

Bushey St James Trust

Data Protection and Freedom of Information Policy

Last Reviewed:	November 2016	Next Review:	November 2018
Approved by:	BSJT Finance and Resources Committee	Date:	8.12.16

Rationale

The Bushey St James Trust (BSJT) is committed to ensuring that the schools within the Trust act within the requirements of the Data Protection Act 1998 when retaining and storing personal data, and when making it available to individuals, and that the process of responding to enquiries for other information is also legal under the Freedom of Information Act 2000 (in force from 1st January 2005.)

Aims

The aim of this policy is to provide a model set of guidelines to enable staff, parents and pupils to understand:

- The law regarding personal data
- How personal data should be processed, stored, archived and deleted/destroyed
- How staff, parents and pupils can access personal data

In addition, there is brief guidance at the end of the policy on Freedom of Information which covers other information held by schools.

Practice

1. Data Protection

- a) Under the Data Protection Act 1998, and other regulating acts, access to their own personal information is a statutory right for pupils (if they are of an age to understand the information they request) and parents (as defined in the Education Act 1996) may also request access to their child's personal data.
- b) School staff have a right of access to personal data on themselves.
- c) Anyone has the right to question and correct inaccurate information, but this must be matters of fact, not opinions.
- d) Personal data should always be kept securely and protected by passwords if it is electronic, and access to it should only be by those authorised to see it – confidentiality should be respected. The law also provides that personal data should not be kept longer than is required.
- e) Third party data (information about someone other than the requesting individual) should in general only be provided with their permission.
- f) The named person with overall responsibility for personal data within each school within the Trust is the Executive Principal or Headteacher.

2. Processing, Storing, Archiving and Deleting Personal Data

- a) Personal data and school records about pupils are confidential to the child. The information can be shared appropriately within the professional working of the school to enable the school to make the best educational provision for the child. The law permits such information to be shared with other educational establishments when pupils change schools.
- b) School records for a child should be kept for 7 years after the child leaves the school, or until the child reaches 25 years of age (whichever is greater) and examination records the same.
- c) Data on staff is sensitive information and confidential to the individual, and is shared, where appropriate, at the discretion of the Executive Principal/Headteacher and with the knowledge, and if possible the agreement of the staff member concerned.
- d) Employment records form part of a staff member's permanent record. Because there are specific legislative issues connected with these (salary and pension details etc.) these records should be retained as set out by the Local Authority.
- e) Interview records, CV's and application forms for unsuccessful applicants are kept for 6 months.
- f) All formal complaints made to the Executive Principal/Headteacher or School Governors will be kept for at least seven years in confidential files, with any documents on the outcome of such complaints. Individuals concerned in such complaints may have access to such files subject to data protection and to legal professional privilege in the event of a court case.

3. Accessing Personal Data

- a) A child can request access to his/her own data. The request is not charged and does not have to be in writing. The staff at the school will judge whether the request is in the child's best interests, and that the child will understand the information provided. They may also wish to consider whether the request has been made under coercion.
- b) A parent can request access to or a copy of their child's school records and other information held about their child. The request must be made in writing. There is no charge for such requests on behalf of the child, but there may be a charge for photocopying records – this is detailed in guidance available from the Information Commissioner. Staff should check, if a request for information is made by a parent, that no other legal obstruction (for example, a court order limiting an individual's exercise of parental responsibility) is in force.
- c) Parents should note that all rights under the Data Protection Act to do with information about their child rest with the child as soon as they are old enough to understand these rights. This will vary from one child to another, but, as a broad guide, it is reckoned that most children will have a sufficient understanding by the age of 12. Parents are encouraged

to discuss and explain any request for information with their child if they are aged 12 or over.

- d) 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.
- e) 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.
- f) A member of 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.
- g) The law requires that all requests for personal information are dealt with within 40 days of receipt except requests for educational records (see above). All requests will be acknowledged in writing on receipt, and access to records will be arranged as soon as possible. If awaiting third party consents, the school will arrange access to those documents already available, and notify the individual that other documents may be made available later.
- h) In all cases, should third party information (information about another individual) be included in the information the staff will try to obtain permission to show this information to the applicant, with the exception of information provided by another member of school staff (or local authority staff) which is exempt from a requirement for third party consents. If third party permission is not obtained the person with overall responsibility should consider whether the information can still be released. (See Appendix B)
- i) Personal data should always be of direct relevance to the person requesting the information. A document discussing more general concerns may not be defined as personal data.
- j) From 1st 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.
- k) 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.
- l) 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.

4. Fair Processing of Personal Data

Schools, local education authorities and the Department for Education (DfE) all hold information on pupils in order to run the education system, and in doing so have to follow the Data Protection Act 1998. This means, among other things, the data held about pupils must only be used for specific purposes allowed by law. The Trust has a Fair Processing or Privacy Notice which explains how personal data is used and with whom it will be shared.

The LEA uses information about pupils to carry out specific functions for which it is responsible, such as the assessment of any special educational needs the pupil may have. It also uses the information to derive statistics to inform decisions on (for example) the funding of schools, and to assess the performance of schools and set targets for them. The statistics are used in such a way that individual pupils cannot be identified from them.

Information on how to access personal data held by other organisations is given below.

Pupils, as data subjects, have certain rights under the Data Protection Act, including a general right of access to personal data held on them, with parents exercising this right on their behalf if they are too young to do so themselves. If your child wishes to access their personal data, or you wish to do so on their behalf, then please contact the following relevant organisation in writing:

- the relevant school within the Trust
- the LEA's Data Protection Officer at Information Management Officer, Strategic Support, Council Offices, Market Street, Newbury RG14 5LD;

5. Publication Schemes

- Under the Freedom of Information Act 2000, the Trust has a 'publication scheme' detailed at the end of this policy
- The policy and publication scheme is available as a hard copy and is also posted on each school's website
- The named person with overall responsibility for published information within each school is, at Bushey Meads School, the Executive Principal and at Little Reddings Primary School, the Headteacher

6. Requests for Information

- The Freedom of Information Act came into force on 1st 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 eg. the website link, or details of a charge if the publication/ information is charged, or send any free information. If the item is charged the school does not need to 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 (for example, Ofsted reports, DfE leaflets) 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 (for example, a copy of the summary of an Ofsted report, spare copies of a DfE leaflet)
- 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 Executive Principal/Headteacher or another senior member of staff. All complaints should be in writing and documented. The Publication Scheme contains 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

REVIEW

This guide and policy will be reviewed, and updated if necessary, every two years.

The Freedom of Information Publication Scheme will be reviewed regularly and at least once a year, with staff checking if they add a new piece of recorded information to the school's portfolio that this is covered within the scheme.

APPENDIX A: Bibliography

Disclosure and Barring Service

Code of Practice and explanatory guide for registered persons and other recipients of disclosure information: Guidance on retention of DBS checks and other information.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/474742/Code_of_Practice_for_Disclosure_and_Barring_Service_Nov_15.pdf

Data Protection Act 1998

All personal data which is held must be processed and retained in accordance with the eight principles of the Act and with the rights of the individual. Personal data must not be kept longer than is necessary (this may be affected by the requirements of other Acts in relation to financial data or personal data disclosed to Government departments). Retention of personal data must take account of the Act, and personal data must be disposed of as confidential waste. Covers both personal data relating to employees and to members of the public.

Compliance Advice

- a) Subject access – Right of access to education records in England: General information note from the Information Commissioner on access to education records. Includes timescale (15 days) and photocopy costs.
- b) Disclosure of examination results by schools to the media: General information note from the Information Commissioner on publication of examination results.

Education Act 1996

Section 509 covers retention of home to school transport appeal papers. (By LEA)

Education (Pupil Information) (England) Regulations 2005

Retention of Pupil records.

Guidance to LEAS

Requirements with respect to “fair processing” under the data protection act and the passing of information to connexions. 2005 DfES: Guidance Note

Health and Safety at Work Act 1974 & Health and Safety at Work Act 1972

Retention requirements for a range of health and safety documentation including accident books, H&S manuals etc.

Information Commissioner’s Code of Practice Guidelines

Available guidance on retention of interview and employment records:

https://ico.org.uk/media/for-organisations/documents/1064/the_employment_practices_code.pdf

School Standards and Framework Act 1998

Retention of school admission and exclusion appeal papers and other pupil records.

Information and Records Management Society – Schools records management toolkit

<http://www.irms.org.uk/groups/public-sector/resources/134-records-management-toolkit-for-schools>

A downloadable schedule for all records management in schools.

APPENDIX B: Additional Information

Reasons for not Complying with a Request for Information under Freedom of Information

There are only four reasons for not complying with a request for information under Freedom of Information.

- 1) The information is not held.
- 2) The cost threshold is reached (£450).
- 3) The request is considered vexatious or repeated (see below*).
- 4) One or more of the exemptions apply.

If the information requested is already in the public domain, for instance through your Publication Scheme or on your website, direct the enquirer to the information and explain how to access it.

*Is the request vexatious or manifestly unreasonable or repeated?

The Freedom of Information Act states that there is no obligation to comply with vexatious requests. This is taken to mean a request which is designed to cause inconvenience, harassment or expense rather than to obtain information, and would require a substantial diversion of resources or would otherwise undermine the work of the academy. This however does not provide an excuse for bad records management.

What if the Details Contain Third Party Personal Information?

Personal information requested by third parties (i.e. personal information belonging to someone other than the requestor) is exempt from release under the FOIA where this release would breach the Data Protection Act. If a request is made for a document (e.g. Governing Body minutes) which contains personal information whose release to a third party would breach the Data Protection Act, the document may be issued by blanking out the relevant personal information as set out in the redaction procedure (see below.)

Redacting Documents

When redacting released documents mask the passages which are not to be disclosed and photocopy.

If a Third Party's Interests Are Affected by Disclosure?

Consultation of third parties may be required if their interests could be affected by release of the information requested, and any such consultation may influence the decision. You do not need to consult where you are not going to disclose the information because you will be applying an exemption.

Consultation will be necessary where disclosure of information may affect the legal rights of a third party, such as the right to have certain information treated in confidence or rights under Article 8 of the European Convention on Human Rights.

The views of the third party may assist you to determine if information is exempt from disclosure, or the views of the third party may assist you to determine the public interest.

Further Information and Guidance is Available:

<http://www.legislation.gov.uk/ukpga/1998/42/schedule/1/part/1/chapter/7>

APPENDIX C: Bushey St James Trust Publication Scheme

Information available under the Freedom of Information Act 2000

Introduction: What a publication scheme is and why it has been developed.

One of the aims of the Freedom of Information Act 2000 (FOIA) is that public authorities, including all maintained schools and academies, should be clear and proactive about the information they make public. To achieve this we have a publication scheme, setting out:

- The classes or type of information which we publish or intend to publish
- The manner in which the information will be published
- Whether the information is available free of charge or not

The scheme covers information already published and information which is to be published in the future. All information in our publication scheme is available for you on our website to download and print off and/or available in paper form. Some information which we hold may not be made public, for example some personal information and information received from other agencies such as Social Services.

This publication scheme conforms to the model scheme for schools approved by the Information Commissioner and the Governing Body is responsible for the maintenance of the scheme.

Categories of Information Published

The publication scheme guides you to information which we currently publish (or have recently published) or which we will publish in the future. This is split into categories of information known as 'classes'. The classes of information that we undertake to make available are organised into four broad topic areas:

1. The School Prospectus.
2. The School Profile and Information relating to the Governing Body.
3. Information related to Pupils and the Curriculum.
4. School Policies.

How to Request Information

If you require a paper version of the documents within the scheme, please contact the relevant school within the Trust by telephone, email, fax or letter. Contact details are set out below.

Bushey Meads School

Email: reception@busheymeads.org.uk

Tel: 02028 950 3000

Fax: 0208 950 6208

Contact Address:

Bushey Meads School, Coldharbour Lane, Bushey, Hertfordshire, WD23 4PA

Email: admin@littlereddingshertssch.onmicrosoft.com

Tel: 0208 950 5388

Fax: 0208 420 548

Contact Address:

The Cost of Information

Information published on our website is free, although you may incur costs from your Internet service provider. If you don't have Internet access, you can access our website using a local library or an Internet café.

If your request means that we have to do a lot of photocopying or printing, or incur a large postage charge, or is for a priced item such as some printed publications or media formats we will let you know the cost before fulfilling your request.

Feedback and Complaints

We welcome any comments or suggestions you may have about the scheme. If you want to make any comments about this publication scheme, or if you require further assistance or wish to make a complaint then initially this should be addressed to the Executive Principal/Headteacher via the school's address.

If you are not satisfied with the assistance that you get, or if we have not been able to resolve your complaint and you feel that a formal complaint needs to be made, then this should be addressed to the Information Commissioner's Office. This is the organisation that ensures compliance with the Freedom of Information Act 2000 and that deals with formal complaints. They can be contacted at:

Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF

Enquiry/Information Line: 01625 545 700

E Mail: publications@ic-foi.demon.co.uk.

Website: www.informationcommissioner.gov.uk

APPENDIX D: Use of Biometric Data at Bushey Meads School

Use of Biometric Data

Bushey Meads School utilises Biometric data to identify students. Biometric identification is one of many systems used within the school to provide a more efficient service to our students.

Biometric data is used for recognition purposes in the following school systems:

Access control, Electronic Registration and Attendance, Cashless Catering, and Loaning from our Learning Resource Centre.

Data Collection

Biometric data that is collected by the school is processed in accordance with the Data Protection Act 1998.

In particular the:

- biometric data is stored securely to prevent any unauthorised or unlawful use
- biometric data is not kept for longer than needed, and is destroyed if a student is no longer using the system, leaves the school, or if a parent withdraws permission
- school ensures that the biometric data is used only for the purposes for which it was obtained and that such data is not unlawfully disclosed to third parties

Parental Consent

The school recognises that under the Protection of Freedoms Act 2012, permission must be obtained from a parent or carer and a consent form is used before obtaining any fingerprint data.

- permission is sought from parents by way of a letter of consent
- should a parent or a pupil object, students will be given an alternative means for authentication under The Protection of Freedoms Act 2012
- once a parent has given consent, the consent is valid until their child leaves the school. Parental consent can be withdrawn at any time, the notice for withdrawal must be provided to the school in writing

Data Security and Encryption

In relation to the use of the data:

- no complete images of fingerprints are stored and the original image cannot be reconstructed from the data. That is, it is not possible for example, to recreate a pupil's fingerprint or even the image of a fingerprint from what is in effect a string of numbers
- the biometric database is encrypted using AES256 encryption – a US Government and worldwide encryption standard. This also applies to communication between different parts of the Biometric system. The database is held locally and securely on the school servers, biometric data is not transferred or held externally
- the system utilises a unique key used for encrypting the database, so a database cannot be transferred to another system and viewed, even by another school