

Leading Learning Trust – Data Protection and Freedom of Information Policy

Combination of these policies as part of the GDPR compliance project; this policy also addresses Subject Access Requests and Breach Notification Procedures

This policy applies to Selwyn Primary School and to Portway Primary School.

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Reviewed by:	Leadership team
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1 - OVERVIEW OF THE POLICY MANAGEMENT PROCESS

1.1 Document history

Date	Document title	Version
31/10/16	<p>Initial version of the policy Data Protection Policy released and approved by the EHT.</p> <p>Initial version of the FOI Policy approved by the trust board.</p>	1.0
July 2017	<p>Re-approval of the Leading Learning Trust Freedom of Information Model Publication Scheme Policy document, by the trust board.</p> <p>The Data Protection Policy at both Selwyn and Portway Primary School was approved in October 2016. Reviews of these policies were not undertaken by the EHT in October 2017 as we were awaiting the new GDPR (General Data Protection Regulations).</p>	1.0
Nov 2017	<p>In line with the re GDPR (General Data Protection Regulations), the Selwyn and Portway Data Protection Policies have been reviewed. A new template, designed by Stone King to be specifically applicable to multi-academy trusts, has been used as the trust's Data Protection and Freedom of Information Policy document. This document ensures that the trust's policies in these areas meet the requirements of the GDPR and the new Data Protection Act 2018.</p> <p>A list of changes is thus not documented here, as it is a new template. However, checks have also been made to ensure that relevant information also contained within the Selwyn/Portway policies also appears here.</p> <p>Note that whilst the school Data Protection Policies were approved by the Executive Head teacher, the FOI policy was approved by the trust board. This policy is thus requires approval by the trust board.</p> <p>Given the importance of this policy, a decision has been taken to review it annually.</p>	2.0



	<p>The contents of this policy vary substantially from the original School-specific Data Protection Policies, given the requirements of the GDPR in these areas. This policy is based on a template which has been purchased as part of a pack of documentation from Stone King.</p> <p>Trustees are thus requested to review the whole policy in detail.</p> <p>Additions to the Stone King template have been highlighted in grey text for ease of reference, given the range of changes to the previous policy; this distinction will be removed once the policy has been approved by the trust board.</p> <p>This policy also contains information regarding (a) Subject Access Requests [policy and procedures] and (b) Breach notification procedures.</p>	
Nov 2019	<p>2.9 - Clarification to Subject Access Requests section, further to GDPR Healthcheck undertaken in November 2019. [Note that form mentioned in this section has also been revised accordingly].</p> <p>Update of Scott Chudley's job title (now Head teacher) throughout document.</p>	



1.2 Review and approval

The Leading Learning Trust trustees have overall responsibility for the policy.

The Executive Head teacher is responsible for the operation of the policy within the schools, as well as for the maintenance of a record of concerns raised in accordance with this policy and the outcomes.

This policy is reviewed annually by the School Leadership Team, and is then ratified by the board of trustees. The policy has been substantially rewritten for April 2018 in light of the imminent implementation of the General Data Protection Regulation (GDPR) and as part of the Trust's obligations in respect of adopting and considering Privacy by Design and Default in all aspects of what it does. The Data Protection Officer has contributed to the rewriting of this policy, and is involved in every review.



2 - THE POLICY

2.1 Introduction

The Leading Learning Trust collects and uses certain types of personal information about staff, pupils, parents and other individuals who come into contact with the Leading Learning Trust in order to provide education and associated functions. The Leading Learning Trust may be required by law to collect and use certain types of information to comply with statutory obligations related to employment, education and safeguarding, and this policy is intended to ensure that personal information is dealt with properly and securely and in accordance with the General Data Protection Regulations, the Data Protection Act 2018, and other related legislation.

The GDPR applies to all personal data, held in whatever form, physical, electronic or verbal.

This policy will be updated as necessary to reflect best practice, or amendments made to data protection legislation, and shall be reviewed annually.

Please note that this policy refers to the collection, storage and retention of personal data only; it does not apply to the preparation, storage or retention of teaching materials or any other materials used at school.

Readers of this policy should also be aware of the trust's General GDPR Compliance Policy, which provides an overview of the legislation and how the Leading Learning Trust complies with it. The General Compliance Policy is available from the registered school office, as per the School Information Guide. It also contains a list of all other relevant policies.

2.2 Personal Data

'Personal data' is any information about or related to an identified or identifiable individual. A *sub-set of personal data* is known as '*special category personal data*'. This special category data is information that relates to:

- race or ethnic origin;
- political opinions;
- religious or philosophical beliefs;
- trade union membership;
- physical or mental health;
- an individual's sex life or sexual orientation;
- genetic or biometric data for the purpose of uniquely identifying a natural person.



'Special category information' is given special protection, and additional safeguards apply if this information is processed in any way (including collection and usage).

Information relating to criminal convictions shall only be held and processed where there is legal authority to do so.

The Leading Learning Trust does not intend to seek or hold special category personal data about staff or students except where the Leading Learning Trust has been notified of the information, or it comes to the Leading Learning Trust's attention via legitimate means (e.g. a grievance) or needs to be sought and held in compliance with a legal obligation or as a matter of good practice or as otherwise detailed in this policy. Staff or students are under no obligation to disclose to the Leading Learning Trust their race or ethnic origin, political or religious beliefs, whether or not they are a trade union member or details of their sexual life (save to the extent that details of marital status and / or parenthood are needed for other purposes, e.g. pension entitlements). However, in instances where we are able to satisfy a condition of processing under Article 9 of GDPR (as well as a lawful basis for processing under Article 6), we do process these 'special categories' of data.

2.3 The data protection principles

The six data protection principles as laid down in the GDPR are followed at all times:

- personal data shall be processed fairly, lawfully and in a transparent manner, and processing shall not be lawful unless one of the processing conditions can be met;
- personal data shall be collected for specific, explicit, and legitimate purposes, and shall not be further processed in a manner incompatible with those purposes;
- personal data shall be adequate, relevant, and limited to what is necessary for the purpose(s) for which it is being processed;
- personal data shall be accurate and, where necessary, kept up to date;
- personal data processed for any purpose(s) shall not be kept for longer than is necessary for that purpose / those purposes;
- personal data shall be processed in such a way that ensures appropriate security of the data, including protection against unauthorised or unlawful processing and against accidental loss, destruction, or damage, using appropriate technical or organisational measures.

In addition to this, the Leading Learning Trust is committed to ensuring that at all times, anyone dealing with personal data shall be mindful of the individual's rights under the law (as explained in more detail in paragraphs 7 and 8 below).

The Leading Learning Trust is committed to complying with the Data Protection Principles outlined below at all times. This means that the Leading Learning Trust will:

- inform individuals as to the purpose of collecting any information from them, as and when we ask for it (i.e. we ensure that at the point of collection, all data subjects are



provided with a copy of our Privacy Notice, which details why we are collecting the data, how we store it, and how long we retain it for);

- be responsible for checking the quality and accuracy of the information;
- regularly review the records held to ensure that information is not held longer than is necessary, and that it has been held in accordance with our *Records Retention Policy* (available as a separate policy);
- ensure that when information is authorised for disposal it is done appropriately;
- ensure appropriate security measures to safeguard personal information whether it is held in paper files or on our computer system, and follow the relevant security policy requirements at all times;
- share personal information with others only when it is necessary and legally appropriate to do so;
- set out clear procedures for responding to requests for access to personal information known as *Subject Access Requests* (outlined as part of this this policy); and
- report any breaches of the GDPR in accordance with the procedure as per the Breach Reporting outlined below.

2.4 Conditions for processing in the first data protection principle

Before any processing of personal data can occur, it is necessary to identify a legal basis under which to process that personal data. There are six possible legal bases of processing and one must be identified for each processing task. The following are the six possible bases of processing (note that conditions for processing under Article 9 need to be met where the processing is of 'special category' personal data):

- The individual has given consent that is specific to the particular type of processing activity, and that consent is informed, unambiguous and freely given.
- The processing is necessary for the performance of a contract, to which the individual is a party, or is necessary for the purpose of taking steps with regards to entering into a contract with the individual, at their request.
- The processing is necessary for the performance of a legal obligation to which we are subject.
- The processing is necessary to protect the vital interests of the individual or another.
- The processing is necessary for the performance of a task carried out in the public interest, or in the exercise of official authority vested in us.
- The processing is necessary for a legitimate interest of the Leading Learning Trust or that of a third party, except where this interest is overridden by the rights and freedoms of the individual concerned.



2.5 Use of personal data by the Leading Learning Trust

The Leading Learning Trust holds personal data on pupils, staff and other individuals such as visitors. In each case, the personal data must be treated in accordance with the data protection principles as outlined above.

2.5.1 Pupils

The personal data held regarding pupils includes contact details, assessment / examination results, attendance information, characteristics such as ethnic group, special educational needs, any relevant medical information, and photographs.

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

The Leading Learning Trust may make use of limited personal data (such as contact details) relating to pupils, and their parents or guardians for fundraising, marketing or promotional purposes and to maintain relationships with pupils of the Leading Learning Trust, but only where consent has been provided to this. In particular, the Leading Learning Trust may:

- make personal data, including special categories of personal data, available to staff for planning curricular or extra-curricular activities;
- Use photographs of pupils in accordance with the *Photography Policy* and the expression of parental preferences described therein, as well as consent collected via the ParentMail System.

Any wish to limit or object to any use of personal data should be notified to the Data Protection Officer - Claire Stewart, Executive Deputy Head teacher, Selwyn Primary School or to Scott Chudley, Head teacher, Portway Primary School in writing, which notice will be acknowledged by the Leading Learning Trust (Selwyn Primary School or Portway Primary School as applicable) in writing. If, in the view of Claire Stewart/Scott Chudley, the objection cannot be maintained, the individual will be given written reasons why the Leading Learning Trust cannot comply with their request.

2.5.2 Staff

The personal data held about staff will include contact details, employment history, information relating to career progression, information relating to DBS checks and photographs. Our Records Retention Policy details how long this data is retained for.

The data is used to comply with legal obligations placed on the Leading Learning Trust in relation to employment, and the education of children in a school environment. The Leading Learning Trust may pass information to other regulatory authorities where appropriate, and



may use names and photographs of staff in publicity and promotional material. Personal data will also be used when giving references.

Staff should note that information about disciplinary action may be kept for longer than the duration of the sanction. Although treated as "spent" once the period of the sanction has expired, the details of the incident may need to be kept for a longer period. All such records are maintained by Newham Partnership Working (npw) in their role as Data Processor, under the terms of the Human Resources Support and Payroll Support which they provide to the Leading Learning Trust. Contractual details specifying the role of npw as the Data Processor are in place. Staff records held at Portway Primary School and at Selwyn Primary School are disposed of 6 years after the member of staff has left the employment of the Leading Learning Trust (as per our Records Retention Policy).

Any wish to limit or object to any use of personal data should be notified to the Data Protection Officer (DPO) - Claire Stewart, Executive Deputy Head teacher, Selwyn Primary School or to Scott Chudley, Head teacher, Portway Primary School in writing, which notice will be acknowledged by the Leading Learning Trust (Selwyn Primary School or Portway Primary School as applicable) in writing. If, in the view of Claire Stewart/Scott Chudley, the objection cannot be maintained, the individual will be given written reasons why the Leading Learning Trust cannot comply with their request.

2.5.3 Other individuals

The Leading Learning Trust may hold personal information in relation to other individuals who have contact with the school, such as volunteers and guests. Such information shall be held only in accordance with the data protection principles, and shall not be kept longer than necessary and in line with the provisions in our Records Retention Policy.

2.6 Security of personal data

The Leading Learning Trust will take reasonable steps to ensure that members of staff will only have access to personal data where it is necessary for them to carry out their duties.

All staff will be made aware of this Policy, and all associated policies (as outlined in the Leading Learning Trust GDPR General Compliance Policy), and their duties under the GDPR.

The trust will take all reasonable and proportionate steps to ensure that all personal information is held securely and is not accessible to unauthorised persons.

2.7 Disclosure of personal data to third parties

The following list includes the most usual reasons that the Leading Learning Trust will authorise disclosure of personal data to a third party:

- to give a confidential reference relating to a current or former employee, volunteer or pupil;



- 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 upon the Leading Learning Trust (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;
- for research, historical and statistical purposes (so long as this neither supports decisions in relation to individuals, nor causes substantial damage or distress);
- to publish the results of public examinations or other achievements of pupils of the Leading Learning Trust;
- 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;
- to provide information to the Examination Authority as part of the examination process; and
- to provide information to the relevant Government Department concerned with national education. At the time of the writing of this Policy, the Government Department concerned with national education is the Department for Education (DfE). The Examination Authority may also pass information to the DfE.

The DfE uses information about pupils for statistical purposes, to evaluate and develop education policy and to monitor the performance of the nation's education service as a whole. The statistics are used in such a way that individual pupils cannot be identified from them. On occasion the DfE may share the personal data with other Government Departments or agencies strictly for statistical or research purposes.

The Leading Learning Trust may receive requests from third parties (i.e. those other than the data subject, the Leading Learning Trust, and employees of the Leading Learning Trust) to disclose personal data it holds about pupils, their parents or guardians, staff or other individuals. This information will not generally be disclosed unless one of the specific exemptions under data protection legislation which allow disclosure applies.

All requests for the disclosure of personal data must be sent to the Data Protection Officer (DPO) - Claire Stewart, Executive Deputy Head teacher, Selwyn Primary School or to Scott Chudley, Head teacher, Portway Primary School, who will review and decide whether to make the disclosure, ensuring that reasonable steps are taken to verify the identity of that third party before making any disclosure.



2.8 Confidentiality of pupil concerns

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 Leading Learning Trust 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 Leading Learning Trust believes disclosure will be in the best interests of the pupil or other pupils.

Details of how this process is managed are provided in our Child Protection and Safeguarding Policy, which is available on our school websites.

2.9 Subject Access Requests

Anybody who makes a request to see any personal information held about them by the Leading Learning Trust is making a subject access request. All information relating to the individual, including that held in electronic or manual files should be considered for disclosure.

Further to the receipt of either a verbal or a written request, the requester will be asked to complete the Trust Subject Access Request Form (available on Google Drive) and bring it into the School Office. As noted on the form, the requester will be required to present suitable forms of identification to school office staff, in person, before the subject access request can be actioned. Once office staff are satisfied with the proof of identity presented, the request will be actioned. It will be passed to the Data Protection Officer (DPO) - Claire Stewart, Executive Deputy Head teacher, Selwyn Primary School and as per the GDPR, a response will be provided within 28 days. Please note that as per the Policy, responses will be provided in electronic format.

Where a child or young person does not have sufficient understanding to make his or her own request (usually those under the age of 12, or over 12 but with a special educational need which makes understanding their information rights more difficult), a person with parental responsibility can make a request on their behalf. Claire Stewart, Executive Deputy Head teacher, Selwyn Primary School or to Scott Chudley, Head teacher, Portway Primary School must, however, be satisfied that:

- the child or young person lacks sufficient understanding; and
- the request made on behalf of the child or young person is in their interests.

Any individual, including a child or young person with ownership of their own information rights, may appoint another person to request access to their records. In such circumstances the Leading Learning Trust must have written evidence that the individual has authorised the person to make the application and Claire Stewart, Executive Deputy Head teacher, Selwyn Primary School or to Scott Chudley, Head teacher, Portway Primary School must be



confident of the identity of the individual making the request and of the authorisation of the individual to whom the request relates.

Access to records will be refused in instances where an exemption applies, for example, information sharing may place the individual at risk of significant harm or jeopardise police investigations into any alleged offence.

An individual only has the automatic right to access information about themselves, and care needs to be taken not to disclose the personal data of third parties where consent has not been given, or where seeking consent would not be reasonable, and it would not be appropriate to release the information. Particular care must be taken in the case of any complaint or dispute to ensure confidentiality is protected.

All files must be reviewed by Claire Stewart, Executive Deputy Head teacher, Selwyn Primary School or to Scott Chudley, Head teacher, Portway Primary School before any disclosure takes place. Access will not be granted before this review has taken place, although the 28 day time limit on disclosure (or reporting why a disclose cannot be made) must always be respected (28 days from receipt of proof of identity).

Where all the data in a document cannot be disclosed a permanent copy should be made and the data obscured or retyped if this is more sensible. A copy of the full document and the altered document should be retained, with the reason why the document was altered.

2.9.1 Exemptions to access by data subjects

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

There are other exemptions from the right of subject access. If we intend to apply any of them to a request then we will usually explain which exemption is being applied and why.

2.10 Other rights of individuals

The Leading Learning Trust has an obligation to comply with the rights of individuals under the law, and takes these rights seriously. The following section sets out how the Leading Learning Trust will comply with the rights to:

- object to Processing;
- rectification;
- erasure; and
- data portability.



2.10.1 Right to object to processing

An individual sometimes has the right to object to the processing of their personal data on the grounds of pursuit of a public interest or legitimate interest where they do not believe that those grounds are made out.

Where such an objection is made, it must be sent to Claire Stewart, Executive Deputy Head teacher, Selwyn Primary School or to Scott Chudley, Head teacher, Portway Primary School within 2 working days of receipt by the school, and Claire Stewart, Executive Deputy Head teacher, Selwyn Primary School or to Scott Chudley, Head teacher, Portway Primary School will assess whether there are compelling grounds to continue processing which override the interests, rights and freedoms of the individuals, or whether the information is required for the establishment, exercise or defence of legal proceedings or one of the other allowable exceptions.

Claire Stewart, Executive Deputy Head teacher, Selwyn Primary School or to Scott Chudley, Head teacher, Portway Primary School shall be responsible for notifying the individual of the outcome of their assessment without undue delay.

2.10.2 Right to rectification

An individual has the right to request the rectification of inaccurate data without undue delay. Where any request for rectification is received, it should be sent to Claire Stewart, Executive Deputy Head teacher, Selwyn Primary School or to Scott Chudley, Head teacher, Portway Primary School within 2 working days of receipt by the school, and where adequate proof of inaccuracy is given, the data shall be amended as soon as reasonably practicable, and the individual notified.

Where there is a dispute as to the accuracy of the data, the request and reasons for refusal shall be noted alongside the data, and communicated to the individual. The individual shall be given the option of the lodging of a complaint as per the Complaints Policy (available on the school websites) or an appeal direct to the Information Commissioner.

An individual also has a right to have incomplete information completed by providing the missing data; any information submitted in this way shall be updated without undue delay.

2.10.3 Right to erasure

Individuals have a right, in certain circumstances, to have data permanently erased without undue delay. This right arises in the following circumstances:

- where the personal data is no longer necessary for the purpose or purposes for which it was collected and processed;
- where consent is withdrawn and there is no other legal basis for the processing;
- where an objection has been raised under the right to object, and found to be legitimate;



- where personal data is being unlawfully processed (usually where one of the conditions for processing cannot be met); and
- where there is a legal obligation on the Leading Learning Trust to delete.

Claire Stewart, Executive Deputy Head teacher, Selwyn Primary School or to Scott Chudley, Head teacher, Portway Primary School will make a decision regarding any application for erasure of personal data, and will balance the request against the exemptions provided for in the law. Where a decision is made to erase the data, and this data has been passed to other Data Controllers, and / or has been made public, reasonable attempts to inform those controllers of the request shall be made.

2.10.4 Right to restrict processing

In the following circumstances, processing of an individual's personal data may be restricted:

- where the accuracy of data has been contested, during the period when the Leading Learning Trust is attempting to verify the accuracy of the data;
- where processing has been found to be unlawful, and the individual has asked that there be a restriction on processing rather than erasure;
- where data would normally be deleted, but the individual has requested that their information be kept for the purpose of the establishment, exercise or defence of a legal claim; and/or
- where there has been an objection made, pending the outcome of any decision.

2.10.5 Right to portability

If an individual wants to send their personal data to another organisation they have a right to request that the Leading Learning Trust provides their information in a structured, commonly used, and machine readable format. As this right is *limited to situations where the Leading Learning Trust is processing the information on the basis of consent or performance of a contract*, the situations in which this right can be exercised will be quite limited. If a request for this is made, it should be forwarded to Claire Stewart, Executive Deputy Head teacher, Selwyn Primary School or to Scott Chudley, Head teacher, Portway Primary School within 2 working days of receipt by the school, and they will review and revert as necessary.

2.11 Breach of any requirement of the GDPR/Data Protection Act 2018

Any and all breaches of the GDPR, including a breach of any of the data protection principles shall be reported as soon as it is discovered, to the Data Protection Officer (DPO) - Claire Stewart, Executive Deputy Head teacher, Selwyn Primary School or to Scott Chudley, Head teacher, Portway Primary School.

Once notified, they shall assess:



- the extent of the breach;
- the risks to the data subjects as a consequence of the breach;
- any security measures in place that will protect the information;
- any measures that can be taken immediately to mitigate the risk to the individuals.

Unless they conclude that there is unlikely to be any risk to individuals from the breach, it must be notified to the Information Commissioner's Office within 72 hours of the breach having come to the attention of the Leading Learning Trust, unless a delay can be justified. The Information Commissioner shall be told:

- details of the breach, including the volume of data at risk, and the number and categories of data subjects;
- the contact point for any enquiries (which shall usually be the Data Protection Officer [DPO] Claire Stewart, Executive Deputy Head teacher, Selwyn Primary School or to Scott Chudley, Head teacher, Portway Primary School);
- the likely consequences of the breach; and
- measures proposed or already taken to address the breach.

If the breach is likely to result in a high risk to the rights and freedoms of the affected individuals then data subjects will be notified of the breach without undue delay unless the data would be unintelligible to those not authorised to access it, or measures have been taken to mitigate any risk to the affected individuals. Note that breaches do not have to be notified to data subjects if the risk is not high or disproportionate effort would be required to provide such notification.

Data subjects shall be told:

- the nature of the breach;
- who to contact with any questions;
- measures taken to mitigate any risks.

The Data Protection Officer (DPO), Claire Stewart, Executive Deputy Head teacher, Selwyn Primary School or to Scott Chudley, Head teacher, Portway Primary School shall then be responsible for instigating an investigation into the breach, including how it happened, and whether it could have been prevented. Any recommendations for further training or a change in procedure shall be reviewed by the trust board and a decision made about implementation of those recommendations.

2.12 Contact

If anyone has any concerns or questions in relation to this policy they should contact the Data Protection Officer (DPO) Claire Stewart, Executive Deputy Head teacher, Selwyn Primary School or to Scott Chudley, Head teacher, Portway Primary School.