

<https://www.gov.uk/government/policies/support-for-families>

In Warwickshire, this is known as The Priority Families Agenda. In order to ensure successful outcomes, as part of this programme of work Warwickshire Local Authority shares individual child and family data (including names, contact details, ethnicity, dates of birth, gender, school attendance, exclusion, assessment data and crime/antisocial data), with a number of agencies. The exchange of information takes place to comply with the statutory duty of local authorities and other agencies and organisations, to work together and target services to families and the individuals within them, where there are specific needs. This originates from two Government initiatives, the DCLG Troubled Families Programme and the DWP/ESF Programme relating to Families with Multiple Problems.

All of the agencies involved in the exchange of priority family information are data controllers in their own right and will be bound by all of the principles and guidelines of the statutory Data Protection Act. There is also an Information Sharing Agreement signed by all the agencies that share this information listing the purpose, principles and statutory functions for sharing this data.

Ofsted uses information about the progress and performance of children to help inspectors evaluate the work of schools, to assist schools in their self-evaluation, and as part of Ofsted's assessment of the effectiveness of education initiatives and policy. Ofsted also uses information about the views of children and young people, to inform children's services inspections in local authority areas. Inspection reports do not identify individual children. www.ofsted.gov.uk

The **Skills Funding Agency** uses information about children aged 14 and over (or enrolling for post-14 qualifications) for statistical purposes in order to evaluate and develop education policy and monitor the performance of the education service as a whole. Further information on how this data is used may be found Skills Funding Agency website: <https://www.gov.uk/government/organisations/skills-funding-agency>

The Chief Executive of Skills Funding also administers the Learning Records Service (previously known as the Managing Information Across Partners Programme) which uses a minimum set of personal data to:

- issue and maintain a Unique Learner Number (ULN) for children of 14 years and over and for those registering for post-14 qualifications
- create and offer a Personal Learning Record (PLR)
- enable advice and guidance to be offered to the learner (for example, helping to choose the right course)
- facilitate the processing of qualification awards by approved awarding organisations.

Approved organisations (including other schools) will be allowed to access the limited set of personal data.

More information on the Personal Learning Record, Unique Learner Number, Learner Plan and Qualification Credit Framework is available on the Learning Records Service website: <https://www.gov.uk/government/collections/learning-records-service>

This sharing of data reduces the need for learners having to supply the same information repeatedly to different organisations and significantly reduces the risk of inaccurate information being held about them. Details of how an individual may opt-out of sharing achievement data in their Personal Learning Record with these organisations are also available from the Learning Records Service.

The **Department of Health (DoH)** uses anonymised information about children's 'height and weight' collected in primary and secondary schools as part of the National Child Measurement Programme to inform, influence and improve health policy. The

Department of Health also provides aggregated level data to the Care Quality Commission for performance assessment of the health service:

<https://www.gov.uk/government/organisations/department-of-health>

The **Department for Education (DfE)** uses information about children for research and statistical purposes in order to inform, influence and improve education policy and to monitor the performance of the education service as a whole. Child level information may be matched with other data sources that the DfE holds in order to model and monitor their educational progression and to provide comprehensive information back to local authorities (LAs) and learning institutions to support their day-to-day business. DfE may also use contact details from these sources to obtain samples for statistical surveys which may be carried out by research agencies working under contract to DfE. Participation in such surveys is usually voluntary. DfE may also match data from these sources to data obtained from statistical surveys.

Child level data may also be shared with other Government departments and agencies (including the Office for National Statistics) for statistical or research purposes only. In all these cases, the matching will require that individualised data is used in the processing operation but that data will not be processed in such a way that it supports measures or decisions relating to particular individuals or identifies individuals in any results. This data sharing will be approved and controlled by the Department's Chief Statistician.

DfE may also disclose individual child information to independent researchers into the educational achievements of children who have a legitimate need for it for their research, but each case will be determined on its merits and subject to the approval of the Department's Chief Statistician. DfE's powers to pass data to researchers are derived from The Education (Individual Child Information) (Prescribed Persons) (England) Regulations.

These regulations restrict the researchers who may receive data to 'persons conducting research into the educational achievements of Children and who require individual Child information for that purpose'.

DfE is the Data Controller for the purposes of the Data Protection Act. Further information is available about the third party organisations to which DfE also passes child level information as the law allows.

DfE may share individual level personal data that we supply to them, with third parties. This will only take place where legislation allows it to do so and it is in compliance with the Data Protection Act 1998.

Decisions on whether DfE releases this personal data to third parties are subject to a robust approval process and are based on a detailed assessment of who is requesting the data, the purpose for which it is required, the level and sensitivity of data requested and the arrangements in place to store and handle the data. To be granted access to pupil level data, requestors must comply with strict terms and conditions covering the confidentiality and handling of data, security arrangements and retention and use of the data.

For more information on how this sharing process works, please visit:

<https://www.gov.uk/guidance/national-pupil-database-apply-for-a-data-extract>

For information on which third party organisations (and for which project) pupil level data has been provided to, please visit:

<https://www.gov.uk/government/publications/national-pupil-database-requests-received>

Children, as data subjects, have certain rights under the Data Protection Act, including a general right of access to personal data held on them. Their parents exercise this right on their behalf if they are too young (under 12) to do so themselves. If you wish to access the personal data which DfE holds about your child, then please contact the Department:

- Public Communications Unit
Department for Education
Sanctuary Buildings
Great Smith Street
London
SW1P 3BT
Website: <https://www.gov.uk/data-protection-how-we-collect-and-share-research-data>
email: <http://www.education.gov.uk/help/contactus>
Telephone: 0370 000 2288

Appendix 2

Kenilworth School and Sixth Form

Procedures for responding to subject access requests made under the Data Protection Act 1998

Rights of access to information

There are two distinct rights of access to information held by schools about pupils.

1. Under the Data Protection Act 1998 any individual has the right to make a request to access the personal information held about them.
2. The right of those entitled to have access to curricular and educational records as defined within the Education Pupil Information (Wales) Regulations 2004.

These procedures relate to subject access requests made under the Data Protection Act 1998.

Actioning a subject access request

1. Requests for information must be made in writing; which includes email, and be addressed to the Headteacher. If the initial request does not clearly identify the information required, then further enquiries will be made.
2. The identity of the requestor must be established before the disclosure of any information (regarding pupils or staff), and checks should also be carried out regarding proof of relationship in the event of requesting information about the child. Evidence of identity can be established by requesting production of:

- passport
- driving licence
- utility bills with the current address
- Birth / Marriage certificate
- P45/P60
- Credit Card or Mortgage statement

This list is not exhaustive.

3. Any individual has the right of access to information held about them. However with children, this is dependent upon their capacity to understand (normally age 12 or above) and the nature of the request. The Headteacher should discuss the request with the child and take their views into account when making a decision. A child with competency to understand can refuse to consent to the request for their records. Where the child is not deemed to be competent an individual with parental responsibility or guardian shall make the decision on behalf of the child.

4. The school may make a charge for the provision of information, dependant upon the following:

- Should the information requested contain the educational record then the amount charged will be dependant upon the number of pages provided.
- Should the information requested be personal information that does not include any information contained within educational records schools can charge up to £10 to provide it.

- If the information requested is only the educational record viewing will be free, but a charge not exceeding the cost of copying the information can be made by the school.

5. The response time for subject access requests, once officially received, is 40 days **(not working or school days but calendar days, irrespective of school holiday periods)**. However the 40 days will not commence until after receipt of fees or clarification of information sought.

6. The Data Protection Act 1998 allows exemptions as to the provision of some information; **therefore all information will be reviewed prior to disclosure.**

7. Third party information is that which has been provided by another, such as the Police, Local Authority, Health Care professional or another school. Before disclosing third party information consent should normally be obtained. There is still a need to adhere to the 40 day statutory timescale.

8. Any information which may cause serious harm to the physical or mental health or emotional condition of the pupil or another should not be disclosed, nor should information that would reveal that the child is at risk of abuse, or information relating to court proceedings.

9. If there are concerns over the disclosure of information then additional advice should be sought.

10. Where redaction (information blacked out/removed) has taken place then a full copy of the information provided should be retained in order to establish, if a complaint is made, what was redacted and why.

11. Information disclosed should be clear, and any codes or technical terms will need to be clarified and explained. If information contained within the disclosure is difficult to read or illegible, then it should be retyped.

12. Information can be provided at the school with a member of staff on hand to help and explain matters if requested, or provided at face to face handover. The views of the applicant should be taken into account when considering the method of delivery. If postal systems have to be used then registered/recorded mail must be used.

Complaints

Complaints about the above procedures should be made in accordance with the school's complaint procedure.

Complaints which are not appropriate to be dealt with through the school's complaint procedure can be dealt with by the Information Commissioner. Contact details of both will be provided with the disclosure information.

See Complaints Policy – [School website](http://www.ksn.org.uk/School-Policies) (<http://www.ksn.org.uk/School-Policies>)