

LANDYWOOD
PRIMARY
SCHOOL



**Data Protection
Policy**

May 2018

Data Protection

The Data Protection Act 1998 is the law that protects personal privacy and upholds individual's rights. It applies to anyone who handles or has access to people's personal data. This policy is intended to ensure that personal information is dealt with properly and securely and in accordance with the Data Protection Act. It will apply to information regardless of the way it is used, recorded and stored and whether it is held in paper files or electronically. This policy is written to conform with the new GDPR regulations May 2018

1. 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

In addition, there is brief guidance at the end of the policy on Freedom of Information which covers other information held by schools.

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.

2. Scope of the Policy

Personal information is any information that relates to a living individual who can be identified from the information. This includes any expression of opinion about an individual and intentions towards an individual. It also applies to personal data held visually in photographs or video clips (including CCTV) or as sound recordings.

The School collects a large amount of personal data every year including: staff records, names and addresses of those requesting prospectuses, examination marks, references, fee collection as well as the many different types of research data used by the School. In addition, it may be required by law to collect and use certain types of information to comply with statutory obligations of Local Authorities (LAs), government agencies and other bodies.

3. 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 named person with overall responsibility for personal data within school is the Head Teacher

The Eight Principles

The Act is based on eight data protection principles, or rules for 'good information handling'.

- Data must be processed fairly and lawfully.
- Personal data shall be obtained only for one or more specific and lawful purposes.
- Personal data shall be adequate, relevant and not excessive in relation to the purpose(s) for which they are processed.
- Personal data shall be accurate and where necessary kept up to date.
- Personal data processed for any purpose(s) shall not be kept for longer than is necessary for that purpose.
- Personal data shall be processed in accordance with the rights of data subjects under the 1998 Data Protection Act.
- Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
- Personal data shall not be transferred to a country outside the EEA, unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

6. Responsibilities

- The school must:
- Manage and process personal data properly
- Protect the individuals right to privacy
- Provide an individual with access to all personal data held on them when a subject request is completed.

6.1 The school has a legal responsibility to comply with the Act. The school, as a corporate body, is named as the Data Controller under the Act.

Data Controllers are people or organisations who hold and use personal information. They decide how and why the information is used and have a responsibility to establish workplace practices and policies that are in line with the Act.

6.2 The school is required to 'notify' the Information Commissioner of the processing of personal data. This information will be included in a public register which is available on the Information Commissioner's website at the following link : http://www.ico.gov.uk/what_we_cover/promoting_data_privacy/keeping_the_register.a
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6.3 Every member of staff that holds personal information has to comply with the Act when managing that information.

6.4 The school is committed to maintaining the eight principles at all times. This means that the school will:

- inform Data Subjects why they need their personal information, how they will use it and with whom it may be shared. This is known as a Privacy Notice
- check the quality and accuracy of the information held
- apply the records management policies and procedures to ensure that information is not held longer than is necessary
- ensure that when information is authorised for disposal, it is done appropriately
- ensure appropriate security measures are in place to safeguard personal information, whether that is held in paper files or on a computer system
- only share personal information with others when it is necessary and legally appropriate to do so
- set out clear procedures for responding to requests for access to personal information known as 'subject access' in the Data Protection Act
- train all staff so that they are aware of their responsibilities and of the schools relevant policies and procedures

7. 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. Due to specific legislative issues connected with these salary and pension details etc. these records should be retained as set out by the Local Authority.
- 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.

8. Accessing personal data: guidance

- Parents should note that all rights under the Data Protection Act related 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 staff has the right to see their own records, and to ask for copies of the records. There will be no charge for copies of these records.

The law requires that all requests for personal information are dealt with within 40 days of receipt, except requests for educational records (Subject Access Request). 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.

This policy will be updated as necessary to reflect best practice or amendments made to the Data Protection Act 1998.

Please follow this link to the ICO's website (www.ico.gov.uk) which provides further detailed guidance on a range of topics including individuals' rights, exemptions from the Act, dealing with subject access requests, how to handle requests from third parties for personal data to be disclosed etc. In particular, you may find it helpful to read the Guide to Data Protection which is available from the website.

9. 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 Privacy Notice which explains how personal data is used and with whom it will be shared.

The **Local Education Authority** 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.

- 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 by completing a "subject access request form". 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.

DECLARATION

I declare that I have read, understood, and agree to be bound by, the provisions of Landywood's policy on Data Protection. I understand that any failure to comply with its provisions may lead to disciplinary action.

Signature: Date:

Name: (please print)