



St. Helen's School

DATA PROTECTION POLICY

St Helen's School is the data controller for data in the School.

The School is required to process personal data regarding pupils, their parents and guardians as part of their operation, and shall take all reasonable steps to do so in accordance with this Policy and the Data Protection Act 1998 ('the DPA'). The School aims to have transparent systems for holding and processing written personal data. Any reference to personal data in this Policy includes reference to sensitive personal data.

Any individual is entitled to request access to information relating to their personal data held by the School (see The Data Protection Act Section 2). In this Policy any reference to pupils includes current, past or prospective pupils.

The Data Protection Act 1998

1. The Data Protection Act

- 1.1 The School has the responsibility to comply with the DPA.
- 1.2 The DPA applies to information relating to both "personal" and "sensitive personal" data.
- 1.3 **Personal data** is defined in the DPA as information identifying a living individual. The School may process a wide range of personal data of pupils, their parents or guardians as part of their operation. Personal data includes facts, any expression of opinion about an individual and any indication of the intentions of anyone in respect of that individual. Examples of personal data are: names and addresses; bank details; academic, disciplinary, admissions and attendance records; references; and examination scripts and marks.
- 1.4 **Sensitive personal data** is defined in the DPA as information in respect of racial or ethnic origin, political opinions, religious beliefs or "other beliefs of a similar nature", membership of a trade union, physical or mental health, sexual life, criminal convictions and alleged offences.
- 1.5 In order to comply with the DPA the School will comply with the eight Data Protection Principles which state that personal data must be:
 - processed fairly and lawfully,
 - obtained only for one or more specified and lawful purposes,
 - adequate, relevant and not excessive,

- accurate,
- not kept longer than is necessary,
- processed in accordance with the individual's rights under the DPA,
- kept secure, and
- not transferred to countries outside the European Economic Area unless there is adequate protection to the individual in relation to processing.

1.6 **Processing** includes obtaining, holding, recording, adding, deleting, augmenting, disclosing, destroying, printing or otherwise using data.

2. Processing of Personal Data

- 2.1 Consent may be required for the processing of personal data unless the processing is necessary for the School to undertake its obligations to pupils and their parents or guardians. Personal data, unless otherwise exempt from restrictions on processing under the DPA, will only be disclosed to third parties with the consent of the appropriate individual or under the terms of this Policy.
- 2.2 The rights in relation to personal data set out under the DPA are those of the individual to whom the data relates. The School will, in most cases rely on parental or guardian consent to process data relating to pupils unless, given the nature of the processing in question, and the pupil's age and understanding, it is unreasonable in all the circumstances to rely on the parent or guardian's consent. Parents should be aware that in such situations they may not be consulted.

3. Exemptions which allow Disclosure of Personal Data

- 3.1 A number of exemptions are set out under the DPA which allow disclosure and processing of personal data which would otherwise be prohibited under the DPA. The majority of these exemptions only allow disclosure and processing of personal data where specific qualifications are met.
- 3.2 Exemptions may apply to the processing and disclosure of personal data by the School in a number of cases, including:
- for the prevention or detection of crime,
 - for the assessment of any tax or duty,
 - where it is necessary to exercise a right or obligation conferred or imposed by law upon the School,
 - for the purpose of, or in connection with legal proceedings (including prospective legal proceedings),
 - for the purpose of obtaining legal advice, and
 - for research, historical and statistical purposes.

Rights of Access

Individuals have a right of access to their personal data held by the School. This is known as a subject access request under the DPA. Any request in writing will be accepted as long as satisfactory identification is given and the information request is clear, not excessive or vexatious.

1. Requests for access to records (Subject Access Requests)

- 1.1 A subject access request must be made in writing to the Head.
- 1.2 All requests for access to records must be placed on the relevant student file.

2. Responding to requests for access to records

- 2.1 The Head, or in her absence Deputy Heads, must authorise the applicant's request for access before **any** information is disclosed (see paragraph 3 below).
- 2.2 The School may also wish to obtain legal advice in relation to disclosure.
- 2.3 A written response acknowledging the request must be sent to the applicant within **10 working days** of the request.
- 2.4 If the applicant's request for access is granted, the Data Protection Act 1998 requires such access to be given within **40 calendar days** of the written request being received. The 40 day period does not begin until:
 - 2.4.1 a written application has been received by the School
 - 2.4.2 the School has received sufficient information to enable it to identify the individual who is seeking access;
 - 2.4.3 the School has received sufficient information to enable it to access the information requested.
- 2.5 Where the conditions set out in paragraph 2.4 are fulfilled, the School must give a description of the personal data that is being processed, the purposes for which the personal data is being processed, and the persons to whom the personal data is or may be disclosed.
- 2.6 If access to information is refused the reason for the refusal must be given in writing to the applicant. The only exception to this is where the reason for refusal is because of an **exemption** to the right of access (see paragraph 6 below). In these circumstances, a notification of refusal is sufficient. In the event that access to information is refused a note of the reason for refusal must be recorded on the student file.

3. Authorisation of access to records on behalf of a child or young person

- 3.1 A child or young person may appoint a person with parental responsibility for him or her to request access to their records. In such circumstances, the School must have written evidence that the child or young person has authorised the person with parental responsibility to make the application.
- 3.2 The Head, or in her absence Deputy Head will determine what information will be shared with the person with parental responsibility. Access to records will be refused in instances where, for example, information sharing may place a child at risk of significant harm or jeopardise police investigations into any alleged offence(s).
- 3.3 Where a child or young person does **not** have sufficient understanding to make his or her own request, a person with parental responsibility can make a request on their behalf. The Head, or in her absence a Deputy Head must, however, be satisfied that:
 - 3.3.1 the child or young person lacks sufficient understanding; and

3.3.2 the request made on behalf of the child or young person is in their interests.

3.4 The School will only grant pupils access to their personal data if, in the School's reasonable belief, the pupil understands the nature of the request. It is generally accepted that, by the age of 12, a child can be expected to have sufficient maturity to understand the nature of the request.

3.5 Where a pupil seeks to raise concerns confidentially with a member of staff and expressly withholds their agreement to their personal data being disclosed to their parents or guardian, the School will maintain confidentiality unless it has reasonable grounds to believe that the pupil does not fully understand the consequences of withholding their consent, or where the School believes disclosure will be in the best interests of the pupil or other pupils.

4. Disclosure of Information

4.1 Any individual is entitled to have access to all information specifically held about him or her where:

4.1.1 it is automated data being personal data held or processed electronically, for example, on a computer, word processor, audio and video system or telephone logging system;

4.1.2 it is manual data which consists of non-automated information such as paper or microfiche files or records, which record information as part of a relevant filing system. A relevant filing system is defined as a set of information relating to individuals and structured either by reference to individuals or specific criteria relating to those individuals, in such a way that specific information relating to a particular individual is readily accessible.

4.2 Information may be disclosed in the following ways:

- in writing,
- by provision of a copy,
- orally, or
- electronically, from one computer to another.

4.3 Only relevant documents from the student file will be duplicated and disclosed to the applicant who, if requested, should be given a copy of the duplicated document.

4.4 An individual is not entitled to information where:

4.4.1 exemptions to the right of access apply (see paragraph 6 below);

4.4.2 another person ("third party") has refused consent to disclose information that identifies them (**but** see paragraph 4.6 below); or

4.4.3 written consent has not been obtained from family or non-family members referred to in the student file.

4.5 Information contained in an individual's records is likely to contain information about persons other than the individual. Such persons are known as third parties. Generally, information about or identifying a third party must not be disclosed to the individual seeking access to the information without the third party's written consent.

- 4.6 There may be circumstances where the Head, or in her absence a Deputy Head considers it "*reasonable in all the circumstances*" to disclose information without the consent of a third party. For example, when the third party cannot be traced.
- 4.7 In determining what is reasonable in all the circumstances it is necessary to have regard to:
- any duty of confidentiality owed to the third party,
 - any steps taken with a view to seeking consent of the third party to the disclosure,
 - whether the third party is capable of giving consent, and
 - any express refusal of consent by the third party.
- 4.8 In instances where the Head, or in her absence a Deputy Head, has decided information concerning other people (third parties) or their identities may not be disclosed it is acceptable to "blank out" the relevant information.
- 4.9 Requests for information need only be complied with where it is reasonable, that is there is no obligation to comply with a request for '*everything held on John Smith*'; rather a request can be made for more specific details of the information sought.
- 4.10A request for access to files without the permission of the individual will be directed to the Governors and may be directed to the School's legal representative.

5. Disclosure of Personal Data to Third Parties (and see The Data Protection Act Section 3)

- 5.1 The School may receive requests from third parties to disclose personal data it holds about pupils, their parents or guardians. This information will not generally be disclosed unless the individual concerned has given their consent, where one of the specific exemptions under the DPA which allow disclosure applies or where necessary for the following purposes:
- 5.1.1 to give a confidential reference relating to a pupil to any educational institution which it is proposed that the pupil may attend;
 - 5.1.2 to give information relating to outstanding fees or payment history to any educational institution which it is proposed that the pupil may attend;
 - 5.1.3 to publish the results of public examinations or other achievements of pupils of the School; or
 - 5.1.4 to disclose details of a pupil's medical condition where it is in the pupil's interests to do so, for example for medical advice, insurance purposes or to organisers of school trips.
- 5.2 Where the School receives a disclosure request from a third party it will take reasonable steps to verify the identity of that third party before making any disclosure.

6. Exemptions

- 6.1 Confidential references given, or to be given by the School, are exempt from access.
- 6.2 Examination scripts, that is information recorded by students during an examination, are exempt from disclosure. However, any comments recorded by the examiner in the margins of the script are not exempt even though they may not seem of much value without the script itself.

6.3 Examination marks do not fall within an exemption as such, however the 40 day compliance period for responding to a request is extended in relation to examination marks to either, five months from the day on which the School received the request (or all the necessary conditions set out in paragraph 2.5 are fulfilled), or 40 days from the announcement of the examination results, whichever is the earlier.

6.4 Where a claim to legal professional privilege could be maintained in legal proceedings, the information is exempt from disclosure unless the privilege is waived.

7. Repeated requests for access to records

7.1 Unless a reasonable period of time has lapsed between the compliance with one request and receipt of the next, the DPA allows for access to be refused when the applicant has made repeated requests for information already provided.

Use of Personal Information by the School

The School will, from time to time, make use of personal data relating to pupils, their parents or guardians in the following ways:

- The use of photographs or images of pupils in the School's promotional material such as the prospectus and website. We would not disclose the name or home address of the pupil in a photograph or image without the parents' consent. Parents who do not want the pupil's personal photograph or image to appear in any of the School's promotional material must make sure the pupil knows this and must write immediately to the Marketing Manager requesting an acknowledgment of their letter.
- The transfer of information to any association society or club set up for the purpose of establishing or maintaining contact with pupils or for fundraising, marketing or promotional purposes. Should you wish to limit or object to any such use please notify the Marketing Manager requesting an acknowledgment of your letter.

Accuracy

The School will endeavour to ensure that all personal data held in relation to an individual is accurate. Individuals must notify the School of any changes to information held about them. An individual has the right to request that inaccurate information about them is erased or corrected.

Security

The School will take reasonable steps to ensure that members of staff will only have access to personal data relating to pupils, their parents or guardians where it is necessary for them to do so. All staff will be made aware of this Policy and their duties under the DPA. The School will take all reasonable steps to ensure that all personal information is held securely and is not accessible to unauthorised persons.

Complaints

If an individual believes that the School has not complied with this Policy or acted in accordance with the DPA they should utilise the relevant School's complaints procedure. If the individual is still not satisfied, they may make representations to the Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF. Tel (01626) 545 700.

Date of next Review: Spring 2011