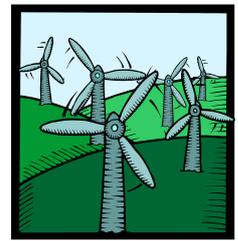


Millhouse Primary School



Date Approved: [] 2015

Next Review Date: [] 201[7]

Millhouse Primary School Data Protection Policy

1. Interpretation

1.1. In this policy the following defined terms shall have the following meanings:

“**Act**” means the Data Protection Act 1998 (as varied, amended or supplemented);

“**Data Controller**” has the meaning given in the Act;

“**Personal Data**” has the meaning given in the Act and for ease of reference paragraph 4.1 (below).

2. Background

2.1. Millhouse Primary School (the “**School**”) collects and uses Personal Data about its staff, pupils, parents and other individuals who come into contact with the school. This Personal Data is gathered in order to enable the School to provide education and other associated functions. In addition, there may be a legal requirement to collect and use Personal Data to ensure that the School complies with its statutory obligations.

2.2. Schools have a duty to be registered, as Data Controllers, with the Information Commissioner’s Office (“**ICO**”) detailing the Personal Data held by them and the way it is used. These details are then available on the ICO’s website. Schools also have a duty to issue a Privacy Notice to all pupils/parents, which (i) summarises the Personal Data held on pupils (ii) why it is held and (iii) the other parties to whom it may be disclosed.

3. Purpose

3.1. This policy is intended to ensure that Personal Data is dealt with correctly and securely and in accordance with the Act, and other related legislation. It applies to Personal Data regardless of the way it is collected, used, recorded,

stored and destroyed, and irrespective of whether it is held in paper files or electronically.

3.2. All School staff involved with the collection, processing and disclosure of Personal Data will be aware of their duties and responsibilities by adhering to these guidelines.

4. What is Personal Data?

4.1. Personal Data is defined under the Act as data which relates to a living individual who can be identified from that data, or from a combination of the data and other information held or likely to be held by the Data Controller (including any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual).

5. Data Protection Principles

5.1. The Data Protection Act 1998 establishes eight enforceable principles that must be adhered to at all times:

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.

6. General Statement

6.1. The School is committed to maintaining the above principles at all times. Therefore the School will:

- inform individuals why the information is being collected when it is collected;

- 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; and
- ensure our staff are aware of and understand our policies and procedures.

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

7.1. Under the Act, individuals have a right of access to their Personal Data, which is held by the School. This is known as a "subject access request". Any request in writing will be accepted as long as the appropriate fee is paid, satisfactory identification is given and the information request is clear, not excessive or vexatious. If these requirements are satisfied the Schools' Personal Data Request Form (see Appendix below) need not be completed, however it would be highly desirable if it was.

8. Requests for Access to Records (Subject Access Requests)

8.1. A subject access request must be made in writing. Where the request is not complete or clear, the fee has not been paid, or satisfactory identification has not been given, a Personal Data Request Form must be sent to the individual concerned within two working days of when the request is received by the School.

8.2. All requests for access to records must be placed on the relevant pupil's file, and the [School's Data Protection Officer (Headteacher)] informed that the request has been received.

9. Responding to Requests for Access to Records

9.1. All application requests for access to records must be passed to the Headteacher (contact details are below).

9.2. The Headteacher must authorise the applicant's request for access before any information is disclosed (see also paragraph 10 below).

9.3. The School may also wish to seek legal advice in relation to disclosure, before releasing any information.

9.4. A written response acknowledging the application form must be sent to the applicant within 5 working days of the request.

9.5. If the applicant's request for access is granted, the Act requires such access to be given within forty (40) calendar days of the written request being received. The forty (40) day period does not begin until:

9.5.1. a written application is received by anyone within the School (not when it has been passed on to and received by the Headteacher);

9.5.2. the School has received sufficient information to enable it to identify the individual who is seeking access;

9.5.3. the School has received sufficient information to enable it to access the information requested; and

9.5.4. where applicable the fee of £10 has been received, unless otherwise waived at the School's discretion.

9.6. Where the conditions set out in paragraph 9.5 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. Finally, where processing results in automated decision making which evaluates matters relating to the data subject (for example, in the marking of multiple choice questions), the data subject should be informed and informed also of the logic involved in that decision-making.

9.7. Data subjects are not entitled to information where exemptions to the right of access apply (see paragraph 11 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 Act.

10. Authorisation of Access to Records on Behalf of a Child or Young Person

10.1. A child or young person may appoint a person with parental responsibility for him or her to request access to their records. In such circumstances the School must have written evidence that the child or young person has authorised the person with parental responsibility to make the application

10.2. The Headteacher will determine what information will be shared with the person with parental responsibility. Access to records will be refused in instances where, for example, information sharing may place a child at risk of significant harm or jeopardise police investigations into any alleged offence(s).

10.3. Where a child or young person does not have sufficient understanding to make his or her own request, a person with parental responsibility can make a request on their behalf. The Headteacher must, however, be satisfied that:

10.3.1. the child or young person lacks sufficient understanding; and

- 10.3.2. the request made on behalf of the child or young person is in their interests.
- 10.4. The School will only grant pupils access to their personal data if, in the relevant School's reasonable belief, the pupil understands the nature of the request. It is generally accepted that, by the age of 12, a child can be expected to have sufficient maturity to understand the nature of the request.
- 10.5. Where a pupil seeks to raise concerns confidentially with a member of staff and expressly withholds their agreement to their personal data being disclosed to their parents or guardian, the School will maintain confidentiality unless it has reasonable grounds to believe that the pupil does not fully understand the consequences of withholding their consent, or where the School believes disclosure will be in the best interests of the pupil or other pupils.

11. Disclosure of Information

- 11.1. Any individual is entitled to have access to all information specifically held about him or her where:
- 11.1.1. 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;
 - 11.1.2. 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.
- 11.2. The personal data must be provided in permanent form (e.g. paper, microfiche, CCTV images) unless:
- 11.2.1. the supply of such a copy is not possible;
 - 11.2.2. 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
 - 11.2.3. the data subject agrees otherwise.
- 11.3. 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.
- 11.4. An individual is not entitled to information where:

- 11.4.1. exemptions to the right of access apply (see paragraph 12 below); or
 - 11.4.2. another person, including any family member, has not given their written consent to disclose information that identifies them (but see paragraph 5.6 below).
- 11.5. 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.
- 11.6. 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.
- 11.7. In determining what is reasonable in all the circumstances it is necessary to have regard to:
- 11.7.1. any duty of confidentiality owed to the other person;
 - 11.7.2. any steps taken with a view to seeking consent of the other person to the disclosure;
 - 11.7.3. whether the other person is capable of giving consent; and
 - 11.7.4. any express refusal of consent by the other person.
- 11.8. 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.
- 11.9. There is also 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 capable of being disclosed.
- 11.10. 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 12 below. The School may, however, make a request for more specific details of the information sought.
- 11.11. A request for access to files without the permission of the individual must be directed in the first instance to the headteacher who may seek legal advice.
- 11.12. 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 12 below).

12. Exemptions to Access by Data Subjects

- 12.1. Confidential references given, or to be given by the Schools, are exempt from access. The Schools 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.
- 12.2. It should be noted that confidential references received from other parties may also be exempt from disclosure, under the common law of confidence. 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.
- 12.3. Examination scripts, that is information recorded by pupils during an examination, are exempt from disclosure. However, any comments recorded by the examiner in the margins of the script are not exempt even though they may not seem of much value without the script itself.
- 12.4. Examination marks do not fall within an exemption as such. However, the forty (40) day compliance period for responding to a request is extended in relation to examination marks to either five months from the day on which the School received the request (if all the necessary conditions set out in paragraph 9.5 are fulfilled), or forty (40) days from the announcement of the examination results, whichever is the earlier.
- 12.5. Where a claim to legal professional privilege could be maintained in legal proceedings, the information is exempt from disclosure unless the privilege is waived.

13. Repeated Requests for Access to Records

- 13.1. Unless a reasonable period of time has elapsed 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.

14. Schools Personal Data Request Form

- 14.1. If you wish to gain access to the Personal Data that the School hold about you as a data subject, it would help the School if you could complete the attached form and send it to the address given in Part C of the form. The School will not provide information over the telephone.
- 14.2. You must provide copies of at least two documents to prove your identity, as described in Part C of the form (not necessary for current pupils of the School).
- 14.3. To contribute to the cost of administration, the School may charge £10 for each request.

15. What happens next

- 15.1. When the School has received your written request, the correct documents and the fee (if requested), it will send an acknowledgement within five (5) working days. The headteacher will consider your request and ask all departments concerned to gather the personal data they have about you. We are legally obliged to respond to you within forty (40) calendar days.
- 15.2. You may at any time ask for a face-to-face meeting. Unless there are exceptional circumstances the School will arrange only one meeting for each request. When the School has collated the data, we will normally send you a copy of your details by post. However, it may not always be possible or appropriate to produce hard copies of information. If this is the case, the School will invite you to view the data and it can make this appointment as soon as the data has been gathered and at a convenient time for both parties.

16. Terms and conditions

16.1. The School, will take all reasonable steps to:

- 16.1.1. provide the Personal Data requested within the time limits defined under the Act;
- 16.1.2. ensure that the Personal Data provided is complete and accurate;
- 16.1.3. correct any errors in the Personal Data held as and when notified;
- 16.1.4. provide reasons why we hold the information;
- 16.1.5. provide details of the source of the information;
- 16.1.6. provide details of the people or organisations that might receive the information.

16.2. The School has the right to withhold Personal Data if it:

- 16.2.1. is part of a confidential reference given by the School;
- 16.2.2. is subject to a duty of confidentiality, e.g. confidential references provided to the School;
- 16.2.3. is subject to legal professional privilege
- 16.2.4. is being used to investigate crime or detect fraud
- 16.2.5. is being used for management forecasting or planning;
- 16.2.6. would prejudice negotiations to reveal the data;

16.2.7. is, in the opinion of the School or of independent professional advice, likely to cause serious harm to the physical or mental health of the data subject or another person;

16.2.8. relates to health, education and social work, and is processed by a court and consists of information supplied in a report or other evidence to the court by a local authority; or

16.2.9. is processed for the purposes of assessing suitability for conferring by the Crown of an honour

17. Means of Appeal

17.1. If you are unhappy with the results of your request, you can make a complaint using the relevant School's Complaints Procedure. Alternatively, you may prefer to make representations to the: First Contact Team Information Commissioner's Office Wycliffe House Water Lane Wilmslow SK9 5AF.

17.2. The Information Commissioner is responsible for ensuring compliance with the Data Protection Act within the UK.

18. Complaints

18.1. Notwithstanding paragraph 16.2.10 (above), 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).

19. Contacts

19.1. If you have any enquires in relation to this policy, please contact Mr Matthew Ritchie (Headteacher) who will also act as the contact point for any subject access requests.

19.2. Further advice and information is available from the Information Commissioner's Office, www.ico.gov.uk or telephone 01625 5457453.

19.3. The School reserves the right to amend this policy at any time. Where appropriate, we will notify data subjects of those changes by mail or e-mail.

Mr M. Ritchie Dec 2014

Appendix

Millhouse Primary School - Personal Data Request Form (Data Protection Act1998)

1. Are you making this request for Personal Data on your own behalf?

- If **“Yes”** please go to part 4 (below);
- If **“No”** Please complete parts 2 and 3 (below).

2. If you are making this request for Personal Data on behalf of someone else, please state the nature of your relationship with that person:

Parent Guardian Legal representative Other (Please specify)

3 If you are making this request for Personal Data on behalf of someone else, please provide the following information about yourself:

Contact phone no. (daytime)

Contact phone no. (evening)

E-mail address

If you would prefer all correspondence via e-mail please indicate here:

If the applicant is not the data subject (the person we hold Personal Data on), we will always correspond with the applicant unless otherwise specified.

4 Please complete the following section, providing information about the data subject*

Name

(Include any previous names)

Address

Name

Address //

Contact phone no. (daytime)

Contact phone no. (evening)

E-mail address

If you would prefer all correspondence via e-mail please indicate here:

Date of birth if under 18

***Data subject:** The individual whose Personal Data is being requested.