

# Mason Moor Primary School

## Policy Document

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| <b>Policy for:</b>                   | Data Protection   |
| <b>Overarching Area:</b>             |   |
| <b>Other policy links:</b>           | Freedom of Information publication scheme.<br>Privacy Notice.<br>CCTV policy.<br>Safeguarding policy. |
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## 1. Introduction

Mason Moor Primary School needs to keep certain information about its employees, pupils and others to allow it to monitor performance, achievements and health and safety, for example. It is also necessary to process information so that staff can be recruited and paid, courses organised and legal obligations to funding bodies and the government complied with. To comply with the law, information must be collected and used fairly, stored safely and not disclosed to any other person unlawfully.

To do this, Mason Moor Primary School, so far as is reasonably practicable, complies with the data protection principles, as contained in the Data Protection Act 1988. In summary these state that personal data shall:

- Be obtained and processed fairly and lawfully and shall not be processed unless certain conditions are met.
- Be obtained for a specified and lawful purpose and shall not be processed in any manner not in line with that purpose.
- Be adequate, relevant and not excessive for that purpose.
- Be accurate and kept up to date.
- Not be kept for longer than is necessary for that purpose.
- Be processed in accordance with the data subject's rights.
- Be securely protected from unauthorised access, accidental loss or destruction.
- Be stored only in countries that comply with the EU's Data Protection Directive.

Mason Moor Primary School and all staff or others who process or use personal information must ensure that they follow these principles at all times. In order to ensure that this happens, the school has developed this Data Protection Policy.

Schools have a duty to issue a Privacy Notice to all pupils\parents which summarises the information held on pupils, why it is held and the other parties to whom it may be passed on.

Data collection sheets will be issued to parents upon enrolment of their child and on an annual basis thereafter. These documents will be used to ensure that the pupil data we hold is accurate. Parents should, however, notify the school as soon as possible of any changes to the information held. This is particularly important if they may have implications for safeguarding.

## 2 Status of this policy

This policy does not form part of the contract of employment for staff, but it is a condition of employment that employees will abide by the rules and policies made by the school. Any failures to follow the policy can therefore result in disciplinary proceedings.

## 3 The Data Controller

The school as a corporate body is a Data Controller under the 1998 Act and is registered with the Information Commissioner's Office. Our registration number is Z2550465.

Governors are ultimately responsible for implementation, however, the school has three members of staff responsible for day to day data protection issues; the Headteacher, Business Manager and Systems Manager.

Any member of staff, parent or other individual who considers that the policy has not been followed in respect of personal data about himself or herself or their child should raise the matter with the Headteacher.

#### 4 **Responsibilities of Staff**

All staff are responsible for:

- Checking that any information that they provide to the school in connection with their employment is accurate and up to date.
- Informing the school of any changes to information that they have provided, e.g. change of address, either at the time of appointment or subsequently.

The school cannot be held responsible for any errors unless the staff member has informed the school of such changes.

If and when, as part of their responsibilities, staff collect information about other people (e.g. about a pupil's assessment data, opinions about ability, references to other academic institutions, or details or personal circumstances), they must comply with the Data Protection Act 1998.

#### 5 **Data Security**

All staff are responsible for ensuring that:

- Any personal data that they hold is kept securely.
- Personal information is not disclosed either orally, in writing, via web pages or by any other means, accidentally or otherwise, to any unauthorised third party.

Staff should note that unauthorised disclosure will usually be a disciplinary matter, and may be considered gross misconduct in some cases.

Personal Information should:

- Be kept in a locked filing cabinet, drawer, or safe; or
- If it is computerised, be coded, encrypted or password protected both on a local hard drive and on a network drive that is regularly back up; and
- If a copy is kept on a removable storage media (such as an encrypted memory stick, that media must itself be kept in a locked filing cabinet, drawer, or safe.

When sensitive information is transferred by the school the following steps will be taken, as appropriate to the circumstances:

- The Anycomms secure file transfer system will be used to transfer information to the local authority.
- The Department for Education Secure Access system will be used to transfer electronic pupil records.
- Paper documentation will be sent by recorded delivery, or hand delivered, to a new school.
- Documentation attached to e-mails will be password protected.
- Encrypted memory sticks will be used.

Southampton City Council has also recently issued guidance for schools on the retention and transfer of child protection records for education.

## 6 **Rights to Access Information**

All staff, parents and other users are entitled to:

- Know what information the school holds and processes about them or their child, why it is held and to receive a copy.
- Know how to gain access to it.
- Know how to keep it up to date.
- Know what the school is doing to comply with its obligations under the 1998 Act.

This policy document addresses the last three points above. To address the first point, the school will, upon request, provide all parents and other relevant users with a statement regarding the personal data held about them; a Privacy Notice. This will state all the types of data the school holds and processes about them, and the reasons for which they are processed.

The school will take positive action to ensure that parents are reminded of this policy and the Privacy Notice on our website by drawing parents' attention to these documents, on a termly basis, via the school newsletter.

All staff, parents and other users have a right under the 1998 Act to access certain personal data being kept about them or their child either on computer or in certain files. Any person who wishes to exercise this right should put their request in writing and submit it to the Business Manager. Please refer to the Freedom of Information publication scheme on our website for further information on this (attached as Appendix 2). The school aims to comply with requests for access to personal information as quickly as possible, but will ensure that it is provided within 15 school days, as required by the 1998 Act.

## 7 **Subject consent**

In many cases, the school can only process personal data with the consent of the individual. In some cases, if the data is sensitive, as defined in the 1998 Act, express consent must be obtained. Agreement to the school processing some specified classes of personal data is a condition of acceptance of employment for staff. This includes information about previous criminal convictions. Jobs will bring the applicants into contact with children. The school has a duty under the Children Act 1989 and other enactments to ensure that staff are suitable for the job. The school has a duty of care to all staff and students and must therefore make sure that employees and those who use school facilities do not pose a threat or danger to other users.

The school may also ask for information about particular health needs, such as allergies to particular forms of medication, or any medical condition such as asthma or diabetes. The school will only use this information in the protection of the health and safety of the individual, but will need consent to process this data in the event of a medical emergency, for example.

## 8 **Subject access requests**

Appendix 1 outlines the school procedure for dealing with subject access requests under the Data Protection Act 1998.

## 9 **Processing sensitive information**

Sometimes it is necessary to process information about a person's health, criminal convictions, or race. This may be to ensure that the school is a safe place for everyone. Because this information is considered sensitive under the 1998 Act, staff (and pupils where appropriate) will be asked to give their express consent for the school to process this data.

## 10 **Publication of school information**

Certain items of information relating to school staff may be made available via searchable directories on the public website, in order to meet the legitimate needs of researchers, visitors and enquirers seeking to make contact with the school. Typically, this may take the form of inclusion in a staffing structure, contact details, job title or identification of a lead responsibility.

## 11 **Governors**

Since September 2016 details of all governors must be displayed on the government website Edubase.

## 12 **Examples of data personal data**

Definitions of personal data are highly complex, and it is difficult to define categorically. However, broadly speaking and in day-to-day use, 'personal data' is information which relates to a living, identifiable individual.

In the context of this document and the school's requirement to process 'personal data' as part of its duty of care and to educate its pupils, 'personal data' may include:

- School admission and attendance registers;
- Pupil's curricular records;
- Reports to parents on the achievements of their children;
- Records in connection with pupils entered for prescribed public examinations;
- Staff records, including payroll records;
- Personal information for teaching purposes;
- Records of contractors and suppliers.

If it is necessary for the school to process certain personal data to fulfil its obligations to pupils and their parents or guardians then consent is not required. However, any information which falls under the definition of personal data, and is not otherwise exempt (see below), will remain confidential. Data will only be disclosed to third parties with the consent of the appropriate individual or under the terms of this policy.

Sensitive data may include:

- Ethnic or racial origin.
- Political opinions.
- Religious beliefs.
- Other beliefs of a similar nature.
- Membership of a trade union.

- Physical or mental health or condition.
- Offences or alleged offences.
- Proceedings or court sentences.

Where sensitive personal data is processed by the school, the explicit consent of the appropriate individual will be required in writing.

### 13 **Photographs**

There will be occasions when images of pupils taking part in school activities are used for display within the school, on our website or to accompany news articles. We will always seek your permission to use any images and will ensure that you are made aware that this is happening and the context in which the images will be used. We will follow the advice from the Information Commissioner’s Office.

Parents will be reminded, when appropriate, that whilst they may take photographs of their child care should be exercised if other children are captured in the photograph. When uploading images to social media parents should obtain prior permission from the parents of any other children that feature.

### 14 **Exemptions from the Data Protection Act**

Certain data is exempted from the provisions of the Data Protection Act, example include:

- The prevention or detection of crime;
- The assessment of any tax or duty;
- Where the processing is necessary to exercise a right or obligation conferred or imposed by law upon the school.

There are other exemptions under the act.

The school will apply the exemptions when it is satisfied that there is a legal basis to do so and we will always advise you when disclosure has taken place, when we are able to do so.

### 15 **Cloud Software Services**

Some providers of services to schools offer an internet-based “cloud” service provision. In such cases responsibility for all areas of data protection compliance still rests with the school.

The DfE has produced non-statutory guidance on cloud services and introduced a voluntary self-certification scheme. This scheme requires suppliers complete a self-certification checklist, consisting of a range of questions and comprises three elements:

- the checklist question
- the checklist self-certification response colour
- the evidence the supplier will use to indicate the basis for their response

Suppliers are also required to agree to certain conditions to join the scheme, such as that their self-certification checklist has been fully and accurately completed by a person or persons who

are competent in the relevant fields.

Where possible the school will only use software services that have joined the self-certification scheme; copies of completed checklists are available on the DfE website. For those who have not joined the scheme we will promote this as a way forward in the best interests of the school and will request completion of a blank checklist so that we can compare and consider any areas of concern.

## **16 Retention of Data**

The school has a duty to retain some staff and student personal data for a period of time following their departure from the school, mainly for legal reasons. Different categories of data will be retained for different periods of time. The time span can be requested in writing from school.

School records for a child will be kept for 7 years after the child leaves the school or until the child reaches 25 years of age (whichever is the greater).

Southampton City Council has recently issued guidance for schools on the retention and transfer of child protection records for education.

## **17 Complaints**

We would hope that, in the first instance, complaints will be dealt with under the School Complaints Policy by the Headteacher. Parents may also contact the Information Commissioner (the statutory regulator).

## **18 Conclusion**

Compliance with the 1998 Act is the responsibility of all members of the school. Any deliberate breach of the Data Protection Policy may lead to disciplinary action being taken, or even to a criminal prosecution.

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 Mrs Kerrigan-Draper, 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, and checks should also be carried out regarding proof of relationship to 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.*

Where requests are being made on behalf of the data subject, or someone else, they should have appropriate authority to do so e.g. Solicitors or family members.

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, as defined by the Data Protection Act.
  - 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 Headteacher.
5. The response time for subject access requests, once officially received, is 15 school days. However the 15 school 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 it is good practice to seek the views of the 3<sup>rd</sup> party. The ultimate decision on disclosure, however, rests with the school.
  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, thus 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.

Further advice and information can be obtained from the Information Commissioner's Office, [www.ico.gov.uk](http://www.ico.gov.uk)