

## **DATA PROTECTION POLICY**

### **1. INTRODUCTION**

The relevant legislation can be accessed through the following links

<http://www.legislation.gov.uk/ukpga/1998/29/contents>

The most up-to-date government guidance can be accessed through this link

[http://www.ico.gov.uk/for\\_organisations/sector\\_guides/education.aspx](http://www.ico.gov.uk/for_organisations/sector_guides/education.aspx)

This document is a statement of the aims and principles of the school, for ensuring the confidentiality of sensitive information relating to staff, pupils, parents and governors.

Regina Coeli Primary School needs to keep certain information about its employees, students and other users 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 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, Regina Coeli Primary School must comply with the Eight Data Protection Principles which are set out in the Data Protection Act 1998 ( the 1998 Act).

In summary these state that personal data:

1. is processed fairly and lawfully;
2. is obtained only for lawful purposes, and is not further used in any manner incompatible with those original purposes;
3. is accurate and, where necessary, kept up to date;
4. is adequate, relevant and not excessive in relation to the purposes for which it is processed;
5. is not kept for longer than is necessary for those purposes;
6. is processed in accordance with the rights of data subjects under the DPA;
7. is protected by appropriate technical and organisational measures against unauthorised or unlawful processing and against accidental loss, destruction or damage; and
8. is not transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection of the personal information.

Principles 1, 2, 6 and 7 tend to require the most careful consideration by data controllers when handling personal information.

Principles 3, 4 and 5 are principles of good records management, but remember that they are also legally required when the records hold personal information.

Principle 8 will rarely be of concern but it could apply if a pupil's family moves outside the European Economic Area.

Regina Coeli 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.

#### **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 from time to time. Any failures to follow the policy can therefore result in disciplinary proceedings.

### **The Data Controller and the Designated Data Controllers**

The school as a body corporate is the Data Controller under the 1998 Act, and the Governors are therefore ultimately responsible for implementation. However, the Designated Data Controllers will deal with day to day matters.

**The school has three Designated Data Controllers:** They are the Head teacher, the Deputy Head Teacher and the School Business 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 a Designated Data Controller.

### **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 student's work, opinions about ability, references to other academic institutions, or details of personal circumstances), they must comply with the guidelines for staff set out in the Schools Data Protection Policy.

### **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 or in writing or via web pages or by any other means, accidentally or otherwise, to any unauthorised third party.
- information or data about pupils is shared with other staff as appropriate using the secure email provider 'Staff Mail' provided by LGfL
- 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 backed up; and
- If a copy is kept on a diskette or other removable storage media, that media must itself be kept in a locked filing cabinet, drawer, or safe.

### **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 and why.
- 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 in particular the last three points above. To address the first point, the school will, upon request, provide all staff and parents and other relevant users with a statement regarding the personal data held about them. This will state all the types of data the school holds and processes about them, and the reasons for which they are processed.

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 contact the Designated Data Controller.

The school may make a charge of £10 on each occasion that access is requested, although the school has discretion to waive this.

The school aims to comply with requests for access to personal information as quickly as possible, but will ensure that it is provided within 40 days, as required by the 1998 Act.

### **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 included 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

### **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, or to operate other school policies, such as the Sick Pay Policy or the Equalities Policy.

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. An offer of employment may be withdrawn if an individual refuses to consent to this without good reason.

### **Publication of School Information**

Certain items of information relating to school staff will be made available via searchable directories on the public web site, in order to meet the legitimate needs of researchers, visitors and enquirers seeking to make contact with the school.

### **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, but also for other purposes such as being able to provide references or academic transcripts. Different categories of data will be retained for different periods of time.

### **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.

## **SUBJECT ACCESS REQUEST (SAR)**

A pupil, or someone acting on their behalf, may make a SAR in respect of personal data held about the pupil by a school. The SAR should be dealt with by the school.

There are two distinct rights to information held about pupils by schools. They are:

- the pupil's right of subject access under the DPA; and
- the parent's right of access to their child's 'educational record' (this right of access is only relevant to maintained schools).

Although this code is only concerned with the right of subject access, it is important to understand what is meant by a pupil's 'educational record'. This is because there is an overlap between the two rights mentioned above, and also because 'educational record' is relevant when ascertaining the fee chargeable for responding to a SAR.

The statutory definition of 'educational record' – broadly speaking, the expression has a wide meaning and includes most information about current and past pupils that is processed by or on behalf of a school. However, information kept by a teacher solely for their own use does not form part of the educational record. It is likely that most of the personal information a school holds about a particular pupil will form part of the pupil's educational record. However, it is possible that some of the information could fall outside the educational record; eg, information about the pupil provided by the parent of another child is not part of the educational record. Unlike the distinct right of access to the educational record, the right to make a SAR is the pupil's right. Parents are only entitled to access information about their child by making a SAR if the child is unable to act on their own behalf or has given their consent. If it is not clear whether a requester has parental responsibility for the child or is acting on their behalf, this should be clarified before responding to the SAR.

In deciding what information to supply in response to a SAR, the school must have regard to the general principles about exemptions from subject access described elsewhere in this code. Examples of information which (depending on the circumstances) it might be appropriate to withhold include:

information that might cause serious harm to the physical or mental health of the pupil or another individual

information that would reveal that the child is at risk of abuse, where disclosure of that information would not be in the child's best interests;

information contained in adoption and parental order records; and

certain information given to a court in proceedings concerning the child.

If a SAR is made for information containing, in whole or in part, a pupil's 'educational record', a response must be provided within 15 school days.

If the SAR does not relate to any information that forms part of the educational record, then the usual 40-day time limit for responding applies. The maximum fee for dealing with the request is £10.

### **Information about examinations**

Special rules apply to SARs relating to information about the outcome of academic, professional or other examinations. These rules, which apply to requests for examination scripts, marks or markers' comments, are designed to prevent the right of subject access being used as a means of circumventing an examination body's processes for announcing results. Information comprising the answers given by a candidate during an examination are exempt from the right of subject access. So a SAR cannot be used to obtain a copy of an individual's examination script. Although this exemption does not extend to an examiner's comments on a candidate's performance in an examination (whether those comments are marked on the examination script or recorded on a separate marking sheet), or to details of the marks awarded, there is a

special rule governing the time limit for responding to a SAR for such information in cases where the SAR is made before the results are announced. In such cases, a response must be provided within the earlier of:

- five months of the date of the request; and
- 40 days of the date on which the results are announced.

Where a SAR is made for an individual's examination marks, a response may only be refused (or delayed) for reasons permitted by the DPA. So it would not be appropriate to refuse to provide details of examination marks in response to a SAR because the requester had failed to pay their tuition fees. Clearly, though, providing information about examination results is not the same as conferring a qualification.