



Ashgate Specialist Support Primary School

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POLICY STATEMENT:

Data Protection Protection

UN Convention on the Rights of the Child

Article 3 (best interests of the child) The best interests of the child must be a top priority in all decisions and actions that affect children.

Article 23 (children with a disability) A child with a disability has the right to live a full and decent life with dignity and, as far as possible, independence and to play an active part in the community. Governments must do all they can to support disabled children and their families.

Article 28 (right to education) Every child has the right to an education. Primary education must be free and different forms of secondary education must be available to every child. Discipline in schools must respect children's dignity and their rights. Richer countries must help poorer countries achieve this.

Article 29 (goals of education) Education must develop every child's personality, talents and abilities to the full. It must encourage the child's respect for human rights, as well as respect for their parents, their own and other cultures, and the environment.

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This policy and procedure has been produced by One Education's HR and People service. The HR and People team provides management and HR support and advice to schools and academies purchasing their services under an agreed Service Agreement. For further information please contact the HR and People team via the HROne Helpline: 0844 967 1112 (local rate from landline) or HROne Helpline Email: hrpeople@oneeducation.co.uk Website: www.oneeducation.co.uk

This document is recommended for adoption by all maintained schools including community, voluntary controlled, community special, maintained nursery, foundation, foundation special and voluntary aided schools. This document is also recommended for adoption by academies and free schools (modified as appropriate and taking into account the particular circumstances of the relevant academy or free school). References in this document to schools include a reference to academies and free schools unless otherwise stated and references in this document to the Headteacher include a reference to an academy or free school Principal.

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Under the public sector equality duty, all schools/academies must have due regard to the need to eliminate discrimination, harassment and victimisation and any other conduct prohibited by the Equality Act 2010; to advance equality of opportunity between those who share a relevant protected characteristic and those who do not share it and to foster good relations across all protected characteristics. This means schools/academies must take into account equality considerations when policies are being developed, adopted and implemented. The HR and People team regularly reviews all policies and procedures which are recommended to schools/academies to ensure compliance with education and employment legislation including the Equality Act 2010. Consultation with schools/academies is an important part of this review process. Headteachers, Principals and Governing Bodies are asked to contact the HR and People team via the HROne Helpline if they believe there are any negative equality impacts in their school/academy in relation to the application of this policy/procedure.

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1. INTRODUCTION

- 1.1 The school collects a large amount of personal data about staff, pupils, parents, governors, visitors and other individuals. The school aims to ensure that all such personal data is collected, stored and processed in accordance with the General Data Protection Regulation (GDPR), the Data Protection Act 2018 and guidance published by the Information Commissioners Office (ICO).
- 1.2 Personal information is any information that relates to a living individual who can be identified from the information regardless of whether it is in paper or electronic format.
- 1.3 This policy explains the duties and responsibilities placed on the school under the legislation relating to data protection to ensure that all data is handled and stored securely.

2. SCOPE

- 2.1 This policy relates to all employees, volunteers, contractors, pupils and parents. It also explains how members of the public may request information held by the school.

3. THE DATA CONTROLLER

- 3.1 The school processes personal data relating to parents, pupils, staff, governors, visitors and others, and therefore is a data controller.

4. DATA PROTECTION PRINCIPLES

- 4.1 The GDPR is based on data protection principles that our school must comply with. The principles say that personal data must be:
 - Processed lawfully, fairly and in a transparent manner
 - Collected for specified, explicit and legitimate purposes
 - Adequate, relevant and limited to what is necessary to fulfil the purposes for which it is processed
 - Accurate and, where necessary, kept up to date
 - Kept for no longer than is necessary for the purposes for which it is processed
 - Processed in a way that ensures it is appropriately secure

This policy sets out how the school aims to comply with these principles.

5. ROLES AND RESPONSIBILITIES

- 5.1 The Governing Board.
 - The governing board has overall responsibility for ensuring that the school complies with all relevant data protection obligations.
- 5.2 Data Protection Officer.
 - The Data Protection Officer (DPO) is responsible for overseeing the implementation of this policy, monitoring our compliance with data protection law, and developing related policies and guidelines where applicable.
 - They will provide an annual report of their activities directly to the governing board and, where relevant, report to the board their advice and recommendations on school data protection issues.

- The DPO is also the first point of contact for individuals whose data the school processes, and for the ICO.
- Full details of the DPO's responsibilities are set out in their job description.
- Our DPO is Sophie Barton and is contactable via s.barton@ashgate.manchester.sch.uk

5.3 Headteacher.

- The headteacher acts as the representative of the data controller on a day-to-day basis.

5.4 All staff.

Staff are responsible for:

- Collecting, storing and processing any personal data in accordance with this policy
- Informing the school of any changes to their personal data, such as a change of address
- Contacting the DPO in the following circumstances:
 - With any questions about the operation of this policy, data protection law, retaining personal data or keeping personal data secure
 - If they have any concerns that this policy is not being followed
 - If they are unsure whether or not they have a lawful basis to use personal data in a particular way
 - If they need to rely on or capture consent, draft a privacy notice, deal with data protection rights invoked by an individual, or transfer personal data outside the European Economic Area
 - If there has been a data breach
 - Whenever they are engaging in a new activity that may affect the privacy rights of individuals
 - If they need help with any contracts or sharing personal data with third parties

6. COLLECTING PERSONAL DATA

6.1 Lawfulness, fairness and transparency.

School will only process personal data where one of the 6 lawful bases (as set out below) has been identified under data protection law:

- The data needs to be processed so that the school can fulfil a contract with the individual, or the individual has asked the school to take specific steps before entering into a contract
- The data needs to be processed so that the school can comply with a legal obligation (i.e. DfE census information)
- The data needs to be processed to ensure the vital interests of the individual or another person (i.e. to protect someone's life by collecting data about food allergies or medical conditions)

- The data needs to be processed so that the school, as a public authority, can perform a task in the public interest or exercise its official authority (i.e. to support pupil learning, to monitor and report on pupil attainment progress, to provide appropriate pastoral care and to assess the quality of services)
- The data needs to be processed for the legitimate interests of the school (where the processing is not for any tasks the school performs as a public authority) or a third party, provided the individual's rights and freedoms are not overridden
- The individual (or their parent/carer when appropriate in the case of a pupil) has freely given clear consent

For special categories of personal data, school will also meet one of the special category conditions for processing under data protection law.

School will always consider the fairness of any data processing. School will ensure it does not handle personal data in ways that individuals would not reasonably expect, or use personal data in ways which have unjustified adverse effects on them.

6.2 Limitation, minimisation and accuracy.

- School will only collect personal data for specified, explicit and legitimate reasons.
- If school needs to use personal data for reasons other than those given when first obtained, school will inform the individuals concerned, and seek consent where necessary.
- Staff must only process personal data where it is necessary in order to do their jobs.
- School will keep data accurate and, where necessary, up-to-date. Inaccurate data will be rectified or erased when appropriate.
- In addition, when staff no longer need the personal data they hold, they must ensure it is deleted or disposed of securely. This will be done in accordance with the school's record retention schedule.

7. SHARING PERSONAL DATA

7.1 School will not normally share personal data with anyone else without consent, but there are certain circumstances where it may be required to do so. These include, but are not limited to, situations where:

- There is an issue with a pupil or parent/carer that puts the safety of staff at risk
- School needs to liaise with other agencies – consent will be requested as necessary before doing this
- School suppliers or contractors need data for the provision of services to staff and pupils – for example, IT companies. When doing this, school will:
 - Only appoint suppliers or contractors which can provide sufficient guarantees that they comply with data protection law
 - Establish a contract with the supplier or contractor to ensure the fair and lawful processing of any personal data shared
 - Only share data that the supplier or contractor needs to carry out their service

School will also share personal data with law enforcement and government bodies where legally required to do so.

School may also share personal data with emergency services and local authorities to help them to respond to an emergency situation that affects any pupils or staff.

8. DATA SECURITY AND STORAGE OF RECORDS

8.1 School will protect personal data and keep it safe from unauthorised or unlawful access, alteration, processing or disclosure, and against accidental or unlawful loss, destruction or damage. In particular:

- Paper-based records and portable electronic devices, such as laptops and hard drives that contain personal data, are kept under lock and key when not in use
- Papers containing confidential personal data must not be left on office and classroom desks, on staffroom tables, or left anywhere else where there is general access
- Where personal information needs to be taken off site, staff must sign it in and out from the school office
- Encryption software is used to protect all portable devices and removable media, such as laptops and USB devices

9. DISPOSAL OF RECORDS

9.1 Personal data that is no longer needed will be disposed of securely. Personal data that has become inaccurate or out of date will also be disposed of securely. School may also use a third party to safely dispose of records. Any third party will be required to provide sufficient guarantees that it complies with data protection law.

10. SUBJECT ACCESS REQUESTS AND OTHER RIGHTS OF INDIVIDUALS

10.1 Subject access requests.

Individuals have a right to make a 'subject access request' to gain access to personal information that the school holds about them. Subject access requests can be submitted in any form, but we may be able to respond to requests more quickly if they are made in writing and include:

- Name of individual
- Correspondence address
- Contact number and email address
- Details of the information requested

If staff receive a subject access request in any form they must immediately forward it to the DPO.

10.2 Children and subject access requests.

Personal data about a child belongs to that child, and not the child's parents or carers. For a parent or carer to make a subject access request with respect to their child, the child must either be unable to understand their rights and the implications of a subject access request, or have given their consent.

[Primary schools add: Children below the age of 12 are generally not regarded to be mature enough to understand their rights and the implications of a subject access request. Therefore, most subject access requests from parents or carers of pupils at our school may be granted without the express permission

of the pupil. This is not a rule and a pupil's ability to understand their rights will always be judged on a case-by-case basis.]

[Secondary schools add: Children aged 12 and above are generally regarded to be mature enough to understand their rights and the implications of a subject access request. Therefore, most subject access requests from parents or carers of pupils at our school may not be granted without the express permission of the pupil. This is not a rule and a pupil's ability to understand their rights will always be judged on a case-by-case basis.]

10.3 Responding to subject access requests.

When responding to requests, school:

- May ask the individual to provide 2 forms of identification
- May contact the individual via phone to confirm the request was made
- Will respond without delay and within 1 month of receipt of the request (or receipt of the additional information needed to confirm identity, where relevant)
- Will provide the information free of charge
- May tell the individual we will comply within 3 months of receipt of the request, where a request is complex or numerous. We will inform the individual of this within 1 month, and explain why the extension is necessary

School may not disclose information for a variety of reasons, such as if it:

- Might cause serious harm to the physical or mental health of the pupil or another individual
- Would reveal that the child is being or has been abused, or is at risk of abuse, where the disclosure of that information would not be in the child's best interests
- Would include another person's personal data that we can't reasonably anonymise, and we don't have the other person's consent and it would be unreasonable to proceed without it
- Is part of certain sensitive documents, such as those related to crime, immigration, legal proceedings or legal professional privilege, management forecasts, negotiations, confidential references, or exam scripts

If the request is unfounded or excessive, school may refuse to act on it, or charge a reasonable fee to cover administrative costs.

School will also take into account whether the request is repetitive in nature when making this decision. When school refuses a request, we will tell the individual why, and tell them they have the right to complain to the ICO or they can seek to enforce their subject access right through the courts.

11. PARENTAL REQUESTS TO SEE THE EDUCATIONAL RECORD

- 11.1 Parents, or those with parental responsibility, have a legal right to free access to their child's educational record (which includes most information about a pupil) within 15 school days of receipt of a written request. All requests must be made in writing to the DPO. The identity of the requestor must be established before the disclosure of any personal information.

If the request is for a copy of the educational record, the school may charge a fee to cover the cost of supplying it.

This right applies as long as the pupil concerned is aged under 18.

There are certain circumstances in which this right can be denied, such as if releasing the information might cause serious harm to the physical or mental health of the pupil or another individual, or if it would mean releasing exam marks before they are officially announced.

12. PERSONAL DATA BREACHES

- 12.1 The school will make all reasonable endeavours to ensure that there are no personal data breaches. In the unlikely event of a suspected data breach, we will follow appropriate procedures and if required we will report the data breach to the ICO within 72 hours after becoming aware of it.

13. TRAINING

- 13.1 All staff and governors are provided with data protection training as part of their induction process. Data protection will also form part of continuing professional development, where changes to legislation, guidance or the school's processes make it necessary. If staff become aware of a breach of data protection they should notify Sophie Barton immediately.

14. COMPLAINTS

- 14.1 Any complaint about Data Protection should be referred to the Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, Telephone 01625 545700, Website www.ico.gov.uk