

The Wren School

Data Protection Policy

Purpose and Background

The Data Protection Act requires The Wren School to comply with the “Data Protection Principles” when keeping and/or handling “personal data”, i.e. information relating to a living person who can be identified from the data and which is to be used in some way to carry out the school’s functions or to make decisions about the person concerned.

The Wren School needs to collect personal information about a range of people with whom it deals in order to carry out its functions and provide services. Such people include, parents, students, staff, suppliers and other business contacts. In addition, we are required to collect and use certain types of personal information to comply with the requirements of various laws. No matter how it is collected, recorded and used, eg on computer or on paper, this personal information must be dealt with properly to ensure compliance with the Data Protection Act 1998.

Policy objectives

The Wren School fully supports and will comply with the provisions of the Act and, in particular, the eight principles which are summarised below:

- 1 Data shall be processed fairly and lawfully.
- 2 Data shall be obtained/processed for specific lawful purposes.
- 3 Data held must be adequate, relevant and not excessive.
- 4 Data must be accurate and kept up to date.
- 5 Data shall not be kept for longer than necessary.
- 6 Data shall be processed in accordance with rights of data subjects.
- 7 Data must be kept secure.
- 8 Data shall not be transferred outside the European Economic Area unless there is adequate protection.

This policy takes account of all relevant legislation.

Management of the policy

School	This policy is implemented and managed by the School Business Manager
Governing body	The Full Governing Body will review and update this policy every two years and in line with all relevant legislation.
Approval	Approved by Full Governing Body – September 2017
Next review due	September 2019

Associated policies

Complaints Policy

Financial Management Policy

Freedom of Information policy

Practice and procedures

Introduction

This policy is taken from the School Employment Manual

- 1 **Application:** This policy is aimed at all School staff including temporary staff, agency workers and volunteers. It also applies to Governors and contractors. It explains the School's general approach to data protection, and provides practical guidance which will help to ensure that the School complies with the Data Protection Act 1998 (**Act**).
- 2 **Compliance:** Compliance with this policy will help the School to meet its obligations under the Act but it does not commit the School to a higher standard than is required by the Act and in some circumstances, e.g. situations involving safeguarding concerns, strict compliance with the Act will be subsidiary to other considerations.
- 3 **Responsibility:** As the Data Controller, the School is responsible for complying with the Act. The Governing Body has delegated day-to-day responsibility for compliance with the Act to the SBM. All staff are responsible for complying with this policy.
- 4 Information security is the most important aspect of data protection compliance. Most of the fines under the Act relate to security breaches such as leaving an unencrypted memory stick in a public place, sending sensitive documents to the wrong fax recipient, disposing of confidential documents without shredding them first or accidentally uploading confidential information to the web. Further information can be found below under paragraph 25.

Terminology

- 5 **Terminology:** In this policy, the School has used the terms Personal Data, Sensitive Personal Data, Data Controller and processing in the same way as they are used in the Act.
- 6 **Personal Data:** This policy covers the School's acquisition and use of the Personal Data it holds, and in particular records about students, parents, guardians, carers, staff and suppliers. Personal Data is:
 - 6.1 personal information that has been, or will be, word processed or stored electronically (e.g. computer databases and CCTV recordings);

- 6.2 personal information that is, or will be, kept in a file which relates to an individual or in a filing system that is organised by reference to criteria which relate to the individuals concerned (e.g. name, school year, school activities); and
- 6.3 some health records prepared by a doctor, nurse or other health professional (even if not held on computer or held as part of an organised file).
- 7 Personal information is any information about someone who can be identified (e.g. their address, school activities, attendance record, exam results). It makes no difference whether they can be identified directly from the record itself or indirectly using other information.
- 8 The Data Subject is the person the information relates to. There may be more than one Data Subject, such as when a record concerns an incident involving two students.
- 9 **Sensitive Personal Data:** The School has special obligations in connection with the use of Sensitive Personal Data, namely information about an individual's race, ethnic origin, political or religious beliefs, trade union membership, health, sex life and actual or alleged criminal activity.

Acquiring and using Personal Data

- 10 **Specific legitimate purposes:** The School shall only process Personal Data for specific and legitimate purposes. These are:
 - 10.1 ensuring that the School provides a safe and secure environment;
 - 10.2 providing pastoral care;
 - 10.3 providing education and learning for children;
 - 10.4 providing additional activities for children and parents (for example activity clubs);
 - 10.5 protecting and promoting the School's interests and objectives - this includes fundraising;
 - 10.6 safeguarding and promoting the welfare of children;
 - 10.7 for personnel, administrative and management purposes. For example, to pay staff and to monitor their performance;
 - 10.8 to fulfil the School's contractual and other legal obligations.
- 11 School Staff must not process Personal Data for any other purpose without the SBM's permission.
- 12 **No incompatible purpose:** Staff should seek advice from the SBM before using Personal Data for a purpose which is different from that for which it was originally acquired. If information has been obtained in confidence for one purpose, it shall not be used for any other purpose without the SBM's permission.

- 13 **Necessary, sufficient information:** The School shall not hold unnecessary Personal Data, but shall hold sufficient information for the purpose for which it is required. The School shall record that information accurately and shall take reasonable steps to keep it up-to-date. This includes an individual's contact and medical details.
- 14 **Outside the EEA:** The School shall not transfer Personal Data outside the European Economic Area (EEA) without the Data Subject's permission unless it is satisfied that the Data Subject's rights under the Act will be adequately protected and the transfer has been approved by the SBM. This applies even if the transfer is to a student's parents, guardians or carers living outside the EEA.
- 15 **Fair:** When the School acquires personal information that will be kept as Personal Data, the School shall be fair to the Data Subject and fair to whoever provides the information (if that is someone else).
- 16 **Retaining Personal Data:** The School shall only keep Personal Data for as long as is reasonably necessary and in accordance with the Information and Document Retention policy, but staff should not delete records containing Personal Data without authorisation. Staff should consult with the SBM for guidance about how long to retain different categories of Personal Data.

Informing the individual

- 17 **Privacy notice:** Individuals must be told what data is collected, and what it is used for, unless it is obvious. This is sometimes called a privacy notice or statement (sometimes also called a fair processing notice or statement).
- 18 **Purpose:** The privacy notice must explain what information will be collected, what it will be used for, which third parties (if any) it will be shared with and anything else which might be relevant.
- 19 Staff are not expected to routinely provide students, parents and others with a privacy notice as this should have already been provided. Copies of the School's privacy notices for students and parents can be obtained from the SBM.

Use: Having said this, staff should inform the SBM if they suspect that the School is using Personal Data in a way which might not be covered by an existing privacy notice. This may be the case where, for example, staff are aware that the School is collecting medical information about students without telling their parents what that information will be used for.

Protecting confidentiality

- 20 **Disclosing Personal Data within the School:** Personal Data should only be shared on a need to know basis. Personal Data shall not be disclosed to anyone who does not have the appropriate authority to receive such information, irrespective of their seniority within the School or their relationship to the Data Subject, unless they need to know it for a legitimate purpose. Examples include:

- 20.1 the School Nurse may disclose details of a lunchtime supervisor's allergy to bee stings to colleagues so that they will know how to respond, but more private health matters must be kept confidential;
 - 20.2 personal contact details for a member of staff (e.g. their home address and telephone number, and their private mobile telephone number and email address shall not be disclosed to parents, guardians or carers, students or other members of staff unless the member of staff has given their permission.
- 21 **Disclosing Personal Data outside of the School:** Sharing Personal Data with others is often permissible so long as doing so is fair and lawful under the Act. However, staff should always speak to the SBM if in doubt, or if staff are being asked to share Personal Data in a new way.
- 22 Before sharing Personal Data outside of the School, staff should:
- 22.1 make sure that they are allowed to share it;
 - 22.2 ensure adequate security (please see paragraph 27 below). What is adequate will depend on the nature of the data. For example, if the School is sending a child protection report to social services on a memory stick then the memory stick must be encrypted; and
 - 22.3 make sure that the sharing is covered in the privacy notice.
- 23 The School should be careful when using photographs, videos or other media as this is caught by the Act as well
- 24 **Information security and protecting Personal Data:** Information security is the most important aspect of data protection compliance and most of the fines under the Act relate to security breaches. Please see the Information Security policy (in progress) which deals with this in detail.

Requests for information by Data Subjects

- 25 **Data Subject access request:** Individuals are entitled to know whether the School is holding any Personal Data which relates to them, what that information is, the source of the information, how the School uses it, and who it has been disclosed to.
- 26 **Use of personal data:** Individuals have a legal right to ask the School not to use their Personal Data for direct marketing purposes or in ways which are likely to cause substantial damage or distress.
- 27 **Corrections:** Individuals have a legal right to ask for incorrect Personal Data to be corrected or annotated.
- 28 **Automatic decisions:** Individuals have a legal right to ask the School not to make automatic decisions (using Personal Data) if such automatic decisions would affect them to a significant degree.

Accessing personal data

- 29 A child can request access to his/her own data. The request is not charged and does not have to be in writing. The staff will judge whether the request is in the child's best interests, and that the child will understand the information provided. They may also wish to consider whether the request has been made under coercion.
- 30 A parent/carer can request access to or a copy of their child's school records and other information held about their child. The request must be made in writing. There is no charge for such requests on behalf of the child, but there may be a charge for photocopying records – this is detailed in guidance available from the Information Commissioner (see appendix 4). Staff will check, if a request for information is made by a parent/carer, that no other legal obstruction (for example, a court order limiting an individual's exercise of parental responsibility) is in force.
- 31 Parents/carers should note that all rights under the Data Protection Act to do with information about their child rest with the child as soon as they are old enough to understand these rights. This will vary from one child to another, but, as a broad guide, it is reckoned that most children will have a sufficient understanding by the age of 12. Parents/carers are encouraged to discuss and explain any request for information with their child if they are aged 12 or over.
- 32 Separately from the Data Protection Act, The Education (Pupil Information)(England) Regulations 2005 provide a student's parent/carer (regardless of the age of the student) with the right to view, or to have a copy of, their child's educational record at The Wren School. Parents/carers who wish to exercise this right must apply to The Wren School in writing.
- 33 For educational records (unlike other personal data; see below) access will be provided within 15 school days, and if copies are requested, these will be supplied within 15 school days of payment.
- 34 A member of staff can request access to their own records at no charge, but the request must be made in writing. The member of staff has the right to see their own records, and to ask for copies of the records. There is no charge for copies of records.
- 35 The law requires that all requests for personal information are dealt with within 40 days of receipt except requests for educational records (see above). All requests will be acknowledged in writing on receipt, and access to records will be arranged as soon as possible. If awaiting third party consents, The Wren School will arrange access to those documents already available, and notify the individual that other documents may be made available later.
- 36 In all cases, should third party information (information about another individual) be included in the information the staff will try to obtain permission to show this information to the applicant, with the exception of information provided by another member of school staff (or the Wren School Academy Trust) which is exempt from a requirement for third party consents. If third party permission is not obtained the Headteacher will consider whether the information can still be released.
- 37 Personal data should always be of direct relevance to the person requesting the information. A document discussing more general concerns may not be defined as personal data.

- 38 From 1st January 2005, when the Freedom of Information Act came into force, a request for personal information can include unstructured as well as structured records – for example, letters, emails etc. not kept within an individual’s personal files, or filed by their name, but still directly relevant to them. If these would form part of a wider record The Wren School will endeavour to file these within structured records as a matter of course in order to avoid excessive administrative work. These can be requested if sufficient information is provided to identify them.
- 39 Anyone who requests to see their personal data has the right to question the accuracy of matters of fact within the data, and to ask to have inaccurate information deleted or changed. They may also question opinions, and their comments will be recorded, but opinions do not need to be deleted or changed as a part of this process.
- 40 The Wren School will document all requests for personal information with details of who dealt with the request, what information was provided and when, and any outcomes (letter requesting changes etc.) This will enable staff to deal with a complaint if one is made in relation to the request.

Further information

- 41 **ICO website:** The School has registered its use of Personal Data with the Information Commissioner's Office (ICO) and further details of the Personal Data it holds, and how it is used, can be found in the School's register entry on the Information Commissioner's website at www.ico.org.uk under registration number **ZA130625**. This website also contains further information about data protection.
- 42 **Contact:** If you would like any further information about anything within this policy, please contact the SBM.

Breach of this policy

- 43 A member of staff who deliberately or recklessly discloses Personal Data held by the School without proper authority is guilty of a criminal offence and gross misconduct. This could result in summary dismissal.

Fair processing of personal data: data which may be shared

Schools, local education authorities and the Department for Education (DfE) hold information on students in order to run the education system, and in doing so have to follow the Data Protection Act 1998. This means, among other things, that the data held about students must only be used for specific purposes allowed by law. The Wren School has a Privacy Notice (see appendix 4) which explains how student personal data is used and with whom it will be shared. (The Wren School Employment Manual includes information for staff.)

The Local Authority uses information about students to carry out specific functions for which it is responsible, such as the assessment of any special educational needs the student may have. It also uses the information to derive statistics to inform decisions on (for example) school admissions, and to assess the performance of schools. The statistics are used in such a way that individual students cannot be identified from them.

Information on how to access personal data held by other organisations is given elsewhere.

Students, as data subjects, have certain rights under the Data Protection Act, including a general right of access to personal data held on them, with parents/carers exercising this right on their behalf if they are too young to do so themselves. If a child wishes to access their personal data, or a parent/carer wishes to do so on their behalf, then the relevant organisation should be contacted in writing.

Associated documents

Data Protection Act 1998

Freedom of Information Act 2000 (in force from January 2005)

Education (Pupil Information) (England) Regulations 2005

Cloud (educational apps) software services and the Data Protection Act: Departmental advice for local authorities, school leaders, school staff and governing bodies. Updated July 2015

The Wren School Employment Manual

Student and Staff Records.

Appendices

A. Bibliography

B. Privacy notice

Appendix 1: Bibliography

Data Protection Act 1998: All personal data which is held must be processed and retained in accordance with the eight principles of the Act and with the rights of the individual. Personal data must not be kept longer than is necessary (this may be affected by the requirements of other Acts in relation to financial data or personal data disclosed to Government departments). Retention of personal data must take account of the Act, and personal data must be disposed of as confidential waste. Covers both personal data relating to staff and to members of the public.

Data Protection Act 1998: Compliance Advice. Subject access – Right of access to education records in England: General information note from the Information Commissioner on access to education records. Includes timescale (15 days) and photocopy costs.

Data Protection Act 1998: Compliance Advice. Disclosure of examination results by schools to the media: General information note from the Information Commissioner on publication of examination results.

Disclosure and Barring Service (DBS): Code of practice regarding secure storage, handling, use, retention and disposal of DBS certificates and certificate information.
<https://www.gov.uk/government/organisations/disclosure-and-barring-service/about>

Education Act 1996: Section 509 covers retention of home to school transport appeal papers. (By LEA)

Education (Pupil Information) (England) Regulations 2005: Retention of Student records

Guidance to LEAs: Requirements with respect to “fair processing” under the data protection act and the passing of information to connexions. 2005 DfES: Guidance Note

Health and Safety at Work Act 1974 & Health and Safety at Work Act 1972: Retention requirements for a range of health and safety documentation including accident books, H&S manuals etc.

Information Commissioner’s Code of Practice Guidelines (ICC of P Guidelines): available on the internet <https://ico.org.uk/for-organisations/guide-to-data-protection/data-sharing/>
Guidance on retention of interview and employment records

Personnel Files – Guidance Note for Schools. 2003. West Berkshire Council: Retention of personnel files

Recruitment checks – safeguarding our children in West Berkshire Schools. 2002. West Berkshire Council: Guidance on retention of recruitment checks

School Standards and Framework Act 1998: Retention of school admission and exclusion appeal papers and other student records.

Information and Records Management Society – Schools records management toolkit

<http://www.irms.org.uk/resources/information-guides/199-rm-toolkit-for-school>

A downloadable schedule for all records management in schools

Appendix 2: Privacy Notice: Information about students attending The Wren School

Data Protection Act 1998: How we use student information

We process personal information relating to our students and may receive information about them from their previous school or college, local authority, the Department for Education (DfE) and the Learning Records Service. We hold this personal data to:

- support our students' learning;
- monitor and report on their progress;
- provide appropriate pastoral care; and
- assess the quality of our services.

Information about our students that we hold will include their contact details, national curriculum assessment results, attendance information, any exclusion information, where they go after they leave us and personal characteristics such as their ethnic group, any special educational needs they may have as well as relevant medical information. For students enrolling for post 14 qualifications, the Learning Records Service will give us the unique learner number (ULN) and may also give us details about your learning or qualifications.

In addition once our students reach the age of 13, the law requires us to pass on certain information about them to Reading Borough Council who have responsibilities in relation to the education or training of 13-19 year olds. We provide them with these students' names and addresses, dates of birth, name(s)/address(es) of their parent(s)/guardian(s) and any other information relevant to their role. We may also share certain personal data relating to children aged 16 and over with post-16 education and training providers in order to secure appropriate services for them.

A parent/carer can ask that no information apart from their child's name, address and date of birth be passed to Reading Borough Council by informing Lynn Smith, Headteacher's PA. This right is transferred to the child once he/she reaches the age 16. For more information about services for young people, please go to the Reading Borough Council website:

<http://servicesguide.reading.gov.uk/kb5/reading/directory/youth.page?youthchannel=0>

We will not give information about you to anyone without your consent unless the law and our policies allow us to.

We are required, by law, to pass some information about you to the Department for Education (DfE). This information will, in turn, then be made available for the use by the LA.

If you need more information about how our local authority and/or DfE collect and use your information, please visit:

- Reading Borough Council at <http://beta.reading.gov.uk/dataprotection> or
- the DfE website at <https://www.gov.uk/data-protection-how-we-collect-and-share-research-data>

If you want to receive a copy of the information about you that we hold, please contact:

- Natasha Lee, School Business Manager