

ST PETER'S SCHOOL BOURNEMOUTH

Data Protection Policy

The Governing Body of St Peter's School will ensure that, in holding and processing the personal data of its Staff and Students, it will comply with the requirements of the Data Protection Act 1998 all subsequent statutory regulations.

In particular the Governing Body will comply with the eight enforceable principles of good practice.

The data will be:

- fairly and lawfully processed;
- processed for limited purposes;
- adequate, relevant and not excessive;
- accurate;
- not kept longer than necessary;
- processed in accordance with the data subject's rights;
- secure;
- not transferred outside of the school without adequate protection.

[Note: Personal data covers both facts and opinions about the individual. It also includes information regarding the intentions of the data controller towards the individual, although in some limited circumstances exemptions will apply. With processing, the definition is far wider. For example, it incorporates the concepts of 'obtaining', 'holding' and 'disclosing'.]

Subject access - education records in England

Data Protection Act 1998

Compliance advice

Subject access - Right of access to education records in England.

The Data Protection Act 1998 came into force on 1 March 2000. It gives all individuals who are the subject of personal data ("data subjects") a general right of access to the personal data which relates to them. These rights are known as "subject access rights". Requests for access to records and for other information about those records are known as "subject access requests." Personal data may take the form of computerised or, in some cases, paper records.

The Act also sets out specific rights for school students in relation to educational records held within the state education system whether these are held in computerised or paper form. Educational records are the official records for which head teachers are responsible. The rights of students lie alongside the rights of Parent(s)/Carer(s) to obtain copies of the educational records relating to their children. These are set out in separate education regulations The Education (Student Information) (England) Regulations 2000.

This leaflet explains the rights of both Students and Parent(s)/Carer(s) in relation to official educational records. (The leaflet does not set out to explain the general right of access to personal data not forming part of the official record, for instance records held by individual teachers for their own use, or records held by independent schools. This is described in the leaflet, "Using the law to protect your information," also available from the Data Protection Commissioner.)

Student Rights

The Data Protection Act gives all school students, regardless of age, the right of access to their school student records. Requests to see or receive copies of records should be made in writing to head teachers.

In addition to the right to be given a copy of the educational record, Students are entitled to be given a description of the personal data which makes up the record, together with details of the purposes for which the data are processed, the sources of the data (if known) and the individuals or organisations to which the data may have been disclosed.

A period of up to 15 school days are allowed in which to respond to a subject access request. (The equivalent period for other types of record is up to 40 days.) If asked to provide a hard copy of the record, a fee may be charged according to the number of pages. (See below for the scale of charges.) Students may be asked for information to verify their identity if is necessary, for instance in the case of former Students who may not be currently known to the School. They may also be asked for information necessary to locate the data held about them. For instance a student may be asked to supply the dates between which he or she attended the School.

While in principle Students have a right of access to the whole of their educational records, in exceptional cases some information may be withheld. The main exemptions are for information which might cause harm to the physical or mental health of the Student or a third party, information which may identify third parties (for example other Students, although not Teachers), and information which forms part of some court reports. Information may also be withheld if in that particular case it would hinder the prevention and detection of crime or the prosecution or apprehension of offenders to provide it.

If Students are incapable of understanding or exercising their own rights under the Data Protection Act, (for instance because they are too young), Parent(s)/Carer(s) can, of course, make subject access requests on their behalf.

If a request for information under the Act is refused or ignored, the matter can be referred to the Data Protection Commissioner or an application for disclosure can be made to a court.

Parent(s)/Carer(s) rights

In addition to the subject access right which can be exercised by Students or by Parent(s)/Carer(s) acting on behalf of Students, Parent(s)/Carer(s) have their own independent right of access to the official educational records of their children under the separate education regulations referred to in footnote 1. In essence the information to which Parent(s)/Carer(s) are entitled and the exemptions are the same as for Students although there is no Parental/Carer right of access to information which does not form part of the official record. Requests to see or receive copies of the educational records of their children should be made in writing to the Head Teacher. If asked to supply a hard copy of the record, a fee covering the cost of supplying the information, may be charged. This is set by the Governing Body. Parent(s)/Carer(s) seeking access to an education record do not, however, have a right of redress under the Data Protection Act unless they are acting on behalf of their child. If Parent(s)/Carer(s) are not given a copy of his or her child's records, in the first instance they should contact the Governing Body and, after that, the DfE or, as a last resort, the courts.

Because Parent(s)/Carer(s) have an independent right of access to Student records, the Students themselves have no right to prevent their Parent(s)/Carer(s) from obtaining a copy of their school records.

Subject Access Fees

No of Pages	Maximum Fee	No of Pages	Maximum Fee
1-19	£1	100-149	£10
20-29	£2	150-199	£15
30-39	£3	200-249	£20
40-49	£4	250-299	£25
50-59	£5	300-349	£30
60-69	£6	350-399	£35
70-79	£7	400-449	£40
80-89	£8	500+	£50
90-99	£9		

Disclosure of Examination Results by Schools to the Media

The Data Protection Act 1998 (the Act) came into force on 1st March 2000. It regulates the holding and processing of personal data, that is information relating to living individuals, which is held either on computer or in some cases in manual form.

The Act gives legally enforceable rights to individuals (data subjects) and places obligations on those who control the manner and the purpose of the processing of personal data (data controllers). Data controllers must notify the Commissioner of the details of their processing (details of which are published by the Commissioner in the register of notifications). Data controllers must also comply with eight data protection principles which together form a framework for the proper handling of personal data.

The Information Commissioner's Office regularly receives enquiries about the data protection implications of schools disclosing their students' examination results to the local media for publication. This Advice Sheet explains the impact of the Data Protection Act 1998 on this use of personal data, and provides guidance on how such disclosures can be made within the remit of the Act.

Notification

Most schools notify the details of their processing using one of the standard notification templates designed by the Commissioner. These contain details of all the typical purposes for which schools process personal data, and standard descriptions of the types of data held and disclosures. The template has recently been amended to include the media as a disclosure of data.

Schools who still operate under the terms of a registration made originally under the 1984 Data Protection Act, but which has not yet expired and been replaced by a notification, and any who have chosen not to employ the standard template, should ensure that disclosures to the media are included in their notifications. This can be done by making an amendment within the Education purpose by adding to their list of "Recipients" the standard code R424 - The Media.

Basis for Processing

The Act requires that there should always be a legitimate basis for the processing of personal data. The Commissioner accepts that the publication of examination results takes place on the basis of a condition described in paragraph 6 of Schedule 2 of the Act namely where *"the processing is necessary for the purposes of legitimate interests pursued by the data controller or by the third party or parties to whom the data are disclosed, except where the processing is unwarranted in any particular case by reason or prejudice to the rights or freedoms or legitimate interests of the data subject"*.

Information to be provided to the Students and Parent(s)/Carer(s)

The Act also 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 Students and Parent(s)/Carer(s) will be aware that examination results may be published, this is not always the case. To satisfy this requirement therefore, schools should ensure that Students and their Parent(s)/Carer(s) 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 Students, for instance, might object to their results being published if they know that results are published in grade order rather than, say, alphabetically.

The Right to object

Although the Commissioner does not think that Students or their Parent(s)/Carer(s) must give their consent to the publication of examination results, s/he knows from experience that in a small number of cases publication can cause distress. When informing Students or their Parent(s)/Carer(s) that examination results are published, schools should therefore advise them of the right to object to publication.

Students or Parent(s)/Carer(s)

The rights which the Data Protection Act gives data subjects are not affected by their ages. The Commissioner generally advises that as long as Young People are able to understand their rights then it is they and not their Parent(s)/Carer(s) who should be informed of uses and disclosures of data and who have the right to object to processing. In most cases, therefore, it is sufficient to provide the information described above to Students. In a small number of cases, it may be that Students are not capable of understanding their rights or of understanding the consequences of publication. In these cases, schools should provide the relevant information to Parent(s)/Carer(s).

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