



Policy Number	<b>033</b>	Issue	<b>001</b>
Policy Title	<b>Data Protection Policy</b>		
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## Rationale

Bitham Brook Primary School collects and uses personal information about staff, pupils, parents and other individuals who come into contact with the school. This information is gathered in order to enable it to provide education and other associated functions. In addition, there may be a legal requirement to collect and use information to ensure that the school complies with its statutory obligations.

This policy is intended to ensure that personal information and requests for access are dealt with correctly and securely and in accordance with the Data Protection Act 1998, the Freedom of Information Act 2000 and other related legislation. It will apply to information regardless of the way it is collected, used, recorded, stored and destroyed, and irrespective of whether it is held in paper files or electronically.

Personal Information or data is defined as data that relates to a living individual who can be identified from that data, or other information held.

## Policy

- The school will adhere at all times to the eight Data Protection Principles established in the Data Protection Act 1998:
  1. Personal data shall be processed fairly and lawfully;
  2. Personal data shall be obtained only for one or more specified and lawful purposes;
  3. Personal data shall be adequate, relevant and not excessive;
  4. Personal data shall be accurate and where necessary, kept up to date;
  5. Personal data processed for any purpose shall not be kept for longer than is necessary for that purpose or those purposes;
  6. Personal data shall be processed in accordance with the rights of data subjects under the Data Protection Act 1998;
  7. Personal data shall be kept secure i.e. protected by an appropriate degree of security;
  8. Personal data shall not be transferred to a country or territory outside the European Economic Area, unless that country or territory ensures an adequate level of data protection.
  
- To maintain the above principles the school will:
  - Inform individuals why the information is being collected when it is collected
  - Inform individuals when their information is shared, why and with whom
  - Check the quality and the accuracy of the information it holds
  - Ensure that information is not retained for longer than is necessary
  - Ensure that when obsolete information is destroyed that it is done so appropriately and securely
  - 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
  - Share information with others only when it is legally appropriate to do so

- Set out procedures to ensure compliance with the duty to respond to requests for access to personal information, known as Subject Access Requests
  - Ensure all staff involved with the collection, processing and disclosure of personal data will be aware of their duties and responsibilities by adhering to this policy and procedures.
- Anyone who requests to see their personal data has the right to question the accuracy of matters of fact within the data, and to ask to have inaccurate information deleted or changed. They may also question opinions, and their comments will be recorded, but opinions do not need to be deleted or changed as a part of this process.
  - The school will document all requests for personal information with details of who dealt with the request, what information was provided and when, and any outcomes (letter requesting changes etc.) This will enable staff to deal with a complaint if one is made in relation to the request.
  - Complaints will be dealt with in accordance with the school's complaints policy. Complaints relating to information handling may be referred to the Information Commissioner (the statutory regulator).
  - **The Headteacher** will act as the contact point for any subject access requests.

## Procedures

These procedures relate to subject access requests made under the Data Protection Act 1998.

### Rights of access to information

There are two distinct rights of access to information held by schools about pupils.

1. Under the Data Protection Act 1998 any individual has the right to make a request to access the personal information held about them.
2. The right of those entitled to have access to curricular and educational records as defined within the Education Pupil Information (Wales) Regulations 2004.

### Actioning a subject access request

- Requests for information must be made in writing; which includes email, and be addressed to the head teacher. If the initial request does not clearly identify the information required, then further enquiries will be made.
- The identity of the requestor must be established before the disclosure of any information, and checks should also be carried out regarding proof of relationship to the child. Evidence of identity can be established by requesting production of identity e.g. passport, driving licence, utility bills with the current address, Birth / Marriage certificate, P45/P60, Credit Card or Mortgage statement
- Any individual has the right of access to information held about them. However with children, this is dependent upon their capacity to understand (normally age 12 or above) and the nature of the request. Where the child is not deemed to be competent an individual with parental responsibility or guardian shall make the decision on behalf of the child.
- The school may make a charge for the provision of information, dependent upon the following:
  - Should the information requested contain the educational record then the amount charged will be dependent upon the number of pages provided.
  - Should the information requested be personal information that does not include any information contained within educational records schools can charge up to £10 to provide it.
  - If the information requested is only the educational record viewing will be free. A charge to cover the cost of copying the information can be made by the head teacher.
- The response time for subject access requests, once officially received, is **40 calendar days** [irrespective of school holiday periods]. However the 40 days will not commence until after receipt of fees or clarification of information sought.
- The Data Protection Act 1998 allows exemptions as to the provision of some information; therefore all information will be reviewed prior to disclosure.
- Third party information is that which has been provided by another, such as the Police, Local Authority, Health Care professional or another school. Before disclosing third party information consent should normally be obtained. There is still a need to adhere to the 40 day statutory timescale.

- Any information which may cause serious harm to the physical or mental health or emotional condition of the pupil or another should not be disclosed, nor should information that would reveal that the child is at risk of abuse, or information relating to court proceedings.
- If there are concerns over the disclosure of information then additional advice should be sought.
- Where redaction (information blacked out/removed) has taken place then a full copy of the information provided should be retained in order to establish, if a complaint is made, what was redacted and why.
- Information disclosed should be clear, thus any codes or technical terms will need to be clarified and explained. If information contained within the disclosure is difficult to read or illegible, then it should be retyped.
- Information can be provided at the school with a member of staff on hand to help and explain matters if requested, or provided at face to face handover.
- The views of the applicant should be taken into account when considering the method of delivery. If postal systems have to be used then registered/recorded mail must be used.
- Separately from the Data Protection Act, The Education (Pupil Information)(England) Regulations 2005 provide a pupil's parent (regardless of the age of the pupil) with the right to view, or to have a copy of, their child's educational record at the school. Parents who wish to exercise this right must apply to the school in writing.
- For educational records (unlike other personal data; see below) access must be provided within 15 school days, and if copies are requested, these must be supplied within 15 school days of payment.
- A member of school staff can request access to their own records at no charge, but the request must be made in writing. The member of staff has the right to see their own records, and to ask for copies of the records. There is no charge for copies of records.
- From 1<sup>st</sup> January 2005, when the Freedom of Information Act came into force, a request for personal information can include unstructured as well as structured records – for example, letters, emails etc. not kept within an individual's personal files, or filed by their name, but still directly relevant to them. If these would form part of a wider record it is advisable to file these within structured records as a matter of course and to avoid excessive administrative work. These can be requested if sufficient information is provided to identify them.

### **Complaints**

- Complaints about the above procedures should be made to the Chair of the Governing Body who will decide whether it is appropriate for the complaint to be dealt with in accordance with the school's complaint procedure.
- The Information Commissioner can deal with complaints that cannot go through the school's complaint procedure. Contact details of both will be provided with the disclosure information.
- Further advice and information is available from the Information Commissioner's Office, [www.ico.gov.uk](http://www.ico.gov.uk)

### **Access to other school information – guidance on Freedom of Information Publication Schemes**

- In accordance with the Freedom of Information Act 2000, Bitham Brook Primary School has a 'publication scheme' – a formal list of the types of non-personal information that the school produces or holds, and which is readily accessible to staff, pupils and parents or other enquirers.
- The publication scheme is available as a hard copy on request and is also posted on the website.
- The Headteacher is the named person with overall responsibility for published information within the school.

### **Requests for information**

- The Freedom of Information Act came into force on 1<sup>st</sup> January 2005. Under this Act, all schools which receive a written or emailed request for information which they hold or publish are required to respond within 20 working days.
- The school will provide information on where to access the information required and details of any charge. If the item is charged the school will not provide it until the payment is received.
- A refusal of any information requested must state the relevant exemption which has been applied or that the school does not hold the information, and must explain what public interest test has made if this applies.
- If the information is published by another organisation e.g. Ofsted reports, the school can direct the enquirer to the organisation which supplied the information or publication unless it is legal and possible to provide the information direct.

- It will not be legal to photocopy a publication in its entirety and supply this to an enquirer unless the school owns the copyright – this is particularly important where the original publication was a charged item.
- The school will keep the original request and note against this who dealt with the request and when the information was provided.
- Any complaint about the provision of information will be handled by the head teacher or another senior member of staff. All complaints should be in writing and documented. The Publication Scheme will include information on who to contact for both enquiries and complaints.
- All enquirers should be advised that they may complain to the information Commissioner if they are unhappy with the way their request has been handled.