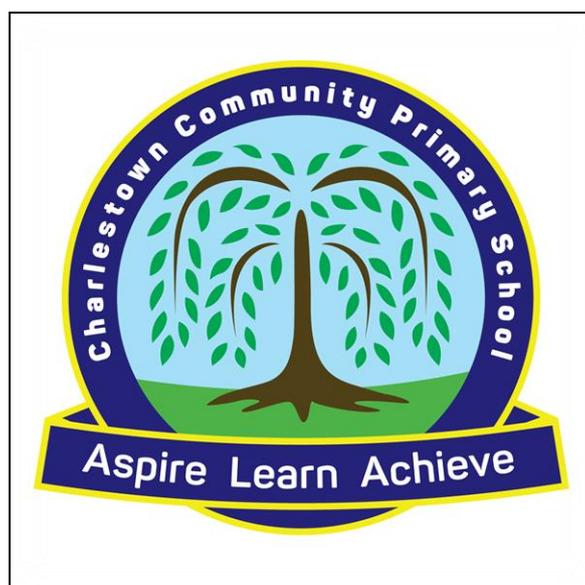


Charlestown Community Primary School



Data Protection and Freedom of Information Policy and Procedure April 2017

This policy and procedure has been produced by One Education’s HR and People service. The HR and People team provides management and HR support and advice to schools and academies purchasing their services under an agreed Service Agreement. For further information please contact the HR and People team via the HROne Helpline: 0844 967 1112 (local rate from landline) or HROne Helpline Email: hrpeople@oneeducation.co.uk Website: www.oneeducation.co.uk

This document is recommended for adoption by all maintained schools including community, voluntary controlled, community special, maintained nursery, foundation, foundation special and voluntary aided schools. This document is also recommended for adoption by academies and free schools (modified as appropriate and taking into account the particular circumstances of the relevant academy or free school). References in this document to schools include a reference to academies and free schools unless otherwise stated and references in this document to the Headteacher include a reference to an academy or free school Principal.

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Under the public sector equality duty, all schools/academies must have due regard to the need to eliminate discrimination, harassment and victimisation and any other conduct prohibited by the Equality Act 2010; to advance equality of opportunity between those who share a relevant protected characteristic and those who do not share it and to foster good relations across all protected characteristics. This means schools/academies must take into account equality considerations when policies are being developed, adopted and implemented. The HR and People team regularly reviews all policies and procedures which are recommended to schools/academies to ensure compliance with education and employment legislation including the Equality Act 2010. Consultation with schools/academies is an important part of this review process. Headteachers, Principals and Governing Bodies are asked to contact the HR and People team via the HROne Helpline if they believe there are any negative equality impacts in their school/academy in relation to the application of this policy/procedure

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1. Introduction

- 1.1 The school collects a large amount of personal data including: pupil records, staff records, names, and addresses of those requesting prospectuses, references, fee collection, as well as the many different types of research data used by the school. In addition, it may be required by law to collect and use certain types of information to comply with statutory obligations of Local Authorities (LAs), government agencies and other bodies.
- 1.2 Personal information is any information that relates to a living individual who can be identified from the information. This includes any expression of opinion about an individual and intentions towards an individual. It also applies to personal data held visually in photographs or video clips (including CCTV) or as sound recordings.
- 1.3 This policy and procedure explains the duties and responsibilities placed on the school under the legislation relating to data protection issues to ensure that all data is handled and stored securely. The document also explains the processes available to individuals to access information held by the school.

2. Scope

- 2.1 This policy relates to all employees, volunteers, contractors, pupils and parents. It also explains how members of the public may request information held by the school.

3. Data Protection Act 1998

- 3.1 The Data Protection Act 1998 describes how organisations must collect, handle, and store personal information. The rules apply regardless of whether the data is stored electronically, on paper or in other formats.
- 3.2 In accordance with the Act, individuals may make a Subject Access Request (SAR), to see any personal information relating to them held by an organisation.
- 3.3 To comply with the law, personal information must be collected and used fairly, stored safely and not disclosed unlawfully.

3.4 The Data Protection Act 1998 is underpinned by eight important principles. These state that personal data must:

- Be processed fairly and lawfully
- Be obtained only for specific, lawful purposes
- Be adequate, relevant and not excessive
- Be accurate and kept up to date
- Not be held for any longer than necessary
- Processed in accordance with the rights of data subjects
- Be protected in appropriate ways
- Not be transferred outside of the European Economic Area (EEA), unless that country or territory also ensures an adequate level of protection

3.5 To comply with the Data Protection Act the school must:

- Manage and process personal data properly
- Protect the individuals' right to privacy
- Provide an individual with access to all personal data held on them.

3.6 The school has a legal responsibility to comply with the Act. The school, as a corporate body, is named as the **Data Controller** under the Act.

3.7 Data Controllers are people or organisations who hold and use personal information. They decide how and why the information is used and have a responsibility to establish workplace practices and policies that are in line with the Act.

3.8 Every member of staff that holds personal information has to comply with the Act when managing that information.

3.9 The school is committed to maintaining the eight principles at all times. This means that the school will:

- inform Data Subjects why they need their personal information, how they will use it, and with whom it may be shared. This is known as a Privacy Notice.
- check the quality and accuracy of the information held
- apply records management policies and procedures to ensure that information is not held longer than is necessary
- ensure that when information is authorised for disposal it is done appropriately
- ensure appropriate security measures are in place to safeguard personal information whether that is held in paper files or on a computer system
- only share personal information with others when it is necessary and **legally appropriate to do so**
- set out clear procedures for responding to applications for access to personal information known as Subject Access requests in the Data Protection Act (**see paragraph 4**)
- train all staff so that they are aware of their responsibilities and of the school's relevant policies and procedures

4. Dealing with Subject Access Requests

- 4.1 Any individual, including members of staff, parents and pupils, has the right of access to information held about them. However with children, this is dependent upon their capacity to understand. As a general rule, a child of 12 or older is expected to be mature enough to understand the request they are making. If the child cannot understand the nature of the request, someone with parental responsibility can ask for the information on the child's behalf.
- 4.2 Requests for personal information must be made in writing and addressed to the Headteacher. If the initial request does not clearly identify the information required, then further clarification may be sought from the enquirer.
- 4.3 The response time for Subject Access requests, once officially received, is 40 days calendar days, irrespective of school holiday periods.
- 4.4 There are some exemptions to the right to Subject Access data that apply in certain circumstances or to particular types of personal information. The following examples are provided for indicative purposes only and are not intended to be exhaustive:
- Responding to a request may involve providing information relating to another individual (a third party). Third party information is that which identifies another pupil/parent or has been provided by another agency, such as the Police, Local Authority, Health Care Professional, or another school. Before disclosing third party information consent should normally be obtained. There is still however a need to adhere to the 40 day statutory timescale.
 - Any information which may cause serious harm to the physical or mental health or emotional condition of the pupil or another individual involved should not be disclosed, nor should information that would reveal that the child is at risk of abuse, or information relating to court proceedings.
- 4.5 In certain circumstances it may be appropriate to provide redacted (information edited or removed) to protect the legal rights of named individuals or agencies.
- 4.6 Therefore all information must be reviewed prior to disclosure. Where there are concerns over the disclosure of information then appropriate professional advice should be sought where necessary.
- 4.7 Where redaction has taken place then a full copy of the information provided should be retained in order to establish, if a complaint is made, what was redacted and why.
- 4.8 Information can be viewed at the school with a member of staff on hand to help and explain matters if requested, or provided at a face to face handover. The views of the applicant should be taken into account when considering the method of delivery. If the applicant has asked for the information to be posted then special next day delivery or recorded delivery postal service must be used.

5. The Education (Pupil Information) (England) Regulations 2005

- 5.1 The Education (Pupil Information) (England) Regulations 2005 only apply to maintained schools, although academies and free schools may elect to follow the principles of the Regulations.
- 5.2 The Regulations require schools to make a pupil's educational record available for inspection by the parent, free of charge, within 15 school days of the receipt of a written request from the parent. In addition the parent is entitled to receive an annual report and to discuss the contents of the report with the child's teacher'

6. Dealing with a request in accordance with The Education (Pupil Information) (England) Regulations 2005

- 6.1 All requests must be made in writing to the Headteacher.
- 6.2 The identity of the requestor must be established before the disclosure of any personal information, and checks should also be carried out regarding proof of relationship to the child.
- 6.3 Evidence of identity can be established by requesting production of:
- passport
 - driving licence
 - utility bills with the current address
 - Birth / Marriage certificate
 - Credit Card or Mortgage statement

Please note that this list is not intended to be exhaustive.

- 6.4 The school will make a pupil's educational record available for inspection, free of charge, to a parent / legal guardian within 15 school days of receipt of the parent's written request and will also provide a written copy of the record if requested to do so.

7. The Freedom of Information Act 2000

- 7.1 The Freedom of Information Act 2000 provides public access to information held by public authorities. It does this in two ways:
- Public authorities are obliged to publish certain information about their activities;
 - and □ Members of the public are entitled to request information from public authorities.
- 7.2 Recorded information includes printed documents, computer files, letters, emails, photographs, and sound or video recordings.
- 7.3 The Act does not give people access to their own personal data (information about themselves). If a member of the public wants to see information that a public authority holds about them, they should make a Subject Access Request under the Data Protection Act 1998.
- 7.4 Anyone can make a freedom of information request – they do not have to be UK citizens, or resident in the UK. Freedom of information requests can also be made by organisations, for example a newspaper, a campaign group, or a company.

7.5 Employees of a public authority can make requests to their own employer, although good internal communications and staff relations will normally avoid the need for this.

7.6 Please note that reference in the Freedom of Information Act 2000 to “public authorities” applies to all publically funded schools and academies.

8. Dealing with a request under the Freedom of Information Act

8.1 Any letter or email to the school asking for information is a request for recorded information under the Act, although it may be more appropriate to deal with routine requests for information in accordance with normal procedures.

8.2 The provisions of the Act need to come into force only if:

- The school cannot provide the requested information straight away; or
- The requester makes it clear they expect a response under the Act.

8.3 For a request to be valid under the Freedom of Information Act it must be in writing (includes email), however requesters do not have to mention the Act or direct their request to a designated member of staff.

8.4 The school has two separate duties when responding to these requests:

- to tell the applicant whether they hold any information falling within the scope of the request;

and

- to provide that information

8.5 In accordance with the Act the school will normally respond to the request within 20 working days.

8.9 The school may refuse to provide information requested under the Act in the following limited circumstances:

- It would cost too much or take too much staff time to deal with the request.
- The request is vexatious.
- The request repeats a previous request from the same person.

8.10 Before refusing to provide any information requested, the school should consult the Information Commissioner’s Office website at www.ico.gov.uk for more information.

9. Complaints

9.1 Complaints about the above procedures should be made to the Chair of the Governing Body who will decide whether it is appropriate for the complaint to be dealt with in accordance with the school’s complaints procedure.

9.2 Complaints which are not appropriate to be dealt with through the school’s complaints procedure can be dealt with by the Information Commissioner. Contact details of both will be provided with the disclosure information.

10. Further Advice and Information

10.1 Further advice and information can be obtained from the Information Commissioner's Office, www.ico.gov.uk