



## **Data Protection policy and procedure**

### **Policy**

The Data Protection Act 1998 (DPA) regulates the way in which certain information about working community members and other stakeholders is held and used. Wynstones considers that the correct treatment of personal data is integral to our successful operation and to maintaining trust. We understand the underlying principles of the Act and support and adhere to its provisions. We are registered with the Information Commissioner to process personal data. We are named as a data controller under the register kept by the Information Commissioner in accordance with section 19 of the DPA. The body with overall responsibility for the school's compliance with the DPA is the Council of Trustees.

### **Information covered by the Act**

The DPA uses the term 'personal data'. For information held by Wynstones School, 'personal data' essentially means any recorded information held by us and from which a living individual can be identified. It will include a variety of information including names, addresses, telephone numbers, photographs of people and other personal details. It could include any expression of opinion about a living individual or any indication of our intentions about that individual.

These records may include:

- Information gathered about a prospective pupil or a current pupil.
- Information gathered about a prospective working community member or volunteer and any references obtained during recruitment.
- Information gathered about an individual employed or volunteering at the school including details of terms of employment, payroll, tax and National Insurance information, performance information, health records, absence records including holiday records and self-certification forms, details of any disciplinary investigations and proceedings, training records, as well as contact names and addresses.
- Correspondence with individuals, which may include contracts, references, credit reports and remittance advice for payments.
- Information gathered regarding a child and its family when applying or during the admission process.

Wynstones School believes these uses are consistent with the principles of the DPA.

### **Data protection principles**

We will comply with the eight enforceable data protection principles by making sure that personal data is:

- Fairly and lawfully processed.

- Processed for limited purposes.
- Adequate, relevant and not excessive.
- Accurate and kept up to date.
- Not kept longer than necessary.
- Processed in accordance with the individual's rights.
- Secure.
- Not transferred to countries outside the European Economic Area unless the country to which the data is to be transferred has adequate protection for the individuals.

## **Conditions**

We will ensure that at least one of the following conditions is met before we process any personal data:

- The individual has consented to the processing.
- The processing is necessary for the performance of a contract with the individual.
- The processing is required under a legal obligation (other than one imposed by a contract);
- The processing is necessary to protect vital interests of the individual.
- The processing is necessary to carry out public functions e.g. administration of justice.
- The processing is necessary in order to pursue our legitimate interests or those of third parties (unless it could unjustifiably prejudice the interests of the individual).

Under the DPA, at least one of a set of additional conditions must be met for 'sensitive personal data'. This includes information about racial or ethnic origin, political opinions, religious and other beliefs, trade union membership, physical or mental health condition, sex life, criminal proceedings or convictions. We will ensure that at least one of the following additional conditions is met before we process any sensitive personal data:

- The individual has explicitly consented to the processing;
- We are required by law to process the information for employment purposes;
- We need to process the information in order to protect the vital interests of the individual or another person; or
- The processing is necessary to deal with the administration of justice or legal proceedings.

## **Individuals' rights**

We will ensure that individuals are made aware of their rights under the DPA including:

- The right to obtain their personal information from us except in limited circumstances where the law does not permit us to.
- The right to ask us not to process personal data where it causes substantial unwarranted damage to them or anyone else.
- The right to claim compensation from us for damage and distress caused by any breach of the DPA.

As an educational organisation this provides the right for an individual, a working community member, a pupil, or a parent or legal guardian, to make either a 'subject access request' and additionally provides for the parents' 'right of access to their child's educational record'.

This includes:

- Information held on computer (or other automated means).
- Information held in structured files.
- Information in the educational record regardless of the form in which it is held.
- Any unstructured information, for example, held in loose correspondence.

Information may be withheld when:

- The details may cause serious harm to the physical or mental health of the pupil or another individual.
- The disclosure would reveal the school suspects that a child is at risk of abuse.
- There is information contained in adoption and parental order records.
- There is information given to a court in proceedings under the Magistrates' Courts (Children and Young persons) Rules 1992.
- The request is for copies of examination scripts.
- The request is to provide examination marks before they are officially announced.

### **Individual responsibility**

As well as having rights under the DPA, all working community members will comply with the data protection policy and procedures.

In order to assist Wynstones in ensuring that their personal information is kept up to date all people who are the subject of personal data kept by the school should inform the School of any changes in the following information:

- Address and other contact details;
- Emergency contact name;
- Bank account details;
- Marital status; as well as
- All medical concerns.

If, as a part of their job, a working community member holds any personal information about any stakeholder, they need to take steps to ensure that they do so within the policy and procedural guidelines. As such:

- All personal information must be kept securely and remain confidential.
- Personal information about people which is no longer needed, which is out of date or inaccurate should be securely disposed of. Therefore a review of personal information that is held should be undertaken annually.
- Record Retention and Security Policies need to be observed in conjunction with this policy and its associated procedures.

### **Disclosure of a subject access request**

The school will ensure that any request is met within 40 school days of receipt of the written request. If a working community member, pupil, parent acting on the pupil's behalf or

another third party makes a subject access request which does not include any information from an educational record, the maximum fee which can be charged is £10.

### **Disclosure of educational records**

If a parent exercises their independent right under the Regulations simply to view their child's educational record, then this should be free of charge.

The school will ensure that a pupil's educational record is made available for their parent to see, free of charge, within 15 school days of receipt of the parent's written request. If a parent makes a written request for a copy of the record this too will be provided and within 15 school days. A fee will apply for such a request to be met and will not exceed the cost of supply (this includes time and production costs).

### **Disclosure and storage of photographic images**

The School will seek approval to utilise images of individuals both internally and for promotional purposes. Images will be stored securely and only individuals who have been invited to access and view such images will have the authority to do so.

(For more detailed information please refer to the Photography Policy and the Staff ICT and Data Security Policy).

### **Legal requirements**

While it is unlikely, Wynstones School may be required to disclose data by a court order or to comply with other legal requirements. We will use all reasonable endeavours to notify those affected before we do so, unless we are legally restricted from doing so.

### **No commercial disposal to third parties**

The information held will be for our management and administrative use only, but from time to time, we may need to disclose some information we hold about working community members to relevant third parties. We may transfer information to another group or organisation, solely for purposes connected with a working community member's career or the management of the community's activities and such a disclosure will be made only when strictly necessary for the purposes set out below:

- To protect a working community member's health, for the purposes of compliance with our health and safety and our occupational health obligations
- For the purposes of HR management and administration, for example to consider how an working community member's health affects his or her ability to do his or her job and, if the working community member is disabled, whether he or she requires any reasonable adjustment to be made to assist him or her at work
- The administration of insurance, pension, sick pay and any other related benefits
- In connection with unspent convictions to enable us to assess a working community member's suitability for employment.
- A pupil is transferring to another educational establishment.

The school will not sell, rent, distribute or otherwise make user data commercially available to any third party, except as described above or with the subject's permission.

## **Our commitment to data protection**

We will ensure that:

- Everyone managing and handling personal information understands that they are responsible for following good data protection practice
- There is someone with specific responsibility for data protection in the organisation
- Staff who handle personal information are appropriately supervised and trained
- Queries about handling personal information are promptly and courteously dealt with
- People know how to access their own personal information
- Methods of handling personal information are regularly assessed and evaluated
- Any disclosure of personal data will be in compliance with approved procedures
- We take all necessary steps to ensure that personal data is kept secure at all times against unauthorised or unlawful loss or disclosure
- All contractors who are users of personal information will be required to confirm that they will abide by the requirements of the DPA with regard to information supplied by us.

The School requires all working community members to comply with the DPA in relation to the information held regarding all third parties. Failure to do so will be regarded as serious misconduct and will be dealt with in accordance with the School's disciplinary policy and procedure. If a working community member is in a position to deal with personal information about other working community members, he or she will be given separate guidance on his or her obligations, and must ask if he or she is unsure.

## **Complaints**

Should there be a reason to complain regards a breach of data protection; this should be dealt with under the School's Whistleblowing policy.

## **Further Information**

Any further information or advice is available from the Information Commission, [www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk).

Reviewed: April 2015 JV