



Data Protection Policy

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Mayfield School Data Protection Policy

Aims & Objectives:

The aim of this policy is to provide a model set of guidelines to enable staff, parents and pupils to understand:

- The law regarding personal data
- How personal data should be processed, stored, archived and deleted/destroyed
- How staff, parents and pupils can access personal data

The objective of the policy is to ensure that the school acts within the requirements of the Data Protection Act 1998 when retaining and storing personal data, and when making it available to individuals, and that the process of responding to enquiries for other information is also legal under the Freedom of Information Act 2000 (in force from 1st January 2005).

Data Protection – the law:

Under the Data Protection Act 1998, and other regulating acts, access to their own personal information is a statutory right for pupils (if they are of an age to understand the information they request) and parents (as defined in the Education Act 1996) may also request access to their child's personal data.

School staff have a right of access to personal data on themselves.

Anyone has the right to question and correct inaccurate information, but this must be matters of fact, not opinions. Personal data should always be kept securely and protected by passwords if it is electronic, and access to it should only be by those authorised to see it – confidentiality should be respected. The law also provides that personal data should not be kept longer than is required. Third party data (information about someone other than the requesting individual) should in general only be provided with their permission.

The Head Teacher has overall responsibility for personal data within the school.

Processing, storing, archiving and deleting personal data: guidance

- Personal data and school records about pupils are confidential to the child. The information can be shared appropriately within the professional working of the school to enable the school to make the best educational provision for the child. The law permits such information to be shared with other educational establishments when pupils change schools.
- School records for a child should be kept for 7 years after the child leaves the school, or until the child reaches 25 years of age (whichever is greater) and examination records the same.
- Data on staff is sensitive information and confidential to the individual, and is shared, where appropriate, at the discretion of the Head Teacher and with the knowledge, and if possible the agreement of the staff member concerned.
- Employment records form part of a staff member's permanent record. Because there are specific legislative issues connected with these (salary and pension details etc.) these records should be retained as set out by Portsmouth City Council.
- Interview records, CV's and application forms for unsuccessful applicants are kept for 6 months.

- All formal complaints made to the Head Teacher or School Governors will be kept for at least seven years in confidential files, with any documents on the outcome of such complaints. Individuals concerned in such complaints may have access to such files subject to data protection and to legal professional privilege in the event of a court case.

Accessing personal data: guidance

- 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.
- A parent 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. Staff should check, if a request for information is made by a parent, that no other legal obstruction (for example, a court order limiting an individual's exercise of parental responsibility) is in force. Parents 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 are encouraged to discuss and explain any request for information with their child if they are aged 12 or over.
- Separately from the Data Protection Act, The Education (Pupil Information)(England) Regulations 2005 provide a pupil's parent (regardless of the age of the pupil) with the right to view, or to have a copy of, their child's educational record at the school. Parents who wish to exercise this right must apply to the school in writing.
- For educational records (unlike other personal data; see below) access must be provided within 15 school days, and if copies are requested, these must be supplied within 15 school days of payment.
- A member of Mayfield 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.
- 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 school will arrange access to those documents already available, and notify the individual that other documents may be made available later.
- 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 local authority staff) which is exempt from a requirement for third party consents. If third party permission is not obtained the person with overall responsibility should consider whether the information can still be released.
- 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.
- 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 it is advisable to file

these within structured records as a matter of course and to avoid excessive administrative work. These can be requested if sufficient information is provided to identify them.

- 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.
- The 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.

Fair processing of personal data: data which may be shared

Schools, local education authorities and the Department for Education (DfE) all hold information on pupils 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 pupils must only be used for specific purposes allowed by law. The school has a Fair Processing or Privacy Notice which explains how personal data is used and with whom it will be shared. This Notice is published on the school website.

Portsmouth City Council uses information about pupils to carry out specific functions for which it is responsible, such as the assessment of any special educational needs the pupil 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 and set targets for them. The statistics are used in such a way that individual pupils cannot be identified from them.

Checklist for staff

- Making requests – a parent (or guardian in the legal position of a parent) has a right to see a child's educational record without their permission being required. Where requests for other personal data about the child are concerned, if the child is capable of understanding the request they should be consulted as well.
- Making requests - a child has a right of access to their own records, but with younger children this must be managed with consideration for the child's age.
- Requests from parents must be in writing (but see below) – a child may make a verbal request to be recorded by a teacher.
- Where only a few items are requested, use your judgement as to whether you need a written request
- You must check that the parent has a right of access. Some children are barred from contact with a parent and that parent may also have no right of access to their records.
- Educational records – access must be provided in 15 school days and copies within 15 school days of payment. Copies for these items may be charged. More general records such as a staff notes, or a teacher's diary with details of a child's behaviour, or minutes of meetings to discuss behavioural problems – access must be provided in 40 days. Copies for these items should be provided free.
- If information is held within a more general document (a diary, an incident record) you may photocopy the section relevant to the child and supply this for the parent. They do not automatically have access to the whole document simply because their child's name appears in part of it.
- Anything which has come from an outside source (a doctor's letter, a letter from an educational psychologist etc.) is 'third party information' and you should ask their permission before providing it to the parent or child. This may delay access to some

information although you have a right to make a decision on providing access to the information if permission is refused without a good reason, or no response is received.

- Anything which names another child needs to be reviewed. You may withhold it if you feel that the other child might be put at risk if their name was made available. You can request permission from other parents to provide information which includes their child's name, but make it clear they have a right to refuse. Again you have a right to make a decision on providing access to the information if no response is received, but the welfare of other children must be paramount here, and if permission is refused the parent's judgement should be respected.
- The parent or child has a right to take copies of the information provided. You can charge for photocopies of educational records if you wish and there is a set of charges available from the Information Commissioner.
- The parent or child can ask that inaccuracies in matters of fact are changed but should be able to provide some proof that the information is inaccurate. For address, date of birth or age details this may be straightforward. If the question is over the reporting of an incident this is less clear. In this case, the parent or child could put in writing their objection and this could be kept on file.
- The parent or child can question opinions and any objection in writing can be added to the file but opinions are not subject to change because the individual disagrees.
- Providing access can be achieved by supplying copies of everything on the file for the parent or child to take away. Alternatively you may choose to meet with the parent or child so that they can look through the documents and take copies of those items they choose.
- Copies can be charged for at levels set by the Information Commissioner. If you arrange a meeting then you may wish to ensure a neutral third party is present as witness (a member of the governing body is usually appropriate).
- Keep a record of the original request and any correspondence, as well as a record of when letters or phone calls were made or received. If it appears you will be unable to meet the 15 school day or 40 day deadlines, contact the applicant and explain where the problem lies.
- Be aware that a failure to meet the request within the deadline is a breach of the statute, although if access is provided within a few days of the deadline it is unlikely that a complaint to the Information Commissioner would lead to a decision notice against the school.

Remember:

- Maintain records accurately and amend files
- Only use the data for the purpose for which it was collected, and don't duplicate personal data
- Dispose of files as confidential waste when they are no longer needed
- Discuss security issues in staff meetings and raise concerns
- You may require consent to pass personal data to a third party - always check that it is appropriate to pass this on
- Maintain a 'clean desk policy' and lock personal files away at the end of the day