

Licensed Trade Charity: Organisation Policies and Procedures		
IT POLICY		
Effective Date:	22 nd June 2017	Title: Data Protection Policy
Supersedes Date:	1 st Nov 2016	Originator Adrian McGarry

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I PURPOSE

To provide adequate organisational policy and processes for Data Protection

II RESPONSIBILITY

All line managers have a responsibility to uphold this policy and ensure their staff have read and are compliant with the policy, their responsibilities and the legal obligations surrounding the Data Protection Act

III SCOPE

This policy / procedure relates to the following areas:

LTC	Yes	No
LVS	Yes	No
LVS Pupils	Yes	No
LVS Hassocks	Yes	No
Hassocks Pupils	Yes	No
LVS Oxford	Yes	No
Oxford Pupils	Yes	No

Exceptions to scope:

- None

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IV FREQUENCY

Organisation Policies and Procedures must be followed at all times.

V GENERAL INFORMATION/DEFINITIONS

Further information and updates can be found;

- On the <https://ico.org.uk/> website
- Help in understanding the Data Protection Act within Data Protection Act - Appendix A.doc
- Guidelines on data retention Data Retention Guideline - Appendix B.pdf
- Update to Data Protection Act 2005 Data protection update 2005 - Appendix C.pdf
- A guide to exemptions can be found on the ICO website <https://ico.org.uk/for-organisations/guide-to-data-protection/exemptions/>

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VI POLICY

Information rights

Good information handling provides a range of benefits as well as helping you to comply with the Data Protection and Freedom of Information Acts. The ICO have produced guidance for senior managers about taking a positive approach to information rights.

Data protection – looking after the information you hold

From the information that we hold within our organisation, we are legally obliged to protect that information; so under the Data Protection Act, we must:

- *Only collect information that you need for a specific purpose;*
- *Keep it secure;*
- *Ensure it is relevant and up to date;*
- *Only hold as much as you need, and only for as long as you need it; and*
- *Allow the subject of the information to see it on request.*

Our Legal Obligations

The requirement to process personal data fairly and lawfully is set out in the first data protection principle and is one of eight such principles at the heart of data protection. The main purpose of these principles is to protect the interests of the individuals whose personal data is being processed. They apply to everything you do with personal data, except where you are entitled to an exemption. See: <https://ico.org.uk/for-organisations/guide-to-data-protection/exemptions/>

So the key to complying with the Data Protection Act is to follow the eight data protection principles:

Processing personal data fairly and lawfully (Principle 1)

Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless:

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(a) At least one of the conditions in Schedule 2 is met, and

(b) In the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.

NOTE: The conditions set out in Schedules 2 and 3 to the Data Protection Act are known as the “conditions for processing”.

You must:

- *Have legitimate grounds for collecting and using the personal data;*
- *Not use the data in ways that have unjustified adverse effects on the individuals concerned;*
- *Be transparent about how you intend to use the data, and give individuals appropriate privacy notices when collecting their personal data;*
- *Handle people’s personal data only in ways they would reasonably expect; and*
- *Make sure you do not do anything unlawful with the data.*

Processing personal data for specified purposes (Principle 2)

Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.

This requirement (the second data protection principle) aims to ensure that organisations are open about their reasons for obtaining personal data, and that what they do with the information is in line with the reasonable expectations of the individuals concerned.

Information standards (Principles 3, 4 and 5)

The amount of personal data you may hold (Principle 3)

- How can you ensure the personal data you hold is adequate, relevant and not excessive?
 - *To ensure we meet these requirements it is the responsibility of each person within their LTC role, to ensure the data held is sufficient for the purpose you are holding it for in relation to the individual,*
 - *Do not hold more information than you need for that purpose.*

Keeping personal data accurate and up to date (Principle 4)

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- How can you ensure the personal data you hold is accurate and up to date?

To comply with these provisions, you should:

- *Take reasonable steps to ensure the accuracy of any personal data you obtain;*
- *Ensure that the source of any personal data is clear;*
- *Carefully consider any challenges to the accuracy of information; and*
- *Consider whether it is necessary to update the information.*

Retaining personal data (Principle 5)

- What determines how long you should keep personal data?

In practice, it means that you will need to:

- *Review the length of time you keep personal data;*
- *Consider the purpose or purposes you hold the information for in deciding whether (and for how long) to retain it;*
- *Securely delete information that is no longer needed for this purpose or these purposes; and*
- *Update, archive or securely delete information if it goes out of date.*
- *In all areas data is to be retained for no longer than seven years. This is the legal requirement for financial information, with exceptions of school pupil data which needs to be kept until the student is 25 and SEN data needs to be kept until the Student is 30 (DOB + 30 Years)*

The rights of individuals (Principle 6)

Personal data shall be processed in accordance with the rights of data subjects under this Act.

This is the sixth data protection principle, and the rights of individuals that it refers to are:

- A right of access to a copy of the information comprised in their personal data;
- A right to object to processing that is likely to cause or is causing damage or distress;
- A right to prevent processing for direct marketing;
- A right to object to decisions being taken by automated means;
- A right in certain circumstances to have inaccurate personal data rectified, blocked, erased or destroyed; and
- A right to claim compensation for damages caused by a breach of the Act.

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These six rights are explained more thoroughly within the ICO links contained below;

1. [Access to personal data](#)

What is a subject access request? What information is an individual entitled to? How should you respond to a subject access request?

This right, commonly referred to as subject access, is most often used by individuals who want to see a copy of the information an organisation holds about them. However, the right of access goes further than this and an individual who makes a written request and pays a fee is entitled to be:

- Told whether any personal data is being processed;
- Given a description of the personal data, the reasons it is being processed, and whether it will be given to any other organisations or people;
- Given a copy of the information comprising the data; and
- Given details of the source of the data (where this is available).

2. [Preventing processing likely to cause damage or distress](#)

When can an individual ask you to stop processing their personal data? How should you respond?

3. [Preventing direct marketing](#)

What is direct marketing? What do you need to do if an individual asks you not to send them direct marketing?

4. [Automated decision taking](#)

What is an automated decision? What rights do individuals have regarding this type of decision?

5. [Correcting inaccurate personal data](#)

What rights do individuals have to correct or remove inaccurate personal data that you hold about them?

6. [Compensation](#)

In what circumstances can an individual claim compensation from you for a breach of the Data Protection Act?

To comply with these requests, you must respond within a 40 day time period, only with the information requested, concerning the individual. An administration fee is applicable before processing the request to cover the administration time in dealing with the request; the maximum fee you can charge is £10. There are different fee structures for our organisation if the requested information contains health or education records (where the maximum fee is £50, depending on the circumstances). It is your responsibility to inform your line manager and Director of ICT of any requests pertaining to the Data Protection Act. If you are unsure of any circumstance or have any questions in regards to a request, please refer them to your line manager or the Director of

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ICT. All requests to process must be logged in the Data Protection Log, held in a secure IT area, under an encryption protected file.

Information security (Principle 7)

Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.

In practical terms;

- *If you handle information within any of our systems, you are responsible for keeping it safe and secure*
- *You must always comply with all aspects of our [Acceptable Use Policy](#)*
- *Do not remove any data from the systems onto any other storage solution*
- *Identify and report any breaches of security and report them to your line manager and the Director of ICT, immediately; ensuring you follow-up what actions have been taken. Further details of how to handle breaches can be found in this policy Data Protection Breach Policy*

Sending personal data outside the European Economic Area (Principle 8)

Personal data shall not be transferred to a country or territory outside the EEA unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

If you need to transfer personal data outside the EEA refer to the following section of the ICO website: <https://ico.org.uk/>, before discussing it further with your line manager.

The conditions for processing

The conditions for processing are set out in Schedules 2 and 3 to the Data Protection Act. Unless a relevant exemption applies, at least one of the following conditions must be met whenever you process personal data:

- The individual who the personal data is about has consented to the processing.
- The processing is necessary:
 - in relation to a contract which the individual has entered into; or
 - Because the individual has asked for something to be done so they can enter into a contract.
- The processing is necessary because of a legal obligation that applies to you (except an obligation imposed by a contract).

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- The processing is necessary to protect the individual's "vital interests". This condition only applies in cases of life or death, such as where an individual's medical history is disclosed to a hospital's A&E department treating them after a serious road accident.
- The processing is necessary for administering justice, or for exercising statutory, governmental, or other public functions.
- The processing is in accordance with the "legitimate interests" condition.

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