

**Brine Leas School**  
**An Academy**

## **Data Protection Policy**

### **INTRODUCTION**

The school collects and uses certain types of personal information about employees, students, parents and other individuals who come into contact with the school in order provide education and associated functions. In addition, it may be required by law to collect and use certain types of information to comply with statutory obligations of Local (Education) Authorities (LAs), government agencies and other bodies. <sup>1</sup>

This policy is intended to ensure that personal information must be dealt with properly and securely and in accordance with the Data Protection Act 1998 (The Act) and other related legislation. 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.

The school is the Data Controller under The Act. The school's Data Protection Officer is Mrs. K. Bradshaw, Business Manager, who will endeavour to ensure that all personal information is processed in compliance with this Policy and the Principles of the Data Protection Act 1998.

All staff involved with the collection, processing and disclosure of personal information will be aware of their duties and responsibilities within these guidelines.

### **DEFINITIONS**

"Processing" refers to any action involving personal information, including obtaining, viewing, recording, copying, amending, adding, deleting, extracting, storing, disclosing, destroying or otherwise using information.

In this policy any reference to students, parents and other individuals who come into contact with the school as part of the provision of education and associated functions of the school includes current, past or prospective students, parents and other individuals as described.

### **DATA PROTECTION PRINCIPLES**

The School will comply with the Eight Data Protection Principles as laid down in the 1998 Data Protection Act which must be followed at all times:-

1. Data must be processed fairly and lawfully.
2. Personal data shall be obtained only for one or more specific and lawful purposes.
3. Personal data shall be adequate, relevant and not excessive in relation to the purpose(s) for which they are processed.
4. Personal data shall be accurate and where necessary kept up to date.
5. Personal data processed for any purpose(s) shall not be kept for longer than is necessary for that purpose.

<sup>1</sup> (For further information about the collection and use of data refer to the Fair Processing Notices issued to parents by the school. These are also available on the school's website: [www.brineleas.co.uk](http://www.brineleas.co.uk))

6. Personal data shall be processed in accordance with the rights of data subjects under the 1998 Data Protection Act.
7. 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.
8. 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.

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

- tell you what purposes we will use information for when we collect it
- if information will be shared we will tell you why, with whom and under what circumstances
- check the quality and accuracy of the information we hold
- apply our 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 to safeguard personal information whether that is held in paper files or on our computer system
- share personal information with others only 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 our staff so that they are aware of our policies and procedures

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

## **SENSITIVE PERSONAL DATA**

The school may, from time to time, be required to process sensitive personal data regarding an employee or a pupil, their parents or guardians. Sensitive personal data includes medical information and data relating to religion, race or criminal records and proceedings. Where sensitive personal data are processed by the school, the explicit consent of the appropriate individual will generally be required in writing.

## **ACCESS TO PERSONAL INFORMATION**

Employees, students and others in the school have the right of access to any personal information that is being kept about them. A request to access personal data must be made in writing to the Headteacher. A fee will be charged in advance; the school will acknowledge receipt of the request as soon as possible after receipt of the payment of the fee and will aim to comply with the request within the statutory period. Any delay will be explained in writing to the person making the request. Access to non-personal data will be dealt with under the Freedom of Information Act 2000.

## **COMPLAINTS**

Complaints under this policy should be made to the Chairperson of the Governing Body who will decide if it is appropriate for the complaint to be dealt with under the complaints procedure. Complaints which are not dealt with under the school's complaints procedure should be forwarded in writing to the Information Commissioner. It is likely that complaints about procedural issues, due process and timeliness will be dealt with by the Governing Body; complaints that involve consideration of personal data or sensitive personal data should be referred to the Information Commissioner.

## **CONTACTS**

If you have any concerns or questions in relation to this policy please contact the Headteacher. Further advice and information, including a full list of exemptions, is available from the Information Commissioner's Office: [www.ico.gov.uk](http://www.ico.gov.uk).

<b>Prepared/Updated by:</b> P Whitehead	<b>Date:</b> December 2015
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## **PROCEDURES FOR REQUESTING INFORMATION FROM THE SCHOOL**

Pupils, parents and staff have the right to access information held by the school. The most important rights are contained in the following legislation:-

1. The Data Protection Act 1998
2. The Education (Pupil Information) (England) Regulations 2005
3. The Freedom of Information Act 2000

***All requests for information should be made in the same way – by writing to the Headteacher. The school will then decide which act the request falls under and respond accordingly.***

## **REQUESTS FOR INFORMATION UNDER THE DATA PROTECTION ACT**

A request to access personal data must be made in writing to the Headteacher. A fee will be charged in advance; the school will acknowledge receipt of the request as soon as possible after receipt of the payment of the fee and will aim to comply with the request within the statutory period (40 days). Any delay will be explained in writing to the person making the request.

## **REQUESTS FOR INFORMATION UNDER THE FREEDOM OF INFORMATION ACT**

A request for information which falls under the Freedom of Information Act must be made in writing to the Headteacher. The school will acknowledge receipt of the request as soon as possible detailing any costs involved and will aim to comply with the request within the statutory period (20 working days). Any delay will be explained in writing to the person making the request.

## **REQUESTS FOR INFORMATION UNDER THE THE EDUCATION (PUPIL INFORMATION) (ENGLAND) REGULATIONS 2005**

The school will make available a copy of the pupil record if requested to do so in within 15 school days. The school may charge a fee not exceeding the cost of supply. This fee will be set by the governing body.

### **EDUCATION (PUPIL INFORMATION) (ENGLAND) REGULATIONS 2005**

The Regulations Under these regulations, the governing body of a school must make a **pupil's educational record** available for inspection by the parent, free of charge, within 15 school days of the parent's written request for access to that record.

The school must also provide a copy of the record if requested to do so in writing within 15 school days. The school may charge a fee not exceeding the cost of supply. This fee will be set by the governing body.

The meaning of parent is wider than the definition of who has parental responsibility. Parent means a person with parental responsibility or who has care of the child. Therefore, where a child is living with grandparents, the grandparents have a right to see the child's educational record even though they may not have parental responsibility which would allow them, for example, to change the child's name.

The difference between the Data Protection Act and the Pupil Information Regulations is that under the Pupil Information Regulations, parents have a right to access their child's data and the child cannot prevent this. These Regulations only cover information in the official pupil record.

### **EXEMPTIONS**

A school must not communicate anything to the parent which it could not communicate to the pupil himself under the DPA.

Therefore, the school should bear in mind other individuals' rights under the DPA which could be infringed. For example, where a pupil's parents have divorced and the record consists of letters from the pupil's mother, these should be removed from the record before it is shared with/ copied for the father.

### **SCHOOL REPORTS**

Every parent is entitled to receive an annual report in respect of his or her child. Parents also have the right to make arrangements to discuss the content of the report with the child's teacher.

This right remains even if a child no longer lives with the parent, providing that parent has parental responsibility.

When a child reaches 18 and is not proposing to leave school by the end of the school year to which the report relates, the head teacher should give the report to the pupil himself and to the parent if the head teacher considers there to be special circumstances which make it appropriate.

In respect of any pupil who has ceased to be of compulsory school age and is proposing to leave or has left the school, the head teacher should give the school leaver's report to the pupil concerned.

## **FREEDOM OF INFORMATION ACT 2000**

(For procedures relating to making a request for information and how the school will respond, see Appendix I above)

### **INTRODUCTION**

From 1 January 2005 when the Freedom of Information Act 2000 (FOIA) came fully into force, there is a legal right for any person to ask a school for access to information that it holds. The FOI Act is overseen by the Information Commissioner who also has responsibility for The Data Protection Act 1998, and The Environmental Information Regulations 2004.

- The Data Protection Act 1998 (DPA) enables individuals to access information about themselves;
- The Environmental Information Regulations 2004 (EIRs) enable people to access environmental information; and
- The Freedom of Information Act enables people to access all other information and the reasoning behind decisions and policies, which do not fall under DPA or EIR.

Although FOI presumes openness, it recognises the need to protect sensitive information in certain circumstances and provides for exemptions.

### **THE SCHOOL'S OBLIGATIONS UNDER FOIA**

Schools are under a duty to provide advice and assistance to anyone requesting information. The enquirer is entitled to be told whether the school holds the information (the duty to confirm or deny) except where certain exemptions apply. A well-managed records and management information system is essential to help schools to meet requests.

There are prescribed time limits for responding to requests for information. Requests should be dealt with within 20 days excluding school holidays. Wilfully concealing, damaging or destroying information in order to avoid answering an enquiry is an offence.

A valid FOI request should be in writing, state the enquirer's name and correspondence address and describe the information requested.

Expressions of dissatisfaction should be handled through the school's existing complaints procedure.