



# Coton-in-the Elms C of E Primary School

## GDPR and Data Protection Policy

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## 1. Overview

General Data Protection Regulation (GDPR) and The Data Protection Act 2018 (DPA) 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 legislation. It will apply to personal information regardless of the way it is used, recorded and stored and whether it is held in paper files or electronically.

## 2. Policy Objectives

The school as the Data Controller will comply with its obligations under the GDPR and DPA. The school is committed to being concise, clear and transparent about how it obtains and uses personal information and will ensure data subjects are aware of their rights under the legislation.

All staff must have a general understanding of the law and understand how it may affect their decisions in order to make an informed judgement about how information is gathered, used and ultimately deleted. All staff must read, understand and comply with this policy.

The Information Commissioner as the Regulator can impose fines of up to 20 million Euros (approximately £17 million) for serious breaches of the GDPR, therefore it is imperative that the School and all staff comply with the legislation.

## 3. Scope of the Policy

Personal data is defined under "any information that relates to an identified or identifiable living individual who can be identified directly or indirectly from the information held by the school." The information includes factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of a living individual. This includes any expression of opinion about an individual and intentions towards an individual. Under the GDPR personal information also includes an identifier such as a name, an identification number, location data or an online identifier.

The School collects a large amount of personal data every year including: pupil records, 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.

## 4. The Principles

There are six enforceable principles contained in Article 5 of the GDPR regulations, which the school must adhere to when processing personal data:

- 1. Personal data must be processed lawfully, fairly and in a transparent manner (lawfulness, fairness and transparency)
- 2. Personal data shall be collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes (purpose limitation)
- 3. Personal data shall be adequate, relevant and limited to what is necessary in relation to the purpose(s) for which they are processed (data minimisation)
- 4. Personal data shall be accurate and where necessary kept up to date and every reasonable step must be taken to ensure that personal data that are inaccurate are erased or rectified without delay (accuracy).
- 5. Personal data shall be kept in a form which permits identification of data subjects for no longer than is necessary for the purpose for which the personal data is processed (**storage limitation**)
- 6. Appropriate technical and organisational measures shall be taken to safeguard the rights and freedoms of the data subject and to ensure that personal information are processed in a manner

that ensures appropriate security of the personal data and protects against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data (**integrity and confidentiality**).

There is a 7<sup>th</sup> Principle – the Accountability Principle which requires organisations to take responsibility for what they do with personal data and how they comply with the other principles. At the school, the responsibility for adherence to the principles lies with all School staff.

## 5. Transfer Limitation

In addition, 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 as determined by the European Commission or where the organisation receiving the data has provided adequate safeguards<sup>2</sup>.

This means that individuals' rights must be enforceable and effective legal remedies for individuals must be available following the transfer. It may also be possible to transfer data where the data subject has provided explicit consent or for other limited reasons. Staff should contact the DPO if they require further assistance with a proposed transfer of personal data outside of the EEA.

## 6. Overall commitment to complying with the above principles

Alongside actions relating to specific obligations with which the legislation obliges the School to comply, and which are included below in relevant sections of this Policy, the School will:

- (a) Produce an information asset register that contains details of the records it holds.
- (b) Inform individuals why the information is being collected at the point it is collected by way of privacy notices.
- (c) Inform individuals when their information is shared, and why and with whom it will be shared.
- (d) Check the quality and the accuracy of the information it holds.
- (e) Ensure that information is not retained for longer than is necessary.
- (f) Ensure that when obsolete, information is destroyed and it is done so appropriately and securely.
- (g) Create, maintain and publish a Disposal and Retention Schedule setting out retention and disposal dates for common data sets and other information.
- (h) 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.
- (i) Share information with others only when it is fair and lawful to do so and satisfies the lawful basis for processing that information (lawful bases are set out in 7).
- (j) Share personal data with other organisations for the purpose of crime prevention and/or detection, or for the purpose of legal proceedings, provided that the disclosure falls within an exemption to the non-disclosure provisions contained within the Data Protection Act 1998 or any subsequent legislation.
- (k) Disclose personal data where required to do so by law for example, following receipt of a court order.

- (l) Set out procedures to ensure compliance with the duty to respond to an individual's rights to:
  - request access to personal information, known as Subject Access Requests;
  - be informed about the way their data is used;
  - have inaccurate personal data rectified;
  - have their personal data erased;
  - restrict the processing of their personal data; and
  - object to the processing of their personal data.
- (m) Ensure the School's staff are appropriately and regularly trained and aware of and understand the School's policies and procedures.
- (n) Create and maintain a data breach notification spreadsheet to record data breaches and also circumstances where a breach was narrowly avoided
- (o) Automated Decision Making  
If the School carries out automated decision making (including profiling), comply with all the relevant requirements of the GDPR.

## 7. Lawful Basis for processing personal information (Article 6 GDPR)

Before any processing activity starts for the first time, and then regularly afterwards, the purpose(s) for the processing activity and the most appropriate lawful basis (or bases) for that processing must be selected by the school. The lawful basis for processing which has been selected must be recorded, to demonstrate compliance with the data protection principles, and include information about the purpose of the processing and the justification for why you believe this basis allies.

The lawful bases includes:

- (a) The data subject has given consent to the processing of his or her data for one or more specific purposes. (Consent)
- (b) Processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract. (Contract)
- (c) Processing is necessary for compliance with a legal obligation to which the data controller is subject. (Legal Obligation)
- (d) Processing is necessary in order to protect the vital interests of the data subject or of another natural person. (Vital interests)
- (e) Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the school (Public Task)
- (f) Processing is necessary for the purposes of the legitimate interests pursued by the data controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child. (Legitimate Interests) N.B. This basis does not apply to processing carried out by public authorities in the performance of their tasks. However, the ICO indicates that where there are other legitimate purposes outside the scope of the tasks as a public authority, legitimate interests may be considered where appropriate.

Where the lawful basis for processing is consent this must be clearly evidenced by a very clear and specific statement. Such consent requires a positive opt-in and so pre-ticked boxes or any other method of default consent will not be sufficient. If consent is given in a document which deals with other matters, the consent must be kept separate from those other matters

The data subject shall have the right to withdraw his or her consent at any time and withdrawal must be promptly honoured. Prior to giving consent, the data subject shall be notified of the right of withdrawal.

## 8. Sensitive Personal Information

Processing of sensitive personal information (known as 'special categories of personal data') is prohibited<sup>4</sup> unless a lawful special condition for processing is identified.

Processing of special categories of personal data – Article 9

Processing of sensitive personal information is prohibited unless a lawful special condition for processing is identified. It comprises data which reveals racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, sex life or orientation or which concerns health or is genetic or biometric data which uniquely identifies a natural person.

Such personal data will only be processed by the School if:

- (a) There is a lawful basis for doing so as identified in Article 6.
- (b) One of the special conditions for processing sensitive personal information applies:
  - (i) the individual ('data subject') has given explicit consent (which has been clearly explained in a Privacy Notice)
  - (ii) the processing is necessary for the purposes of exercising the employment law rights or obligations of the school or the data subject
  - (iii) the processing is necessary to protect the data subject's vital interests, and the data subject is physically incapable of giving consent
  - (iv) the processing is carried out during its legitimate activities with appropriate safeguards by a foundation, association or any other not-for-profit body with a political, philosophical, religious or trade-union aim
  - (v) the processing relates to personal data which are manifestly made public by the data subject
  - (vi) the processing is necessary for the establishment, exercise or defence of legal claims
  - (vii) the processing is necessary for reasons of substantial public interest
  - (viii) the processing is necessary for purposes of preventative or occupational medicine, for the assessment of the working capacity of the employee, the provision of social care and the management of social care systems or services
  - (ix) the processing is necessary for reasons of public interest in the area of public health.
- (c) The School's privacy notice(s) set out the types of sensitive personal information that it processes, what it is used for, the lawful basis for the processing and the special condition that applies.

Sensitive personal information is data which reveals racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, sex life or orientation or is genetic or biometric data which uniquely identifies a natural person.

Sensitive personal information will only be processed if:

- There is a lawful basis for doing so as identified on previous page
- One of the special conditions for processing sensitive personal information applies:

- (a) the individual ('data subject') has given explicit consent (which has been clearly explained in a Privacy Notice)

- (b) the processing is necessary for the purposes of exercising the employment law rights or obligations of the school or the data subject
- (c) the processing is necessary to protect the data subject's vital interests, and the data subject is physically incapable of giving consent
- (d) the processing is carried out in the course of its legitimate activities with appropriate safeguards by a foundation, association or any other not-for-profit body with a political, philosophical, religious or trade-union aim
- (e) the processing relates to personal data which are manifestly made public by the data subject
- (f) the processing is necessary for the establishment, exercise or defence of legal claims
- (g) the processing is necessary for reasons of substantial public interest
- (h) the processing is necessary for purposes of preventative or occupational medicine, for the assessment of the working capacity of the employee, the provision of social care and the management of social care systems or services
- (i) the processing is necessary for reasons of public interest in the area of public health

The school's privacy notice(s) set out the types of sensitive personal information that it processes, what it is used for, the lawful basis for the processing and the special condition that applies.

Sensitive personal information will not be processed until an assessment has been made of the proposed processing as to whether it complies with the criteria above and the individual has been informed (by way of a privacy notice or consent) of the nature of the processing, the purposes for which it is being carried out and the legal basis for it.

Unless the School can rely on another legal basis of processing, explicit consent is usually required for processing sensitive personal data. Evidence of consent will need to be captured and recorded so that the school can demonstrate compliance with the GDPR.

## **9. Automated Decision Making**

Where the school carries out automated decision making (including profiling) it must meet all the principles and have a lawful basis for the processing. Explicit consent will usually be required for automated decision making (unless it is authorised by law or it is necessary for the performance of or entering into a contract).

Additional safeguards and restrictions apply in the case of solely automated decision-making, including profiling. The School must as soon as reasonably possible notify the data subject in writing that a decision has been taken based on solely automated processing and that the data subject may request the school to reconsider or take a new decision. If such a request is received staff must contact the DPO as the school must reply within 21 days.

## **10. Data Protection Impact Assessments (DPIA)**

The School will carry out a DPIA when processing is likely to result in high risk to the data protection rights and freedoms of individuals

The GDPR does not define high risk but guidance highlights a number of factors that are likely to trigger the need for a DPIA, which include

- the use of new technologies,

- processing on a large scale,
- systematic monitoring,
- processing of special categories of personal data.

The purpose of the DPIA is to assess:

- whether the processing is necessary and proportionate in relation to its purpose
- the risks to individuals, including both the likelihood and the severity of any impact on them
- what measures can be put in place to address those risks and protect personal information.

Staff should adhere to the Data Protection Toolkit for Schools from the DfE with reference to the DPIA template.

When carrying out a DPIA, staff should seek the advice of the DPO for support and guidance and once complete, refer the finalised document to the DPO for sign off.

## 11. Documentation and records

Written records of processing activities must be kept and recorded including:

- the name(s) and details of individuals or roles that carry out the processing
- the lawful basis for the processing
- a description of the categories of individuals and categories of personal data
- categories of recipients of personal data
- details of transfers to third countries, including documentation of the transfer mechanism safeguards in place
- retention schedules

As part of the School's record of processing activities the DPO will document, or link to documentation on:

- information required for privacy notices
- records of consent
- controller-processor contracts
- the location of personal information;
- DPIAs and
- Records of data breaches.

Records of processing of sensitive information are kept on:

- The relevant purposes for which the processing takes place, including why it is necessary for that purpose
- The lawful basis for our processing and
- Whether the personal information is retained or erased in accordance with the Retention Schedule and, if not, the reasons for not following the policy.

The School should conduct regular reviews of the personal information it processes and update its documentation accordingly. This may include:

- Carrying out information audits to find out what personal information is held
- Talking to staff about their processing activities
- Reviewing policies, procedures, contracts and agreements to address retention, security and data sharing

## **12. Privacy Notice**

The school will issue privacy notices as required, informing data subjects (or their parents, depending on age of the pupil, if about pupil information) about the personal information that it collects and holds relating to individual data subjects, how individuals can expect their personal information to be used and for what purposes.

When information is collected directly from data subjects, including for HR or employment purposes, the data subject shall be given all the information required by the GDPR including the identity of the data controller and the DPO, how and why the School will use, process, disclose, protect and retain that personal data through a privacy notice (which must be presented when the data subject first provides the data).

When information is collected indirectly (for example from a third party or publicly available source) the data subject must be provided with all the information required by the GDPR as soon as possible after collecting or receiving the data. The school must also check that the data was collected by the third party in accordance with the GDPR and on a basis which is consistent with the proposed processing of the personal data.

The School will take appropriate measures to provide information in privacy notices in a concise, transparent, intelligible and easily accessible form, using clear and plain language.

The School will issue a minimum of two privacy notices, one for pupil information, and one for workforce information, and these will be reviewed in line with any statutory or contractual changes. The privacy notices will be amended to reflect any changes to the way the School processes personal data.

These privacy notices can be found by contacting the school office.

## **13. Purpose Limitation**

Personal data must be collected only for specified, explicit and legitimate purposes. It must not be further processed in any manner incompatible with those purposes.

Personal data must not be used for new, different or incompatible purposes from that disclosed when it was first obtained unless the data subject has been informed of the new purposes and they have consented where necessary.

## **14. Data minimisation**

Personal data must be adequate, relevant and limited to what is necessary in relation to the purposes for which it is processed.

Staff may only process data when their role requires it. Staff must not process personal data for any reason unrelated to their role.

The School maintains a Retention Schedule to ensure personal data is deleted after a reasonable time for the purpose for which it was being held, unless a law requires such data to be kept for a minimum time. Staff must take all reasonable steps to destroy or delete all personal data that is held in its systems when it is no longer required in accordance with the Schedule. This includes requiring third parties to delete such data where applicable.

Staff must ensure that data subjects are informed of the period for which data is stored and how that period is determined in any applicable Privacy Notice.

## 15. Individual Rights

Staff as well as any other 'data subjects' have the following rights in relation to their personal information:

- To obtain confirmation that personal information is being processed and to obtain access to it and certain other information, by making a subject access request. You can obtain a copy of this procedure by contacting the school office
- To be informed about how, why and on what basis that information is processed (see the relevant privacy notice)
- To have data corrected if it is inaccurate or incomplete
- To have data erased if it is no longer necessary for the purpose for which it was originally collected/processed, or if there are no overriding legitimate grounds for the processing ('the right to be forgotten')
- To restrict the processing of personal information where the accuracy of the information is contested, or the processing is unlawful (but you do not want the data to be erased) or where the school no longer need the personal information, but you require the data to establish, exercise or defend a legal claim
- To restrict the processing of personal information temporarily where you do not think it is accurate (and the school are verifying whether it is accurate), or where you have objected to the processing (and the school are considering whether the school's legitimate grounds override your interests)
- In limited circumstances to receive or ask for their personal data to be transferred to a third party in a structured, commonly used and machine-readable format
- To withdraw consent to processing at any time (if applicable)
- To request a copy of an agreement under which personal data is transferred outside of the EEA.
- To object to decisions based solely on automated processing, including profiling
- To be notified of a data breach which is likely to result in high risk to their rights and obligations
- To make a complaint to the ICO or a Court

## 16. Individual Responsibilities

During their employment, staff may have access to the personal information of other members of staff, suppliers, clients or the public. The school expects staff to help meet its data protection obligations to those individuals.

If you have access to personal information, you must:

- only access the personal information that you have authority to access and only for authorised purposes
- only allow other staff to access personal information if they have appropriate authorisation
- only allow individuals who are not school staff to access personal information if you have specific authority to do so
- keep personal information secure (e.g. by complying with rules on access to premises, computer access, password protection and secure file storage and destruction in accordance with the school's policies)
- not remove personal information, or devices containing personal information (or which can be used to access it) from the school's premises unless appropriate security measures are in place (such as pseudonymisation, encryption or password protection) to secure the information and the device
- not store personal information on local drives or on personal devices that are used for work purposes

## 17. Access to Personal Data

This section sets out the process that will be followed by the School when responding to requests for access to personal data made by the pupil or their parent or carer with parental responsibility.

The school will use appropriate technical and organisational measures to keep personal information secure, to protect against unauthorised or unlawful processing and against accidental loss, destruction or damage.

All staff are responsible for keeping information secure in accordance with the legislation and must follow their school's acceptable usage policy.

There are two distinct rights of access to information held by schools about pupils, parents/carer and staff:

- (a) Pupils and parents or those with Parental Responsibility have a right to make a request under the GDPR to access the personal information held about them.
- (b) Pupils and parents or those with Parental Responsibility have a right to access the educational records. The right of those entitled to have access to curricular and educational records is defined within the Education (Pupil Information) (England) Regulations 2005.

### 13.2 Handling a subject access request for access to personal data:

Article 15 of the GDPR gives individuals the right to access personal data relating to them, processed by a data controller. The right can be exercised by a person with Parental Responsibility on behalf of their child dependent on the age and the understanding of the child.

For the purposes of a subject access request the School will apply the full legal definition of 'Parental Responsibility' when determining who can access a child's personal data.

Requests for information may come in from various sources whether verbally, through webforms/social networks or in writing, which can include e-mail, to any member of staff. Where possible the requestor should be encouraged to complete a request form to best capture what information is being requested. If the original request does not clearly identify the information required, then the School will seek further enquiries to clarify what information is being requested.

The request will be recorded within the GDPRiS portal and assigned to a member of staff to monitor and ensure the request is investigated and either fulfilled or rejected.

The identity of the requestor must be established before the disclosure of any information is made. Proof of the relationship with the child (if not known) must also be established as this will verify whether the individual making the request can lawfully exercise that right on behalf of the child.

Below are some examples of documents which can be used to establish identity:

- Passport
- Driving licence
- Utility bill with current address
- Birth/marriage certificate
- P45/P60
- Credit card or mortgage statement.

It is widely accepted that children of primary school age do not have the maturity to understand and exercise their own rights and as such it is acceptable for those with Parental Responsibility to exercise

these rights on their child's behalf. However, each request will be considered on its own merits and the circumstances surrounding the request and the child. A child with competency to understand can refuse to consent to a request for their personal information made under the GDPR. This position differs when the request is for access to the Education Record of the child (see below for more detail).

No charge can be made for access to personal data that is not contained within an education record but the School reserves the right to cover its communication costs e.g. photocopying, postage, in which case a fees notice will be sent to the requestor .

The response time for a subject access request is 1 calendar month from the date of receipt

The relevant response time period for a subject access request will not commence until any necessary clarification of information has been sought and received from the requestor. The time to respond can be extended to two months where the request is complex or numerous.

There are some exemptions available under the Data Protection Act which will mean that occasionally personal data will need to be redacted (information blacked Data Protection Policy May 2018 out/removed) or withheld from the disclosure. All information will be reviewed prior to disclosure to ensure that the intended disclosure complies with the School's legal obligations.

Where the personal data also relates to another individual who can be identified from the information, the information will be redacted to remove the information that identifies the third party. If it is not possible to separate the information relating to the third party from the information relating to the subject of the request, consideration will be given to withholding the information from disclosure. These considerations can be complex and additional advice will be sought when necessary.

Any information which may cause serious harm to the physical or mental health or emotional condition of the pupil or another person will be withheld along with any information that would reveal that the child is at risk of abuse, or information relating to Court Proceedings.

Where redaction has taken place then a full copy of the information provided will be retained in order to maintain a record of what was redacted and why and a clear explanation of any redactions will be provided in the School's response to the request.

If there are concerns about the disclosure of information additional advice will be sought.

Handling a request for access to a curricular and educational record as defined within the Education (Pupil Information) (England) Regulations 2005.

A parent may make a request to access information contained within their child's education record, regardless of whether the child agrees to the disclosure of information to them. The right of access belongs to the parent in these cases. It is not a right being exercised by the parent on behalf of the child.

For the purpose of responding to an Educational Records request, the School will apply the definition of 'parent' contained within the Education Act 1996.

- 13.3.3 An "educational record" means any record of information which-
  - (a) Is processed by or on behalf of the governing body of, or a teacher at, any school maintained by a local education authority and any special school which is not so maintained.
  - (b) Relates to any person who is or has been a pupil at any such school; and
  - (c) Originated from or was supplied by or on behalf of the persons specified in paragraph (a), other than information which is processed by a teacher solely for the teacher's own use

The amount that can be charged for a copy of information contained in an education record will depend upon the number of pages provided. The charge made will be in accordance with the Education (Pupil Information) (England) Regulations 2005.

No charge will be made to view the education record.

The response time for requests made under the Education (Pupil Information) (England) Regulations 2005 is 15 school days (this does not include half terms or teacher training days) or 1 calendar month, whichever is shorter.

An exemption from the obligation to comply with the request will be claimed where the disclosure of the information to the parent may cause serious harm to the physical or mental or emotional condition of the pupil or another person or if the disclosure of the information would reveal that the child is at risk of abuse.

## **18. Security of personal data**

The school will develop, implement and maintain safeguards appropriate to its size, scope and business, its available resources, the amount of personal data that it owns or maintains on behalf of others and identified risks (including use of encryption and pseudonymisation where applicable). It will regularly evaluate and test the effectiveness of those safeguards to ensure security of processing.

The Security Principle requires that appropriate security is put in place to prevent the personal data it holds being accidentally or deliberately compromised.

In order to comply with this principle the School will:

- (a) Ensure that all individuals involved in processing data understand the requirements of confidentiality, integrity and availability for the personal data being processed.
- (b) Undertake an analysis of the risks presented by its processing, and uses this to assess the appropriate level of security it needs to put in place to keep paper and electronic personal data secure and ensure that appropriate security measures are enforced
- (c) Ensure that only authorised individuals have access to personal data.
- (d) Put in place appropriate physical and organisational security measures, as well as technical measures, and regularly review the physical security of the School buildings and storage systems.
- (e) Require staff to ensure that no personal data will be left unattended in any vehicles and that if it is necessary to take personal data from School premises, for example to complete work from home, the data is suitably secured.
- (f) Review its information security policy regularly and takes steps to make sure the policy is implemented.
- (g) Put in place basic technical controls and be aware that it may also need to put other technical measures in place depending on the circumstances and the type of personal data it processes.
- (h) Use encryption and/or pseudonymisation where it is appropriate to do so.
- (i) Ensure that all portable electronic devices containing personal data are password protected.
- (j) Refer to any relevant guidance and seek advice where necessary if processing personal data utilising a cloud based solution.
- (k) Make sure that it can restore access to personal data in the event of any incidents, such as by establishing an appropriate backup process.

- (I) Ensure that any data processor it uses also implements appropriate technical and organisational measures.

The School will conduct regular testing and reviews of its measures to ensure they remain effective, and act on the results of those tests where they highlight areas for improvement.

## **19. Retention of personal information**

Personal data should not be retained for any longer than necessary. The length of time data should be retained will depend upon the circumstances, including the reasons why personal data was obtained. Staff should adhere to the School's Record Retention Schedule. You can obtain a copy of this procedure by contacting the school office.

Personal information that is no longer required will be deleted in accordance with the School's Record Retention Schedule.

## **20. Data breaches**

A data breach may take many different forms:

- Loss or theft of data or equipment on which personal information is stored
- Unauthorised access to or use of personal information either by a member of staff or third party
- Loss of data resulting from an equipment or systems (including hardware or software) failure
- Human error, such as accidental deletion or alteration of data
- Unforeseen circumstances, such as a fire or flood
- Deliberate attacks on IT systems, such as hacking, viruses or phishing scams
- Bugging offences where information is obtained by deceiving the organisation which holds it.

In the event of the loss, damage or theft of equipment:

- (a) notification of the loss, damage or theft of any equipment should be sent at the first opportunity to the DPO and nominated Data Protection Lead at the school, with any details of personal data that may have been affected.
- (b) a written or e-mail report must be filed within 24 hours to the Head Teacher and nominated Data Protection Lead.
- (b) the employee responsible for that equipment will describe to their management the circumstances surrounding the loss, damage, or theft.
- (c) The Headteacher will provide guidance as to notice to be provided to the appropriate police authorities.

The School will require Staff, in the event of a data breach however caused, and whether or not it occurs on a school working day, in term time or school holiday time, to ensure they inform the Head Teacher, or in her absence, the Senior Leader, immediately that a breach is discovered and make all reasonable efforts to recover the information, following the School's agreed breach reporting process (see Information Security Policy).

In the event of a data breach occurring the School will comply with the requirement to report the breach to the DPO without undue delay and the DPO will determine whether there is a requirement to report such breach to the Information Commissioner's Office, on the basis that it is likely to result in a risk to the rights and freedoms of individuals. The School is required to report such a breach within 72 hours of discovery. The School will also notify the affected individuals if the breach is likely to result in such a high risk.

if the breach is likely to result in a high risk to their rights and freedoms. Staff should ensure they inform their line manager/DPO/Head teacher immediately that a data breach is discovered and make all reasonable efforts to recover the information, following the school's agreed breach reporting process. You can obtain a copy of this procedure by contacting the school office.

## **21. Complaints**

Complaints relating to the School's compliance with the GDPR will be dealt with in accordance with the School's Complaints Policy.

Complaints relating to access to personal information or access to education records should be made to our DPO (see section 4 of this policy) who will decide whether it is appropriate for the complaint to be dealt with through the School's complaints procedure. Complaints which are not appropriate to be dealt with through the school's complaints procedure can be referred to the Information Commissioner. Details of how to make a complaint to the ICO will be provided with the response letter.

Complaints relating to information handling may be referred to the Information Commissioner's Office (the statutory regulator). Contact details can be found on their website at [www.ico.org.uk](http://www.ico.org.uk) or telephone 01625 5457453

## **22. Training**

The school will ensure that staff are adequately trained regarding their data protection responsibilities.

## **23. Consequences of a failure to comply**

The school takes compliance with this policy very seriously. Failure to comply puts data subjects whose personal information is being processed at risk and carries the risk of significant civil and criminal sanctions for the individual and the school and may in some circumstances amount to a criminal offence by the individual.

Any failure to comply with any part of this policy may lead to disciplinary action under the school's procedures and this action may result in dismissal for gross misconduct. If a non-employee breaches this policy, they may have their contract terminated with immediate effect.

If you have any questions or concerns about this policy, you should contact your line manager or the school's DPO.

## **24. The Supervisory Authority in the UK**

Please follow this link to the ICO's website (<https://ico.org.uk>) which provides detailed guidance on a range of topics including individuals' rights, data breaches, dealing with subject access requests, how to handle requests from third parties for personal data etc.

## **25. Glossary**

**Automated Decision-Making (ADM):** when a decision is made which is based solely on automated processing (including profiling) which produces legal effects or significantly affects an individual. The GDPR prohibits automated decision-making (unless certain conditions are met) but not automated processing.

**Automated Processing:** any form of automated processing of personal data consisting of the use of personal data to evaluate certain personal aspects relating to an individual, in particular to analyse or predict aspects concerning that individual's performance at work, economic situation, health, personal

preferences, interests, reliability, behaviour, location or movements. Profiling is an example of automated processing.

**Consent:** agreement which must be freely given, specific, informed and be an unambiguous indication of the data subject's wishes by which they, by a statement or by a clear positive action, which signifies agreement to the processing of personal data relating to them.

**Data Controller** means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data. It is responsible for establishing practices and policies in line with the GDPR. The school is the Data Controller of all personal data relating to its pupils, parents and staff.

**Data Subject:** a living, identified or identifiable individual about whom we hold personal data. Data Subjects may be nationals or residents of any country and may have legal rights regarding their personal data.

**Data Privacy Impact Assessment (DPIA):** tools and assessments used to identify and reduce risks of a data processing activity. DPIA can be carried out as part of Privacy by Design and should be conducted for all major systems or business change programs involving the processing of personal data.

**Data Protection Officer (DPO):** the person required to be appointed in public authorities under the GDPR.

**EEA:** the 28 countries in the EU, and Iceland, Liechtenstein and Norway.

**Explicit Consent:** consent which requires a very clear and specific statement (not just action). General Data Protection Regulation (GDPR): General Data Protection Regulation ((EU) 2016/679).

**General Data Protection Regulation (GDPR):** General Data Protection Regulation ((EU) 2016/679). Personal data is subject to the legal safeguards specified in the GDPR.

**Personal data** is subject to the legal safeguards specified in the GDPR. Personal data is any information relating to an identified or identifiable natural person (data subject) who can be identified, directly or indirectly by reference to an identifier such as a name, identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person. Personal data includes sensitive personal data and pseudonymised personal data but excludes anonymous data or data that has had the identity of an individual permanently removed. Personal data can be factual (for example, a name, email address, location or date of birth) or an opinion about that person's actions or behaviour.

**Personal data breach** means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed.

**Privacy by Design:** implementing appropriate technical and organisational measures in an effective manner to ensure compliance with the GDPR.

**Privacy Notices:** separate notices setting out information that may be provided to Data Subjects when the school collects information about them. These notices may take the form of general privacy statements applicable to a specific group of individuals (for example, school workforce privacy policy) or they may be stand-alone privacy statements covering processing related to a specific purpose.

**Processing** means anything done with personal data, such as collection, recording, structuring, storage, adaptation or alteration, retrieval, use, disclosure, dissemination or otherwise making available, restriction, erasure or destruction.

**Processor** means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the data controller.

**Pseudonymisation or Pseudonymised**: replacing information that directly or indirectly identifies an individual with one or more artificial identifiers or pseudonyms so that the person, to whom the data relates, cannot be identified without the use of additional information which is meant to be kept separately and secure.

**School Day**: Any day in which there is a session and pupils are in attendance.

**Sensitive Personal Data**: information revealing racial or ethnic origin, political opinions, religious or similar beliefs, trade union membership, physical or mental health conditions, sexual life, sexual orientation, biometric or genetic data, and Personal data relating to criminal offences and convictions.

**Working Days**: Exclude school holidays and “inset” or training days where the pupils are not present.

## 26. Acknowledgement

This policy was adapted from the GDPRiS Data Protection Policy through the Derbyshire County Council Datahub team.

## 27. Footnotes

<sup>1</sup> GDPR Article 4 Definitions

<sup>2</sup> These may be provided by a legally binding agreement between public authorities or bodies, standard data protection clauses provided by the ICO or certification under an approved mechanism.

<sup>3</sup> The GDPR states that legitimate interests do not apply to processing carried out by public authorities in the performance of their tasks, Article 6. However, the ICO indicates that where there are other legitimate purposes outside the scope of the tasks as a public authority, legitimate interests may be considered where appropriate (particularly relevant for public authorities with commercial interests).

<sup>4</sup> GDPR Article 9