

## **Data Protection Policy, McMillan ECC**

McMillan collects and uses personal information about staff, pupils, parents and other individuals who come into contact with the school. This information is gathered in order to enable it to provide education and other associated functions. In addition, there may be a legal requirement to collect and use information to ensure that the school complies with its statutory obligations.

Schools have a duty to be registered, as Data Controllers, with the Information Commissioner's Office (ICO) detailing the information held and its use. These details are then available on the ICO's website. Schools also have a duty to issue a Fair Processing Notice to all pupils/parents; this summarises the information held on pupils, why it is held and the other parties to whom it may be passed on.

### **Purpose**

This policy is intended to ensure that personal information is dealt with correctly and securely and in accordance with the Data Protection Act 1998, and other related legislation. It will apply to information regardless of the way it is collected, used, recorded, stored and destroyed, and irrespective of whether it is held in paper files or electronically. It also takes into account the expected provisions of the General Data protection Regulation, 2018. This policy complies with our funding agreement and articles of association.

All staff involved with the collection, processing and disclosure of personal data will be aware of their duties and responsibilities by adhering to these guidelines.

### **What is Personal Information?**

Personal information or data is defined as data which relates to a living individual who can be identified from that data, or other information held.

### **Data Protection Principles**

The Data Protection Act 1998 establishes eight enforceable principles that must be adhered to at all times:

1. Personal data shall be processed fairly and lawfully;
2. Personal data shall be obtained only for one or more specified and lawful purposes;
3. Personal data shall be adequate, relevant and not excessive;
4. Personal data shall be accurate and where necessary, kept up to date;
5. Personal data processed for any purpose shall not be kept for longer than is necessary for that purpose or those purposes;
6. Personal data shall be processed in accordance with the rights of data subjects under the Data Protection Act 1998;
7. Personal data shall be kept secure i.e. protected by an appropriate degree of security;
8. Personal data shall not be transferred to a country or territory outside the European Economic Area, unless that country or territory ensures an adequate level of data protection.

### **General Statement**

The school is committed to maintaining the above principles at all times. Therefore, the school will:

- Inform individuals why the information is being collected when it is collected
- Inform individuals when their information is shared, and why and with whom it was shared
- Check the quality and the accuracy of the information it holds
- Ensure that information is not retained for longer than is necessary
- Ensure that when obsolete information is destroyed that it is done so appropriately and securely
- Ensure that clear and robust safeguards are in place to protect personal information from loss, theft and unauthorised disclosure, irrespective of the format in which it is recorded
- Share information with others only when it is legally appropriate to do so
- Set out procedures to ensure compliance with the duty to respond to requests for access to personal information, known as Subject Access Requests
- Ensure our staff are aware of and understand our policies and procedures

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### **Complaints**

Complaints will be dealt with in accordance with the school's complaints policy. Complaints relating to information handling may be referred to the Information Commissioner (the statutory regulator).

### **Review**

This policy will be reviewed as it is deemed appropriate, but no less frequently than every two years. The policy review will be undertaken by the Headteacher, or nominated representative.

### **Appendix I**

Procedures for responding to subject access requests made under the Data Protection Act 1998

#### **Rights of access to information**

There are two distinct rights of access to information held by schools about pupils.

1. Under the Data Protection Act 1998 any individual has the right to make a request to access the personal information held about them.

2. The right of those entitled to have access to curricular and educational records as defined within the Education Pupil Information (Wales) Regulations 2004.

These procedures relate to subject access requests made under the Data Protection Act 1998.

#### **Actioning a subject access request**

1. Requests for information must be made in writing; which includes email, and be addressed to the Headteacher. If the initial request does not clearly identify the information required, then further enquiries will be made.

2. The identity of the requestor must be established before the disclosure of any information, and checks should also be carried out regarding proof of relationship to the child. Evidence of identity can be established by requesting production of:

- passport
- driving licence
- utility bills with the current address
- birth/ marriage certificate
- P45/P60
- credit card or mortgage statement

*This list is not exhaustive.*

3. Any individual has the right of access to information held about them. However with children, this is dependent upon their capacity to understand (normally age 12 or above) and the nature of the request. Personal data about a child belongs to that child, and not the child's parents. This is the case even where a child is too young to understand the implications of subject access rights. For a parent to make a subject access request, the child must either be unable to understand their rights and the implications of a subject access request, or have given their consent. Therefore most subject access requests from parents of pupils at this school will not be granted without the express permission of the parent. Parents at this school do not have an automatic right to access their child's educational record. The school will decide on a case-by-case basis whether to grant such requests, bearing in mind guidance issued from time to time from the Information Commissioner's Office.

4. The school may make a charge for the provision of information, dependent upon the following:

- Should the information requested contain the educational record then the amount charged will be dependent upon the number of pages provided.
- Should the information requested be personal information that does not include any information contained within educational records schools can charge up to £10 to provide it.
- If the information requested is only the educational record viewing will be free, but a charge not exceeding the cost of copying the information can be made by the Headteacher.

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5. The response time for subject access requests for all or part of the pupil's educational record, once officially received, is 15 school days. If the subject access request does not relate to the educational record, we will respond within 30 days (not working or school days but calendar days, irrespective of school holiday periods). However, the 30 days will not commence until after receipt of fees or clarification of information sought.
6. The Data Protection Act 1998 allows exemptions as to the provision of some information; therefore all information will be reviewed prior to disclosure.
7. Third party information is that which has been provided by another, such as the Police, Local Authority, Health Care professional or another school. Before disclosing third party information consent should normally be obtained. There is still a need to adhere to the 30 day statutory timescale.
8. Any information which may cause serious harm to the physical or mental health or emotional condition of the pupil or another should not be disclosed, nor should information that would reveal that the child is at risk of abuse, or information relating to court proceedings.
9. If there are concerns over the disclosure of information then additional advice should be sought.
10. Where redaction (information blacked out/removed) has taken place then a full copy of the information provided should be retained in order to establish, if a complaint is made, what was redacted and why.
11. Information disclosed should be clear, thus any codes or technical terms will need to be clarified and explained. If information contained within the disclosure is difficult to read or illegible, then it should be retyped.
12. Information can be provided at the school with a member of staff on hand to help and explain matters if requested, or provided at face to face handover. The views of the applicant should be taken into account when considering the method of delivery. If postal systems have to be used then registered/recorded mail must be used.

### **Complaints**

Complaints about the above procedures should be made to the Chair of the Governing Body who will decide whether it is appropriate for the complaint to be dealt with in accordance with the school's complaint procedure. Complaints which are not appropriate to be dealt with through the school's complaint procedure can be dealt with by the Information Commissioner. Contact details of both will be provided with the disclosure information.

### **Contacts**

If you have any queries or concerns regarding these policies /procedures then please contact the Headteacher.

Further advice and information can be obtained from the Information Commissioner's Office, [www.ico.gov.uk](http://www.ico.gov.uk) or telephone 0303 123 1113.