

L'Ile aux Enfants (The "School")

Data Protection Policy

Introduction

The School is required to collect and use certain types of information about staff, pupils and other individuals who come into contact with the School as part of its operations. It is also obliged to collect and use data to fulfil its obligations to the London Education Authority, Department For Education and Skills ("DFES"), the Agence pour l'Enseignement du Français à l'Etranger ("AEFE"), the Inland Revenue and other bodies. This personal information must be dealt with properly however it is collected, recorded and used - whether on paper, in a computer, or recorded on other material - and there are safeguards to ensure this in the Data Protection Act 1998.

The School regards the lawful and correct treatment of personal information as very important to successful operations, and to maintaining confidence between it and those with whom it deals. The School ensures that it treats personal information lawfully and correctly.

1. The Data Protection Act 1998 ("DPA")

The DPA applies to information relating to both "personal" and "sensitive personal" data.

Personal Data is defined in the DPA as information identifying a living individual ("data subject"). The School may process a wide range of personal data of pupils, their parents or guardians, as part of its operation. To qualify as personal data, the data must be biographical in a significant sense, having the data subject as its focus and affecting the data subject's privacy. 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.

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

Specifically, the Data Protection Principles require that personal information:

- Shall be processed fairly and lawfully and, in particular, shall not be processed unless specific conditions are met;
- Shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes;
- Shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed;
- Shall be accurate and, where necessary, kept up to date;
- Shall not be kept for longer than is necessary for that purpose or those purposes;
- Shall be processed in accordance with the rights of data subjects under the DPA;

- 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;
- Shall not be transferred to a country or territory outside the European Economic Area 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 will, through appropriate management, strict application of criteria and controls:

- Observe fully conditions regarding the fair collection and use of information;
- Meet its legal obligations to specify the purposes for which information is used;
- Collect and process appropriate information, and only to the extent that it is needed to fulfil operational needs or to comply with any legal requirements;
- Ensure the quality of information used;
- Apply strict checks to determine the length of time information is held; and
- Ensure that the rights of people about whom information is held, can be fully exercised under the DPA.

2. Processing of Personal Data

Processing includes obtaining, holding, recording, adding, deleting, augmenting, disclosing, destroying, printing or otherwise using 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. As most of the pupils in the school are under 12 years of age, the School will rely on parental or guardian consent to process data relating to pupils.

3. Exemptions which Allow Disclosure of Personal Data to Third Parties

3.1 There are a number of exemptions in the DPA which allow disclosure of personal data to third parties, and the processing of personal data by the School and its employees, which would otherwise be prohibited under the DPA. The majority of these exemptions only allow disclosure and processing of personal data where specific conditions are met, namely:

- The data subjects have given their consent;
- 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 (Other than an obligation imposed by contract);
- 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 (so long as this neither supports decisions in relation to individuals, nor causes substantial damage or distress).

4. Use of Personal Information by the School

4.1 It is required under the DPA that the personal data held about pupils must only be used for specific purposes allowed by law. The School holds personal data on pupils. The personal data includes contact details, assessment, attendance information, characteristics such as ethnic group, special educational needs, any relevant medical information, and photographs.

4.2 The data is used in order to support the education of the pupils, to monitor and report on their progress, to provide appropriate care, and to assess how well the School as a whole is doing, together with any other uses normally associated with this provision in an independent school environment.

4.3 Very limited, non-sensitive personal data may also be used for fundraising, marketing or promotional purposes. In particular, from time to time, the School may make use of personal data relating to pupils, their parents or guardians, to make use of photographic images of pupils in School publications and on the School website. However, the School will not publish photographs of individual pupils on the School website without the express written agreement of the appropriate individual.

4.5 Any wish to limit or object to any use of personal data should be notified to the Headmaster of the School in writing.

5. Disclosure of Personal Data to Third Parties

5.1 The School may receive requests from third parties (ie those other than the data subject or employees of the School) to disclose personal data it holds about pupils, their parents or guardians. This information will not generally be disclosed unless one of the specific exemptions under the DPA which allow disclosure applies (see paragraph 3); or where necessary for the legitimate interests of the individual concerned or the School.

5.2 The following are the most usual reasons that the School may have for passing personal data to third parties:

- To give a confidential reference relating to a pupil;
- To give information relating to outstanding fees or payment history to any educational institution which it is proposed that the pupil may attend;
- To publish the results of achievements of pupils of the School;
- 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.
- To provide information to another educational establishment to which a pupil is transferring; and
- To provide information to the relevant French or British Government Departments concerned with education.

5.3. The DfES, local council, and the AEFÉ use information about pupils for statistical purposes, to evaluate and develop education policy and to monitor the performance of their respective education service as a whole. The statistics are used in such a way that individual pupils cannot be identified from them.

5.4. Any wish to limit or object to any use of personal data by third parties, except as stated in

paragraph 5.2 above, should be notified to the Headteacher in writing, or to the relevant authority (the contact details for which can be supplied by the School).

5.5 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. Accuracy of Personal Data

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.

7. Security of Personal Data

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.

8. Rights of Access by Data Subjects to their Personal Data

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

8.1 The School can ask for an administration fee of £5 for processing an individual's application. In some cases, the School may also require a proof of identification, such as passport or driving license. If you are making the application as parent or guardian, you must state so in your letter and give the full name of the pupil it concerns.

8.2 Requests for Access to Records (Subject Access Requests):

- A subject access request must be made in writing to the Headteacher. Where the request is not complete or clear or satisfactory identification has not been given, the Headteacher must notify the individual in writing that the request is not complete and indicate what information is required concerned within **two** working days (holidays excluded) of when the request is received by the School.
- All requests for access to records must be placed on the relevant pupil's file, and the Headteacher informed that the request has been received.

8.3 Responding to Requests for Access to Records:

- All application requests for access to records must be passed to the Headteacher.
- The Headteacher must authorise the applicant's request for access before **any** information is disclosed.
- A written response acknowledging the application form must be sent to the applicant

- within **5 working days** of the request.
- If the applicant's request for access is granted, the DPA requires such access to be given within **40 calendar days** of the written request being received. The 40 day period does not begin until:
 - A written application is received by the School;
 - The School has received sufficient information to enable it to identify the individual who is seeking access; and
 - The School has received sufficient information to enable it to access the information requested.
 - Where the conditions set out in paragraph 8.3 are fulfilled, in responding to the request, 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 are or may be disclosed. The School must also provide, in an intelligible form, a copy of the information held and, where possible, details of the source of the information.
 - Data subjects are not entitled to information where exemptions to the right of access apply (see paragraph 10 below). Moreover, in these circumstances, the School must only give a notification to the data subject that no information has been identified which is required to be supplied under the DPA.

9. Disclosure of Information

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

- 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;
- 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, so that specific information relating to a particular individual is readily accessible in a way broadly equivalent to information accessed within a computerised system.

9.2 The personal data must be provided in permanent form (e.g. paper, microfiche) unless:

- The supply of such a copy is not possible;
- Supplying it in permanent form would involve disproportionate effort (in which case another way of viewing the data must be agreed with the applicant); or
- The data subject agrees otherwise.

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

9.4 An individual is not entitled to information where:

- exemptions to the right of access apply (see paragraph 10 below); or
- another person, including any family member, has not given their written consent to disclose information that identifies them (but see paragraph 9.6 below).

9.5 Information contained in an individual's records is likely to contain information about persons other than the individual. Generally, information about or identifying another person

must not be disclosed to the individual seeking access to the information without that person's written consent.

9.6 There may be circumstances where the Headteacher considers it *reasonable in all the circumstances* to disclose information without the consent of the other person: for example, when the person cannot be traced.

9.7 In determining what is reasonable in all the circumstances it is necessary to have regard to:

- Any duty of confidentiality owed to the other person;
- Any steps taken with a view to seeking consent of the other person to the disclosure;
- Whether the other person is capable of giving consent; and
- Any express refusal of consent by the other person.

9.8 In instances where the Headteacher has decided information concerning other people, or their identities may not be disclosed, it is acceptable to blank out the relevant information.

9.9 There is a general presumption in favour of disclosing personal data relating to employees, where this information is integral to the personal data of the applicant. So, the records kept by teachers in the course of their employment in respect of pupils may be disclosed.

9.10 Any request by an individual for access to information held about them must be complied with subject to this paragraph and to the exemptions set out in paragraph 10 below. The School may, however, make a request for more specific details of the information sought.

9.11 A request for access to files without the permission of the individual must be directed to the Chairman of the Board.

9.12 A record of the information disclosed in response to a request for access to information should be kept on the pupil's file, including details of any exemptions to disclosure relied upon (see paragraph 10 below).

10. Exemptions to Access by Data Subjects

10.1 Confidential references given, or to be given by the School, are exempt from access. The School will therefore treat as exempt any reference given by them for the purpose of the education, training or employment, or prospective education, training or employment of any pupil.

10.2 It should be noted that confidential references received from other parties may also be exempt from disclosure, under the common law of confidentiality. However, such a reference can be disclosed if such disclosure will not identify the source of the reference or where, notwithstanding this, the referee has given their consent, or where disclosure is reasonable in all the circumstances.

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

11. Repeated Requests for Access to Records

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.

12. Complaints

12.1 If an individual believes that the School has not complied with this Policy or acted in accordance with the DPA they can make a complaint under the School's Complaints Policy.

12.2 If the individual is still not satisfied, he or she may make representations to the Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF. Tel (01626) 545 700.

General

This document has been drawn up to clarify the policy of the School to inform parents, guardians and pupils of what that policy is. It is not intended to extend or alter the contractual or other legal rights that exist between the School and parents, guardians or pupils. The contents of this document are statements of intent made in good faith, but are not intended to be legally enforceable.

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11/07

This policy has not been translated into French but, a translation can be provided on request.