



SHEFFIELD GIRLS'

INFANT, JUNIOR & SENIOR SCHOOL

DATA PROTECTION POLICY

1. Overview

The aim of the data protection legislation is to ensure that individuals ("data subjects") know or can find out: what personal information is being collected about them and why; whether it is accurate and kept up to date; in what circumstances it will be provided to third parties; and to ensure that those who collect or process data ("data controllers") do not use personal information in ways incompatible with the stated purpose(s) of the data collection.

This applies whether the information is held in **computerised (including e-mail) or manual** formats.

The following notes are a brief summary of the provisions of the Data Protection Act 1998 as they are likely to apply in the Trust context. Where there is any doubt about the application of the Act in a particular set of circumstances advice should be sought from the Legal Adviser.

2. Data Protection Registration/Notification

The Trust has notified the Information Commissioner, as required under the Data Protection Act 1998, of all current and anticipated uses of personal data by the Trust. If any new uses are identified in the future, they will also be notified to the Information Commissioner. The notification is renewable every year.

3. Data Controller

The Trust, as a corporate body, is the "data controller" as defined by the Act. The Council of the Trust has ultimate responsibility for compliance with the Act, but the Chief Executive Officer has overall responsibility for the implementation of the Act's provisions and for on-going monitoring.

Heads have responsibility for ensuring that the statutory requirements, and Trust policies and procedures are implemented at school level.

4. Personal data

Personal data covers both facts and opinions about an individual. It also includes information regarding the intentions of the data controller towards the individual. It can be recorded not only in written form, but also as a photographic image, video recording etc.

5. Paper files

Information about individuals held in a structured filing system falls under the scope of the Act. Therefore pupil's or staff's personal files, card index records etc. are included.

In recording information in paper files, it would be safest to assume that the data subject will be entitled to have access to that information. It is an offence to "fillet" (i.e. remove any data that is not exempt) information once it has been requested. **Confidential employment or educational references given by the Trust are exempt from these provisions**, (see also paragraph 18 below).

6. Fair and lawful data processing

Under the 1998 Act, data processing (i.e. obtaining, recording or holding the information or data, and carrying out any operation on it) may only be carried out where certain conditions specified in the Act are met.

In order to ensure compliance with these provisions, it is important that a data subject (in the Trust context, a pupil, parent or guardian of a pupil, an employee (either current or prospective), or a member of the Minerva network) consents to the collection of the data and is informed of the purpose(s) for which the data will be used.

To avoid the need to obtain **staff consent** on every occasion, schools should ask for a general consent (with an “opt out” provision) when the member of staff joins the school.

7. Obtaining pupil's and parent's consent

Obtaining an informed consent from both parents and pupils will ensure compliance with the requirements of the 1998 Act and will, hopefully, alleviate parents’ concerns regarding privacy issues.

Consent needs to be informed, to be valid. In any event, parents and pupils are much more likely to give consent if they understand the purposes for which the data are to be used. This is particularly relevant for use of photographs. Ideally, consent should be as specific as possible as to what those uses are. However, it may be administratively cumbersome for schools to obtain specific consent on each occasion they wish to use personal data.

A child over 12 years of age is deemed capable of giving informed consent. Therefore, it is prudent for such a child and her parents to both sign the form. For sixth form pupils, the form could be adapted so that they alone sign it.

The general form of consent should be signed when a pupil first joins the school. It is recommended that schools also renew the consent at key stages of transfer (junior to senior phase and entry into sixth-form).

In addition, all forms produced centrally by Trust Office will contain a statement to deal with the issue of consent, and the contract with parents (attached to Form F7) contains a general umbrella statement providing for use of basic pupil and parent data for most normal Trust purposes. This does not cover use of photographs, however.

Finally, letters or forms produced locally by schools requesting the provision of additional personal data, (e.g. relating to school trips) should also carry an appropriate statement, for example:

“The personal data provided will be used solely in connection with running the school trip, and will not be retained after the trip has taken place.”

8. Consent withheld by a parent or pupil

If a pupil, or her parents, expressly refuses to give consent to a proposed capture or use of data, that data should not be obtained or used (unless to do so is impractical, and you have fully assessed the likelihood of that pupil suffering harm or damage as a result and have concluded that the risk is insignificant).

However, the parent or pupil should be informed that the refusal will, regrettably, mean the pupil not being able to participate in the activity in question, be it a photograph, a play or other event. Parents may be less inclined to object if it will lead to a child missing out on an experience that her friends will be able to enjoy.

9. Consent not obtained from a parent or pupil

Where personal data needs to be processed in circumstances where the general form of consent has not been completed or does not cover that proposed use, the most appropriate course of action depends upon exactly what the proposed use is.

Archive photographs

It is not strictly necessary to get the consent of old school pupils before using photographs of them if the use is necessary for purposes connected with the **legitimate interests** of the school or Trust (such as the need to inform the public, or to carry out publicity or promotional activities).

Likewise, there is no need to notify the former pupils of the purposes for which the data is being processed if doing so involves a **disproportionate effort** on the school's part. The costs to the school or Trust in tracing all of the subjects involved would probably be significantly greater than any prejudice the former pupils may suffer as a result of the failure to process the data strictly in accordance with the 1998 Act.

When re-using old photographs, common sense still needs to apply, otherwise the increased prejudice the former pupil may suffer might tip the balance so that the disproportionate effort exemption no longer applies. For example, the former pupil should not be portrayed in a negative light, and special consideration will, of course, need to be given where the former pupil is now well-known by the public.

NB: The **disproportionate effort** exemption will not apply when dealing with data relating to current school pupils (or pupils who have recently left the school) as they, and their parents, should be readily contactable, thus making it relatively straightforward to try to obtain their consents.

Group photographs

Consent to a pupil participating in, for example, the school photograph, or any other group or class photograph, can be obtained by using a general consent form.

Where the consent of all of the pupils involved has not been obtained then it may still be possible to proceed with the photograph on the basis that it is being taken for purposes connected with the **legitimate interests** of the school. A video of a school performance for sale to parents may also fall within this category (see below).

In such circumstances, the parents and pupils who have not already given their consent should, ideally, be notified in advance of the uses to which the photograph is to be put and given the opportunity to opt out. In addition, any pupils who have expressly withheld their consent should be excluded as far as possible (see paragraph 8 above).

Finally, even though most school literature is sent to a very specific audience, the full name of any child in the photograph should not be disclosed unless you have the specific consent of that child to make that disclosure. Instead, only very general labels, such as "a science lesson" should be used.

Individual photographs

Many of the same principles apply. However, it is particularly important to ensure that, unless specific consent to do so has been obtained, the individual pupil is not identified.

If a photograph of an individual (such as a prize winner) is to be used in, say, a newsletter or calendar, avoid naming that pupil in the text or caption accompanying the photograph unless you have her consent to do so. You are unlikely to come up against much resistance in obtaining consent if you are relaying good news! Verbal consent can be recorded and used. Otherwise, if the pupil needs to be referred to by name, only use her first name.

Sports' day, school plays and other events

Photographs of, for example, school plays displayed on notice boards or in school magazines should be covered by a general form of consent. However, if consent has not been obtained for the proposed use of personal data collected at, for example, a school play, in order to be able to use that data that use must again be necessary for purposes connected with the **legitimate interests** of the school **and** the pupils / parents concerned need to be notified in advance of the purposes for which the personal data are to be disclosed.

If pictures are being taken at an event attended by large crowds, such as a sports' day, this is regarded as a public area so the permission of everyone in a crowd shot is not needed. People in the foreground are also considered to be in a public area. However, the photographer should address those within earshot, stating where the photograph may be published and giving them the opportunity to move away.

If an image of, for example, a race winner is to be used - with the crowd in the background - the race winner's verbal permission should be sought and recorded using the verbal consent form.

Images of pupils in suitable dress should only ever be used to reduce the risk of the images being disclosed inappropriately. For example, photographs of children in swimming costumes should not be used.

Videos and other items

The same rules apply to videos and CD-ROMs, as to photographs. However, videos, in particular, may be even more emotive from a parent's point of view given the negative press coverage surrounding the recording of nativity plays.

If a decision is taken to video, for example, a school play and a consent which covers this has not already been obtained, the children concerned (and, if required, their parents) should, wherever possible, be contacted, in advance, notified of the purposes for which disclosures of the video will be made (for example, a video will be shot which will be offered for sale only to parents of children) and given the opportunity, whenever practical, to opt out.

Press photographs

Occasionally, members of the press may take photographs or film footage at a school. For example, a school may be visited by a dignitary and the local press may take photographs which include images of pupils.

The Press Commission Code of Practice (www.pcc.org.uk/cop) indicates the type of photographs that should not be taken of pupils. In addition, the Press are exempt from the Data Protection Act.

However, some parents may still object to their children appearing in the media. Therefore, it is advisable to still try to obtain consent in advance. Also, if the school specifically invites the Press in for a photo call, the exemption from the Act does not apply and all of the points raised above will need to be borne in mind.

10. Sensitive personal data

Sensitive personal data, as defined in the 1998 Act, include information relating to racial or ethnic origin, political opinions, religious or other beliefs, trade union membership, physical or mental health, sex life, and criminal proceedings or convictions.

Explicit consent

Sensitive data can only be processed under strict conditions, such as where the **explicit consent** of the pupil has been obtained.

Centrally produced Trust forms, such as medical questionnaires, include a provision for the individual's consent to be given. Ethnic data, obtained solely for the purposes of monitoring equality of opportunity, are exempt from these provisions, but pupil ethnic data may require consent in accordance with DfES requirements (more guidance on this is expected shortly).

Any letters or forms produced by schools that request sensitive personal data must provide for evidence of the individual's consent (e.g.: "*I agree to the information being used for.... Signed.....*").

Vital interests

Sensitive data may also be disclosed in order to protect the **vital interests** of a pupil in circumstances where consent cannot be given or the school cannot reasonably be expected to obtain the consent. This may apply where child protection is an issue and a pupil is known to be at risk or where it would be severely prejudicial to her continuing development to withhold the sensitive data.

11. Staff Emails.

The Trust's policy for monitoring its employees' e-mails is already covered in the "Policy for Filtering of E-mail Messages Destined for all GDST Hosted Mailboxes" (produced in September 2003 and available from the ICT Department). The Trust's policy is to monitor the content of e-communication being sent into and out of the Trust, by using filtering software.

There may also be a legitimate business need for the Trust to access e-mails or network data of an existing employee when they are absent from work or of a former employee who has recently left employment with the Trust. In the case of an employee who is absent from work, such as through illness or on holiday, there may be times when access to his/her electronic documents is required but it is not practical to attempt to contact him/her for prior permission.

Employees should be made aware by their Departmental or Senior Manager that access to or the retrieval of a file(s) or e-mail(s) may be undertaken upon the request of the Departmental or Senior Manager if there is a justified business reason for access being granted. On no account should any usernames or passwords be exchanged.

12. Exam results

The Information Commissioner (who is responsible for enforcing the 1998 Act) has now issued specific guidance on the publication of exam results.

The guidance recognises that such publication is likely to be necessary for the purposes of **legitimate interests** pursued by schools.

As already highlighted above, the 1998 Act makes it clear that in order for the processing of personal data, including its collection, to be fair, it is necessary to ensure that those to whom the data relate are aware of the purposes for which their data may be used or disclosed. While it is likely that many pupils and parents will be aware that examination results may be published, this is not always the case. To satisfy this requirement therefore, schools should ensure that pupils and their parents are made aware that examination results may be published. It may also be necessary to explain the form in which publication will take place. Some pupils, for instance, might object to their results being published if they know that results are published in grade order rather than, say, alphabetically.

Although the Commissioner does not think that pupils or their parents must give their consent to the publication of examination results, in a small number of cases publication can cause distress. When informing pupils or their parents that examination results are published, schools should, therefore, advise them of the right to object to publication.

13. Accuracy of data

One of the principles of the data protection legislation is that personal data processed by the data user must be accurate and, where necessary, kept up to date.

Personal data on parents and pupils held by schools should be confirmed annually – *e.g. addresses, phone numbers, employment details (parents), medical information etc.* It is the responsibility of the school to notify the Fees Department of any changes of parents' names or addresses.

Personal data on staff held in the payroll system at Trust Office (e.g. name, address, date of birth, marital status) is checked annually with the staff concerned. Any other personal data held at school level (e.g. next of kin, emergency contact numbers) should also be confirmed annually by the school.

Individuals may satisfy themselves as to the accuracy of information held about them on paper files by asking to see a hard copy (see 17 below).

14. Security of data

The 1998 Act requires that appropriate technical and organisational measures are taken against unauthorised and unlawful processing of personal data and against accidental loss or destruction of it.

All staff should be aware that they should not release personal data to a third party without the consent of the data subject. The Trust's data protection registration includes a declaration of the bodies to which data may be disclosed. The current registration should cover most instances of disclosure to *bona fide* third parties, but when in doubt the registration document should be checked. Some common examples of circumstances where specific consent would have to be sought are where someone asks for an employee's home address; a building society asks for earnings details for mortgage purposes; or a journalist asks for personal details of a pupil.

Induction programmes should cover data protection issues as relevant to the individual. Schools should ensure that appropriate steps are taken to prevent unauthorised access to computer and **manual** records. The Information Commissioner has advised organisations to audit their Information Security Management systems against BS 7799. Personal files should be kept secure, in locked cabinets, and not left lying about where they can be seen by unauthorised third parties.

The school's emergency plan should provide for back up computer data to be held off site. Paper records should be stored securely and reasonable precautions should be taken against loss or damage. Requests for employment references for staff who will have responsibility for handling personal data should contain a sentence to the effect that: *"If X handles personal data please comment on his/her reliability."* This is likely to be relevant for most staff.

15. Retention of data

Another of the principles of the Act is that personal data should not be kept for longer than is necessary for the purpose for which it was obtained. Necessity will depend on the type of data and also the determination of risk, coupled with pressures of storage space in schools. It would be impossible for all records to be kept forever and therefore a pragmatic view must be taken.

However, in the event of a claim being made against the school or the Trust, it is important that there are appropriate records to fully investigate and potentially defend any allegations made. The difficulty for schools is that pupils can bring a claim in their own right (rather than through their parents) once they reach the age of 18 and therefore there remains the possibility of a pupil bringing a claim against a school up to 6 years after they have left senior school. For example, a pupil may go to university and be diagnosed with dyslexia, which has not previously been identified. She may then consider bringing a claim against her school. A paper trail will be vital in cases like this, in particular to demonstrate the pupil's level of attainment in relation to the rest of the Year Group.

The Trust's recommendation is for key pupil records to be retained until the pupil is aged 25. What is "key" will, of course, depend on the child and whether there are any particular concerns for their development, welfare or behaviour. For example, where there are key meetings concerning a pupil, such as with her parents to discuss her behaviour or academic difficulties, a copy of the notes taken should be retained for the relevant period.

The table below summarises best practice in this area and sets out the minimum standards that should be followed for record retention. Heads should ensure that procedures are in place for an annual review of records held to ensure that records are not kept longer than necessary and that expired disciplinary records are removed and destroyed.

Records containing personal data should be destroyed by shredding or by some other secure method. Personal data that is processed only for research purposes in compliance with the conditions set out in the Act may be kept indefinitely.

In addition to pupil data there is also a requirement to retain other records. Details of the retention requirements for these are also contained in the table.

Data subject	Data	Held by	Kept for () years	Medium paper / elect	Available to:										Notes
					HM	Admin	Other SMT	Heads of Year	Form Tutors	All SHS teachers	Pupil	Pupil's parent(s)	Other school /coll/univ	Other (Specify)	
Other data subjects	Application [form]	Head	Indef	P	Y	Y	Y								Governors and Senior staff if need to see
	Unsuccessful candidates	School Office	6 months	P	Y										Administrator if admin post
	References	Head	Indef	P	Y	Y									Only retained for appointed candidates
	Personal contact details	Head/Administrator /Deputy Head/ Head of Juniors	Indef	P/E	Y	Y				Y			C		With data subject's consent
	Bank details, etc	Administrator	L + 10	P/E	Y	Y							C		
	Salary details	Head / Administrator	L + 10	P/E	Y	Y							C		
	Pension details	Administrator	Indef	P/E	Y	Y							C		
	Personal file	Head / Administrator	Indef	P	Y	Y							C		Administrator if admin
	CRB disclosures	Head / Administrator		P	Y	Y									
	Summary staff record	School Office	Until age of 72	P	Y	Y									
Governors' minutes	SMT	Indef	P/E	Y	Y	Y							Governors		

Circulars to parents	Head / Administrator	Indef	P/E	Y	Y	Y	Y	Y	Y	Y		Y		Governors	
Accident reports	Administrator	Indef	P	Y	Y	Y								H & S Committee	May also be on personal file
School accounts	Administrator	6 years	P	Y	Y	Y								Governors	Published annually
School registers	Archive	Indef	P	Y	Y	Y	Y	Y	Y						
School visits paperwork	Teacher responsible for visit	6 months	P	Y	Y	Y									Add to pupil's file if incident occurred
Visitor logs	School Office	1 year	P	Y	Y	Y								As appropriate	

Important note: it is assumed that the originator of any data has access to it whether or not specifically listed above

Notes: L + 10 = for ten years after data subject has left school

C = only with consent of Data Subject