



Policy Name	Data Protection
Review and Approval by	Full Board of Governors
Date Ratified	
Signed By	
Position	Chair of Board of Governors
Review Period for this Policy	2 Yearly
Date for Future Review	November 2017

Implementation of this policy supports the duties to promote equality of opportunity and positive attitudes in relation to disability, gender and race and to eliminate discrimination on the grounds of age, disability, gender, race, religion or belief and sexual orientation.

Date	Changes
30/01/16	Amend Governing Body to Board of Governors.

GUIDANCE TO SCHOOLS: Requirements with respect to “fair processing” under the Data Protection Act and the passing of information to Connexions

“Fair processing” under the Data Protection Act

Schools, LAs, DfES and QCA are all “data controllers” under the Data Protection Act 1998 in that they process “personal data” (i.e. data that identifies people individually). This guidance deals specifically with personal data about pupils, although personal data may also be held on other groups such as teaching and non-teaching staff, and similar considerations with respect to “fair processing” will apply to them.

Data controllers have to provide data subjects with details of the data that they hold on them, the purposes for which they hold that data, and any third parties to whom it may be passed on. This is referred to as a “fair processing notice”.

The Information Commissioner’s guidance is that as soon as children are able to understand their rights under the Data Protection Act, they should exercise these rights on their own account. The Commissioner’s view is that children will generally have a sufficient level of understanding by the age of 12, although clearly there will be exceptions. To prevent schools having to assess the level of understanding of pupils aged 12 or over on a pupil by pupil basis, and distribute the notice in two different ways, it would be reasonable for the fair processing notice to be provided to parents in all cases but with the text encouraging parents to share the notice with the pupil where appropriate.

Further information about fair processing requirements, and guidance on the Data Protection Act generally, can be obtained from the Information Commissioner’s website (www.informationcommissioner.gov.uk).

The DfES is requiring all LAs to work with schools to ensure that:

- schools issue the notice to the parents of new pupils as part of the enrolment process.

The suggested text of the fair processing notice is set out below. There are two versions of the notice - the first for schools which do not have pupils of secondary age, and the second for schools which do have pupils of secondary age.

Schools may wish to include this notice in other communications with parents (e.g. the school prospectus, the governors’ annual report, the individual pupil report, or the annual data checking sheet), and/or display the text on a school website or in a prominent location in the school. These are not however requirements, nor are they a substitute for the arrangements indicated above.

Passing information to Connexions

In addition to the obligation on schools to provide certain information to other schools, to LEAs, to the Department and to QCA, there is a legal requirement under the Learning and Skills Act 2000 to pass information on request to the Connexions Service for pupils in or approaching the Connexions age range (essentially secondary age pupils). A similar requirement exists for the provision of information for the Connexions Card available to pupils aged 16 or over. The information which schools are required to provide consists of:

- a. the names and addresses of pupils and their parents – which must be provided to the Connexions Service and the Connexions Card in any event;
- b. other information relevant to the provision of Connexions Services or to the Connexions Card – in this case parents (or pupils themselves if aged 16 or over) have the right to instruct the school not to provide information to the Connexions Service or the Connexions Card.

Note that the provision in b. is an **opt out**, not an opt in. Until and unless the parent or pupil gives an instruction, the school remains under a statutory duty to provide information to the Connexions Service or the Connexions Card on request.

For the **Connexions Card**, DfES and Capita, which jointly manage the Card, will deal with fair processing issues for pupils approaching or above age 16 as they become eligible for a Card, and so this does not need to be covered in the fair processing notice set out below. Schools taking up the Connexions Card are required to sign an agreement containing explicit undertakings that they will inform pupils that personal details are being passed to the Connexions Card Team, and give them the chance to tell the school if they do not wish this to happen.

For the **Connexions Service**, the fair processing notice given to parents needs to advise them of the passing on of information to Connexions, and, as a matter of good practice, should also advise them of their (or their child's) right to instruct the school not to provide information beyond name and address.

Note that the right, under the Learning and Skills Act, to opt out from the passing on of information to Connexions passes from the parent to the pupil at age 16. It is particularly important therefore that parents share the fair processing notice with the pupil in these cases.

To give parents or pupils who wish to opt out an adequate opportunity to do so, information should not be passed to Connexions until **two weeks** after the notice is sent to them. Parents or pupils are entitled to register an opt out subsequently even if they do not do so within the initial two week period. In that event no further information should be passed to Connexions after the opt out has been received.

The Connexions Service supports young people, helping them to achieve their potential and to realise benefits from education learning and employment. It is very important that Connexions partnerships receive the information about their clients which they need to do this job effectively – subject only to the opt out provision described above. The information required will include contact details of pupils and their parents or carers, gender, date of birth, ethnicity, special educational needs, school attended, and Key Stage or examination results.

Connexions partnerships will not generally pass on any information which they receive about pupils without discussing this with them first.

Provision of information by LAs or DfES

In Plymouth the Connexions partnership obtains some of its information from the LA rather than schools, and this helps both to minimise burdens on schools and maximise the flow of information to Connexions. For the same reasons the DfES is considering the transfer of some information to Connexions at national level. However, transfers of information at LA or national level should not take place in cases where parents or pupils have exercised their opt out right, or not yet been given the opportunity to do so. A Connexions flag has been added to PLASC so that these cases are readily known to the LA and the Department.

Information provided to Connexions before parents or pupils have been notified

If a school or LA has provided pupil information beyond name and address to the Connexions Service without notifying parents or pupils that this is happening, and then receives a parental or pupil opt out when the fair processing notice is issued, the school or LA should, as a matter of good practice, advise the parent or pupil of the situation, and also inform the Connexions partnership that the opt out has been claimed and that information already passed should be processed with that in mind.

Further information

If at any time you require any further information on the requirement to issue a fair processing notice please contact Paul Maber-Gill, Performance and Information Manager, Tel: 01752 307501.

Fair processing notice – suggested text for schools WITHOUT secondary age pupils

DATA PROTECTION ACT

Schools, local education authorities and the Department for Education and Skills (the government department which deals with education) 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, that the data held about pupils must only be used for specific purposes allowed by law. We are therefore writing to tell you about the types of data held, why that data is held, and to whom it may be passed on.

The **school** holds information on pupils in order to support their teaching and learning, to monitor and report on their progress, to provide appropriate pastoral care, and to assess how well the school as a whole is doing. This information includes contact details, National Curriculum assessment results, attendance information, characteristics such as ethnic group, special educational needs and any relevant medical information.

From time to time we are required to pass on some of this data to the Local Authority (LA), to another school to which the pupil is transferring, to the Department for Education and Skills (DfES), and to the Qualifications and Curriculum Authority (QCA) which is responsible for the National Curriculum and associated assessment arrangements.

The **Local Authority** 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.

The **Qualifications and Curriculum Authority** uses information about pupils to administer the National Curriculum tests and assessments for Key Stages 1 to 3. The results of these are passed on to the DfES in order for it to compile statistics on trends and patterns in levels of achievement. The QCA uses the information to evaluate the effectiveness of the National Curriculum and the associated assessment arrangements, and to ensure that these are continually improved.

The **Department for Education and Skills** uses information about pupils for statistical purposes, to evaluate and develop education policy and to monitor the performance of the education service as a whole. The statistics (including those based on information provided by the QCA) are used in such a way that individual pupils cannot be identified from them. The DfES will feed back to LAs and schools information about their pupils where they are lacking this information because it was not passed on by a former school. On occasion information may be shared with other Government departments or agencies strictly for statistical or research purposes only.

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 you wish to access the personal data held about your child, then please contact the relevant organisation in writing:

- the school at Montpelier Primary School, Beaconsfield Road, Plymouth
- the LEA's Data Protection Officer at Plymouth City Council, Civic Centre, Plymouth, PL1 2AA;
- the QCA's Data Protection Officer at QCA, 83 Piccadilly, LONDON, W1J 8QA;
- the DfES's Data Protection Officer at DfES, Caxton House, Tothill Street, LONDON, SW1H 9NA.