

TRANSFERRING EDUCATIONAL DATA ABOUT PUPILS

The information given in this form will be treated in confidence and will not be disclosed to any third parties, except for the compilation of statistical information, to comply with statutory obligations, or to assist in improving the services provided to you or the pupil to which this form relates.

However, in order that the Council can comply with statutory regulations in respect of supporting children's education, the Council will share pupil data with certain organisations. The sharing of this data is done in accordance with the Data Protection Act 1998. The main collector of data is the Scottish Executive Education Department.

The Council also passes pupil data to NHS Orkney and Careers Scotland to allow them to comply with their legal duties. NHS Orkney are under a duty to provide for the medical and dental supervision of pupils at school in Orkney and Careers Scotland are obliged to offer advice and guidance to such pupils about seeking or obtaining employment, training or education.

Details of the data that will be transferred to these 2 organisations is as follows:

NHS Orkney: The pupil data that will be passed on will include name, date of birth, school and class name.

Careers Scotland: Data for pupils in Secondary 3 and above will be transferred, including name, date of birth, gender, home address, telephone number, name of school, class, parents' name and Scottish Candidate number.

These uses of your personal information are covered by the Notification of Orkney Islands Council, as Education Authority, under the Data Protection Act 1998. Under the terms of that Act, you have the right to obtain copies of the information held about you upon payment of the appropriate fee.

EXAMPLE SCHOOL DATA PROTECTION POLICY

1 The school will comply with:

- The terms of the 1998 Data Protection Act, and any subsequent relevant legislation, to ensure personal data is treated in a manner that is fair and lawful.
- Orkney Islands Council advice and guidance supplied in the Data Protection guidance for schools.
- Information and guidance displayed on the Information Commissioner's website (www.dataprotection.gov.uk).

2 Data Gathering

All personal data relating to staff, pupils or other people with whom we have contact, whether held on computer or in paper files, are covered by the Act.

Only relevant personal data may be collected and the person from whom it is collected should be informed of the data's intended use and any possible disclosures of the information that may be made.

3 Data Storage

Personal data will be stored in a secure and safe manner.

Electronic data will be protected by standard password and firewall systems operated by the school. Computer workstations in administrative areas will be positioned so that they are not visible to casual observers waiting either in the office or at the reception hatch.

Manual data will be stored where it not accessible to anyone who does not have a legitimate reason to view or process that data.

Particular attention will be paid to the need for security of sensitive personal data.

4 Data Checking

The school will issue regular reminders to staff and parents to ensure that personal data held is up-to-date and accurate. Any errors discovered would be rectified and, if the incorrect information has been disclosed to a third party, any recipients informed of the corrected data.

5 Data Disclosures

Personal data will only be disclosed to organisations or individuals for whom consent has been given to receive the data, or organisations that have a legal right to receive the data without consent being given. When requests to disclose personal data are received by telephone it is the responsibility of the school to ensure the caller is entitled to receive the data and that they are who they say they are. It is advisable to call them back, preferably via a switchboard, to ensure the possibility of fraud is minimised.

If a personal request is made for personal data to be disclosed it is again the responsibility of the school to ensure the caller is entitled to receive the data and that they are who they say they are. If the person is not known personally, proof of identity should be requested.

Requests from parents or children for printed lists of the names of children in particular classes, which are frequently sought at Christmas, should politely refused as permission would be needed from all the data subjects contained in the list. (Note: A suggestion that the child makes a list of names when all the pupils are present in class will resolve the problem.)

Personal data will not be used in newsletters, websites or other media without the consent of the data subject.

Routine consent issues will be incorporated into the school's pupil data gathering sheets, to avoid the need for frequent, similar requests for consent being made by the school.

A record should be kept of any personal data disclosed so that the recipient can be informed if the data is later found to be inaccurate.

6 Subject Access Requests

If the school receives a written request from a data subject to see any or all personal data that the school holds about them this should be treated as a Subject Access Request and the school will respond within the 40 day deadline. Advice should be sought from the school's Link Officer in these circumstances.

Informal requests to view or have copies of personal data will be dealt with wherever possible at a mutually convenient time but, in the event of any disagreement over this, the person requesting the data will be instructed to make their application in writing and the school will comply with its duty to respond within the 40 day time limit.

This policy will be included in the *Staff Handbook*.

Data Protection statements will be included in the school prospectus and on any forms that are used to collect personal data.

DATA PROTECTION FAQ'S

Q: A teacher wants addresses or telephone numbers on a class list - is this okay?

A: Consider why? If the teacher is taking pupils away on an overnight journey, then the information is necessary (and for the education authority as well). Please, however, remind the teacher that the printout should be kept private and be returned to the school office for shredding immediately after the event. Otherwise, no - if the teacher needs to know such details, they will be available from the school office.

Q: At Christmas, parents are requesting lists of children in their child's class, to enable them to send cards to all the children and avoid anyone missing out. Is this okay?

A: A list of just names is okay as this information will be freely available to the children in class anyway and is therefore considered to be in the public domain. If you prefer, allow older children who can write time in class to write out their own list.

Q: The school nurse/visiting health professional has noticed a medical condition and wishes to speak to the child's parents about treatment. Can I release the address?

A: Consider whether the person is working in an official capacity for your school? If the answer is "yes" go ahead and record the information in your Disclosure Log. The above item would apply to other people working in an official capacity for your school who you know to be involved with the pupil. Always record the disclosure in your log - you will have forgotten it by the following week!

Q: A new dentist is setting up in the area and would like to mail-shot our families -can I give him the addresses?

A: Do you really need to consider it? The answer is "no" - it is not an authorized disclosure. There are circumstances like this where it is possible to consider distributing mail via the pupils to their families.

Q: The school photographer wants to print names on to the frame of a group photograph. Is this okay?

A: Consider whether there any families who would rather not have their children so identified? All parents should give their written permission. The need for caution can be exemplified by the possibility of an estranged father - denied all access - recognising his daughter from a photograph and abducting her because he has just discovered which school she now attends.

Q: The local newspaper wants to publish a photograph of a school event. Of course, the children want their names in print - can I release them?

A: You should have permission from the parents of the children in the photograph. If you don't get it, then the text might read: "...children from the school". Please make sure that neither teachers nor children themselves release their names to the reporter, if parental permission has not been obtained.

Q: I want to put pupil names and/or photographs on the internet. Can I?

A: Remember that all information passed to the Internet goes beyond your control and can be accessed worldwide, including in countries without adequate data protection legislation. Digital photographs and scanned images where pupils can be identified are also covered by the 1998 Data Protection Act, so get written parental permission.

Q: A parent refuses permission for us to hold the child's information on our computer. What do I do?

A: You have the right to hold the information that you need for administering the child's progress through your school and to disclose it within the terms of your notification and the provisions of the Act.

Q: A parent wants to take the child to a friend's party .Can I release the address?

A: No - you should telephone the party-holder and do it that way.

Q: I think that it's a good idea to put the addresses, telephone numbers and email contact details of our School Board members in the school handbook/newsletter/website. Does that present any problems?

A: If you particularly want to publish such details, ask the person concerned to sign a note agreeing to the publication of their contact details. If they do not agree, they can still be contacted via the school.

Q: A teacher has applied for a mortgage and the building society has requested that I confirm the person's post and salary. Can I do this?

A: Yes, but just ask the person to write a note requesting you to do so.

EXTRACTS FROM THE DATA PROTECTION ACT 1998

Conditions for Processing (Schedule 2 of the Act)

At least one of the following conditions must be met in the case of all processing of personal data (except where a relevant exemption applies):

- (i) The data subject has given their consent.
- (ii) The processing is necessary:
 - a) For the performance of a contract to which the data subject is a party, or
 - b) For the taking of steps at the request of the data subject with a view to entering into a contract.
- (iii) The processing is necessary to comply with any legal obligation to which the data controller is subject, other than an obligation imposed by contract.
- (iv) The processing is necessary in order to protect the vital interests of the data subject (life and death situations).
- (v) The processing is necessary:
 - a) For the administration of justice.
 - b) For the exercise of any functions conferred by or under any enactment.
 - c) For the exercise of any functions of the Crown, a Minister or the Crown or a government department.
 - d) For the exercise of any other functions of a public nature exercised in the public interest.
- (vi) 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 because of prejudice to the rights and freedoms or legitimate interests of the data subject.

Sensitive Personal Data

Categories of sensitive personal data, namely, personal data consisting of information as to:

- (i) The racial or ethnic origin of the data subject.
- (ii) Their political opinions.
- (iii) Their religious beliefs or other beliefs of a similar nature.
- (iv) Whether they are a member of a trade union.
- (v) Their physical or mental health or condition.
- (vi) Their sexual life.
- (vii) The commission or alleged commission by them of any offence; or
- (viii) Any proceedings for any offence committed or alleged to have been committed by them, the disposal of such proceedings or the sentence of any court in such proceedings.

Conditions for Processing Sensitive Data (Schedule 3 of the Act)

At least one of these must be satisfied, in addition to at least one of the conditions in schedule 2, before processing of sensitive personal data can claim to have been lawful in accordance with the First Principle.

- (i) The data subject has given the explicit consent to the processing of the personal data.
- (ii) The processing is necessary for the purposes of exercising or performing any right or obligation which is conferred or imposed by law on the data controller in connection with employment.

- (iii) The processing is necessary:
 - a) In order to protect the vital interests of the data subject or another person, in a case where consent cannot be given by or on behalf of the data subject, or the data controller cannot reasonably be expected to obtain the consent of the data subject, or
 - b) In order to protect the vital interests of another person, in a case where consent by or on behalf of the data subject has been unreasonably withheld.
- (iv) The processing:
 - a) Is carried out in the course of its legitimate activities by any body or association which exists for political, philosophical, religious or trade-union purposes and which is not established or conducted for profit.
 - b) Is carried out with appropriate safeguards for the rights and freedoms of data subjects.
 - c) Relates only to individuals who are either members of the body or association or who have regular contact with it in connection with its purposes; and
 - d) Does not involve disclosure of the personal data to a third party without the consent of the data subject.
- (v) The information contained in the personal data has been made public as a result of steps deliberately taken by the data subject.
- (vi) The processing:
 - a) Is necessary for the purpose of, or in connection with, any legal proceedings (including prospective legal proceedings).
 - b) Is necessary for the purpose of obtaining legal advice; or
 - c) Is otherwise necessary for the purpose of establishing, exercising or defending legal rights.
- (vii) The processing is necessary:
 - a) For the administration of justice.
 - b) For the exercise of any functions conferred by or under any enactment; or
 - c) For the exercise of any functions of the Crown, a Minister of the Crown or a government department.
- (viii) The processing is necessary for medical purposes and is undertaken by:
 - a) A health professional (as defined in the Act); or
 - b) A person who owes a duty of confidentiality which is equivalent to that which would arise if that person were a health professional.
- (ix) The processing:
 - a) Is of sensitive personal data consisting of information as to racial or ethnic origin;
 - b) Is necessary for the purpose of identifying or keeping under review the existence or absence of equality of opportunity or treatment between persons of different racial or ethnic origins, with a view to enabling such equality to be promoted or maintained; and
 - c) Is carried out with appropriate safeguards for the rights and freedoms of data subjects.
- (x) The personal data are processed in circumstances specified in an order made by the Secretary of State.

The Secretary of State may by order specify circumstances in which such processing is, or is not, to be taken to be carried out with appropriate safeguards for the rights and freedoms of data subjects.

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