



Hardenhuish School Data Protection Policy

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Office Manager**

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1. Introduction

In order to operate efficiently Hardenhuish School has to collect and use information about people with whom it works. These may include members of the public, current, past and prospective employees, pupils and their parents, and suppliers. In addition it may be required by law to collect and use information in order to comply with the requirements of central and local government.

The School is committed to ensuring personal information is properly managed and in accordance with the General Data Protection Regulation (GDPR) and other related legislation. The School will make every effort to meet its obligations under the legislation and will regularly review procedures and update this policy to reflect best practice or amendments made to data protection legislation.

2. Scope

This policy applies to all employees, governors, contractors, agents and representatives and temporary staff working for or on behalf of the School.

The GDPR applies to all computerised data and manual files if they come within the definition of a filing system: a filing system is one where the data is structured in some way such that it is searchable on the basis of specific criteria, e.g. individual's name. It does not matter whether the information is in a different physical location.

3. Responsibilities

Overall responsibility for ensuring that the School is compliant with the GDPR lies with the Governing Body. Day to day compliance with the Act and this Policy is devolved to the Headteacher who will act as Data Controller within the meaning of the Act.

The Headteacher is responsible for ensuring that appropriate training is provided for all staff.

All members of staff or contractors who hold or collect personal data are responsible for their own compliance with the GDPR and must ensure that personal information is kept and processed in-line with the GDPR.

4. Personal Data

4.1. 'Personal data' is information that identifies an individual, and includes information that would identify an individual to the person to whom it is disclosed because of any special knowledge that they have or can obtain.¹ 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.

4.2. Special Category information is given special protection, and additional safeguards apply if this information is to be collected and used.

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

4.4. Hardenhuish School does not intend to seek or hold special category personal data about staff or pupils except where it has been notified of the information, or it comes to the School's attention via legitimate means (e.g. a grievance) or needs to be sought and held in compliance with a legal obligation

¹ For example, if asked for the number of female employees, and you only have one female employee, this would be personal data if it was possible to obtain a list of employees from the website.

or as a matter of good practice. Staff or pupils are under no obligation to disclose to the School their race, 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).

5. The Requirements

5.1. The GDPR stipulates that anyone processing personal data must comply with the following six principles at all times. The principles require that personal information:

- 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;
- Shall be collected for specific, explicit and legitimate purposes and shall not be further processed in any manner incompatible with those purposes;
- Shall be adequate, relevant and limited to what is necessary for the purpose or purposes for which it is processed;
- Shall be accurate and where necessary, kept up to date;
- Processed for any purpose(s) shall not be kept for longer than is necessary for that purpose or those purposes;
- 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.

5.2. In addition Hardenhuish School 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).

5.3. Hardenhuish School is committed to complying with the principles in 5.1 at all times. This means that the school will:

- inform individuals as to the purpose of collecting any information from them, as and when the school asks for it;
- 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 the data retention schedule;
- 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;
- report any breaches of the GDPR in accordance with the procedure in paragraph 14 below.

6. Conditions for Processing in the first Data Protection Principle

- 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 regard to entering into a contract with the individual, at their request.
- The processing is necessary for the performance of a legal obligation to which the school is 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 the school.

- The processing is necessary for a legitimate interest of Hardenhuish School or that of a third party, except where this interest is overridden by the rights and freedoms of the individual concerned. *(Note that as Academy Trusts are determined to be public authorities for the purposes of GDPR, they will not be able to rely on the legitimate interests condition for any data processing carried out in the performance of its tasks).*

7. Use of Personal Data by Hardenhuish School

Hardenhuish School 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 in paragraph 5.1 above.

7.1. Pupils

7.1.1. 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.

7.1.2. 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 school as a whole is doing, together with any other uses normally associated with this provision in a school environment.

7.1.3. Hardenhuish School 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 school but only where consent has been provided to this.

7.1.4. In particular the School may:

- transfer information to any association, society or club set up for the purpose of maintaining contact with pupils or for fundraising, marketing or promotional purposes relating to the school but only where consent has been obtained first;
- make personal data, including sensitive personal data, available to staff for planning curricular or extra-curricular activities;
- keep the pupil's previous school informed of his/her academic progress and achievement, e.g. sending a copy of the school reports for the pupil's first year at Hardenhuish School to their previous school;
- use photographs of the pupils in accordance with the photograph policy.

7.1.5. Any wish to limit or object to any use of personal data should be notified to the Business Manager in writing, which notice will be acknowledged by the school in writing. If, in the view of the Headteacher, the objection cannot be maintained, the individual will be given written reasons why the school cannot comply with their request.

7.2. Staff

7.2.1. The personal data held about staff will include contact details, recruitment information, employment history, information relating to career progression, information relating to DBS and other safeguarding checks, photographs, performance management and absence information, national insurance, taxation and pension details.

7.2.2. The data is used to comply with legal obligations placed on the school in relation to employment and the education of children in a school environment. The School 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 providing references.

7.2.3. 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.

7.2.4. Personal data about staff may be used to provide references to potential future employers, mortgage brokers and letting agents.

7.2.5. Any wish to limit or object to the uses to which personal data is to be put should be notified to the Business Manager who will ensure that this is recorded, and adhered to if appropriate. If the Headteacher is of the view that it is not appropriate to limit the use of personal data in the way specified, the individual will be given written reasons why the school cannot comply with their request.

7.3. Other Individuals

The school may hold personal information in relation to other individuals who have contact with the school, such as volunteers and visitors. Such information shall be held only in accordance with the data protection principles, and shall not be kept longer than necessary.

8. Security of Personal Data

8.1. The school 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 under the GDPR. The school will take all reasonable steps to ensure that all personal information is held securely and is not accessible to unauthorised persons.

8.2. Further details with regard to the security of IT systems are provided in the School Password Security Policy and the Acceptable Use Policies for Pupils/Students and Staff.

9. Disclosure of Personal Data to Third Parties

9.1. The following list includes the most usual reasons that the school 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 school (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 school;
- 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 examination boards and the examinations regulator as part of the examination process;
- to provide information to the relevant government department concerned with national education. At the time of writing this policy, the government department concerned with national education is the Department for Education (DfE). Examination boards and the examinations regulator may also pass information to the DfE.
- to provide information to the Local Authority as required, e.g. regarding unauthorised pupil absences and pupil performance;
- to provide information to third party software providers for the purposes of education as well as the efficient provision and management of education, e.g. SchoolComms, Wisepay, Show my Homework, GCSE Pod.

9.2. The DfE and LA use information about pupils for statistical purposes, to evaluate and develop education policy and to monitor the performance of the education service on a national and local basis. 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.

9.3. The school may receive requests from third parties (i.e. those other than the data subject, the school and employees of the school) 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 allows disclosure applies, or where necessary for the legitimate interests of the individual concerned or the school.

10. 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 school 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 school believes disclosure will be in the best interests of the pupil or other pupils.

Further details regarding pupil confidentiality and safeguarding are provided in the school's Safeguarding and Child Protection Handbook. If staff are in any doubt, they must consult with the School's Designated Safeguarding Lead or Deputy Designated Safeguarding Lead.

11. Subject Access Requests

11.1. Anybody who makes a request to see any personal information held about them by the school 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 provided that it constitutes a "filing system" (see paragraph 2 above).

11.2. All requests should be sent to the Headteacher as Data Controller within 3 working days of receipt, and must be dealt with in full without delay and at the latest within 1 month of receipt.

11.3. 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 for the child can make a request on behalf of the child. The Headteacher as Data Controller 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.

In addition, parents have their own independent regulatory right of access to the official education records of their children. Pupils do not have a right to prevent their parents from obtaining a copy of their school reports.

11.4. 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 school must have written evidence that the individual has authorised the person to make the application and the Headteacher must be confident of the identity of the individual making the request and of the authorisation of the individual to whom the request relates.

11.5. 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(s).

11.6. A subject access request must be made in writing. The school may ask for any further information reasonably required to locate the information.

11.7. 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.

11.8. All files must be reviewed by the Headteacher as Data Controller before any disclosure takes place. Access will not be granted before this review has taken place.

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

12. Exemptions to Access by Data Subjects

12.1. 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.

12.2. There are other exemptions from the right of subject access. In such cases the school will seek professional advice before applying any such exemption, and will explain which exemption is being applied and why.

13. Other Rights of Individuals

The school has an obligation to comply with the rights of individuals under the law and takes these rights seriously. The school will therefore comply with the rights to:

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

13.1. Right to object to processing

An individual 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 valid.

Where such an objection is made, it must be sent to the Headteacher as Data Controller within 2 working days of receipt, and the Headteacher will assess whether there are compelling legitimate 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.

The Headteacher shall be responsible for notifying the individual of the outcome of their assessment within 30 days of receipt of the objection.

13.2. 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 the Headteacher as Data Controller within 2 working days of receipt and where adequate proof of inaccuracy is given, the data shall be amended as soon as reasonably practical 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 a review under the complaints procedure or an appeal direct to the Information Commissioner.

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

13.3. 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 been found to be legitimate;
- where personal data is being unlawfully processed;
- where there is a legal obligation on the school to delete.

The Chair of Governors will make a final 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 will be made.

13.4. Right to Restrict Processing

Processing of an individual's personal data may be restricted in the following circumstances:

- where the accuracy of data has been contested, during the period when the school 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;
- where there has been an objection made under paragraph 10 above, pending the outcome of any decision.

13.5. Right to Portability

If an individual wants to send their data to another organisation, they have a right to request that the school provides their information in a structured, commonly used and machine readable format. This right is limited to situations where the school is processing the information on the basis of consent or performance of a contract. If a request is made, it must be sent to the Headteacher as Data Controller within 2 working days of receipt and the Headteacher will review and process as necessary.

14. Breach of any Requirement of the GDPR

14.1. Any and all breaches of the GDPR, including a breach of any of the data protection principles, shall be reported as soon as discovered to the Headteacher as Data Controller. Once notified, the Headteacher 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.

14.2. Advice will be sought from the School's Data Protection Officer and unless the Headteacher concludes 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 school, unless a delay can be justified. The Information Commissioner must be told:

- the 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;
- the likely consequences of the breach;
- measures proposed or already taken to address the breach.

14.3. If the breach is likely to result in a high risk to the rights and freedoms of the affected individuals, the Headteacher shall notify data subjects 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. Data subjects shall be told:

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

14.4. The Headteacher 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 governors and a decision made about implementation of those recommendations.

15. Contact

If anyone has concerns or questions in relation to this policy, please contact the Business Manager.