

# iCollege

## Alternative Education West Berkshire

# Data Protection

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<b>Associated policies and useful information</b>	ICT & Online Safety Policy Freedom of Information Policy & Procedures Fair Processing (Privacy) Notice for student Fair Processing (Privacy) Notice for staff Fair Processing (Privacy) Notice for parents
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## Contents

1: Key contact list for the Data Protection Policy .....	2
2: Purpose .....	2
2.1 Aim: .....	2
2.2 Objective:.....	2
3: Roles and Responsibilities .....	2
3.1 All staff : .....	2
3.2 The named person: .....	3
3.3 Data leakage .....	3
4: Terminology .....	3
5: Fair processing of personal data: data which may be shared.....	3
6: Processing, storing, archiving and deleting personal data .....	4
7: Accessing personal data .....	4

8: Requests for School Information – The Freedom of Information Act.....	6
9: Access to other school information – The Freedom of Information Act.....	6
10: Other Issues .....	7
11: Further information .....	7
13: Appendix.....	7
Change Record .....	8

## 1: Key contact list for the Data Protection Policy

<b>Key contact within the Local Authority</b> School Improvement Adviser (IT & Strategic Education Business), West Street House Council Offices, West Street, Newbury Berkshire RG14 1BD <a href="mailto:thomas.ng@westberks.gov.uk">thomas.ng@westberks.gov.uk</a>			
<b>Key Contact within icollege</b>			
<b>Headteacher</b>	Jacquie Davies	<b>01635 528048</b>	<a href="mailto:jdavies@icollege.org.uk">jdavies@icollege.org.uk</a>

## 2: Purpose

### 2.1 Aim:

The aim of this policy is to provide a model set of guidelines to enable governors, staff, parents and pupils to understand:

- The law regarding personal data
- How personal data should be processed, stored, archived and deleted/destroyed
- How staff, parents and pupils can access personal data which are controlled by iCollge

In addition, there is brief guidance at the end of the policy on Freedom of Information which covers other information held by schools which is covered in more detail in the iCollege's Freedom of Information Policy.

### 2.2 Objective:

The objective of the policy is to ensure that the school acts within the requirements of The DPA (Data Protection Act) 2018 and UK GDPR (General Data Protection Regulation) when:

- retaining and storing personal data
- when making it available to individuals.
- And that the process of responding to enquiries for other information is also legal under the Freedom of Information Act 2000 (in force from 1st January 2005).

This is to safeguard the reputation of iCollege as a well-run organization.

## 3: Roles and Responsibilities

### 3.1 All staff :

All staff must take care to comply with the Data Protection Act requirements and ensure they follow the policy and associated guidance.

## 3.2 The named person:

The named with overall responsibility for personal data within this school is: Jackie Davies – Head Teacher

## 3.3 Data leakage

Any form of data leakage should be reported to the Head teacher within 72 hours. This is to ensure that iCollege has the opportunity to discharge its legal responsibilities.

## 4: Terminology

### **Data Protection – the law:**

- Under the Data Protection Act 2018, and associated legislation, access to their own personal information is a statutory right for pupils (if they are of an age to understand the information they request) and parents (as defined in the Education Act 1996 – see footnote) may also request access to their child's personal data.
- School staff have a right of access to personal data on themselves.
- Anyone has the right to question and correct inaccurate information, but in general this must be matters of fact, not opinions.
- Personal data must be kept securely and protected by passwords if it is electronic, and access to it must only be by those authorised to see it – confidentiality must be respected.
- The law also provides that personal data should not be kept longer than is required.
- Third party data (information about someone other than the requesting individual) is in general only provided with their permission.
- Complaints about the handling of personal data within the school should be made to the Head teacher.

## 5: Fair processing of personal data: data which may be shared

Schools, local education authorities and the Department for Education (DfE) all hold information on pupils in order to run the education system, and in doing so have to follow the Data Protection Act 2018.

This means, among other things that the data held about pupils must only be used for specific purposes allowed by law. The school has a Fair Processing or Privacy Notice which explains how personal data is used and with whom it will be shared. This Notice is published on the School Website.

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 the iCollege, 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.

Information on how to access personal data held by other organisations is given below.

**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 parents want to request to access the personal data held about their child, they should contact the relevant organisation in writing:

- iCollege school as above, by contact the Head Teacher;
- the LA's Data Protection Advisory Officer at: School Improvement Adviser (IT & Strategic Education Business), West Street House Council Offices, West Street, Newbury Berkshire RG14 1BD Email: [thomas.ng@westberks.gov.uk](mailto:thomas.ng@westberks.gov.uk)

## 6: Processing, storing, archiving and deleting personal data

### Guidance

Unless stated otherwise the iCollege follows West Berkshire Councils record retention schedule available on their website <https://www.westberks.gov.uk/retention>

- Personal data and school records about pupils are confidential to the child. The information can be shared appropriately within the professionals working at iCollege to enable the school to make the best educational provision for the child. The law permits such information to be shared with other educational establishments when pupils change schools.
- Special Educational Needs records for a child, including EHCP, will be kept for 6 years after the child reaches 25 years of age This is to defend the College from potential "failure to provide sufficient education" allegations.
- Data on staff is sensitive information and confidential to the individual, and is shared, where appropriate, at the discretion of the Head Teacher and with their knowledge, and with the agreement of the staff member concerned.
- Employment records form part of a staff member's permanent record. Because there are specific legislative issues connected with these (salary and pension details etc.) these records should be retained as set out by the LA.
- Interview records, CV's and application forms for unsuccessful applicants are kept for 6 months.
- All formal complaints made to the Head Teacher or School Governors, in accordance with the school's Complaints Procedure, will be kept for at least seven years in confidential files, with any documents on the outcome of such complaints. Individuals concerned in such complaints may have access to such files subject to data protection and to legal professional privilege in the event of a court case.
- There may be other circumstances in which information can or has to be disclosed for example in court proceedings. If you are in any doubt, please contact the LA's Data Protection Advisory Officer for further advice.
- As all forms of personal data belongs to the individual children, staff should not enter any student data into IT systems which are not controlled by iCollege. Any such action would create large amount of admin work upon a data subject access request. If there were overwhelming educational needs, a Data Protection Impact Analysis should be carried out before implementation.

## 7: Accessing personal data

### Guidance

- A child can request access to his/her own data. The request is not charged and does not have to be in writing. The staff will judge whether the request is in the child's best interests, and that the child will

understand the information provided. They may also wish to consider whether the request has been made under coercion.

- A parent can request access to or a copy of their child's school records and other information held about their child. The request must be made in writing. There is no charge for such requests on behalf of the child, there is detailed guidance available from the Information Commissioner. Staff should check, if a request for information is made by a parent, that no other legal obstruction (for example, a court order limiting an individual's exercise of parental responsibility) is in force.
- Parents should note that rights under the Data Protection Act to do with information about their child rest with the child as soon as they are old enough to understand these rights. This will vary from one child to another, but, as a broad guide, it is reckoned that most children will have a sufficient understanding by the age of 12. Parents are encouraged to discuss and explain any request for information with their child where they have sufficient understanding and/or if they are aged 12 or over.
- Separately from the Data Protection Act, The Education (Pupil Information) (England) Regulations 2005 (as amended) provide a pupil's parent (regardless of the age of the pupil) with the right to view, or to have a copy of, their child's educational record at the school. Parents who wish to exercise this right must apply to the school in writing.
- For educational records (unlike other personal data; see below) access must be provided within 15 school days, and if copies are requested, these must be supplied within 15 school days of payment.
- A member of staff can request access to their own records at no charge, but the request must be made in writing. The member of staff has the right to see their own records, and to ask for copies of the records. There is no charge for copies of records.
- The UK GDPR requires that all requests for personal information are dealt with within One calendar month of validated receipt except requests for educational records (see above). All requests will be acknowledged in writing and access to records will be arranged as soon as possible. If awaiting third party consents, the school will arrange access to those documents already available and notify the individual that other documents may be made available later.
- In all cases, should third party information (information about another individual) be included in the information, the staff will try to obtain permission to show this information to the applicant, If third party permission is not obtained the person with overall responsibility should consider whether the information can still be released.
- Personal data should always be of direct relevance to the person requesting the information. A document discussing more general concerns may not be defined as personal data.
- From 1st January 2005, when the Freedom of Information Act came into force, a request for personal information can include unstructured as well as structured records – for example, letters, emails etc. not kept within an individual's personal files, or filed by their name, but still directly relevant to them. If these would form part of a wider record, staff are advised to file these within structured records as a matter of course and to avoid excessive administrative work.
- Anyone who requests to see their personal data has the right to question the accuracy of matters of fact within the data, and to ask to have inaccurate information deleted or changed. They may also question

opinions, and their comments will be recorded, but opinions do not need to be deleted or changed as a part of this process.

- The school will document all requests for personal information with details of who dealt with the request, what information was provided and when, and any outcomes (letter requesting changes etc.) This will enable staff to deal with a complaint if one is made in relation to the request.
- There are exemptions to providing personal information, for example where the school consider doing so would cause serious harm to someone. If there is any doubt contact LA's Advisory officer [thomas.ng@westberks.gov.uk](mailto:thomas.ng@westberks.gov.uk)

## 8: Requests for School Information – The Freedom of Information Act

- Requests should be acknowledged within three school days and answered in 20 working days or 20 school days (this applies where requests come in shortly before school holidays).
- Any refusal of information must include details of the exemption used and a public interest test if this applies. Speak to the LA's Officer email [thomas.ng@westberks.gov.uk](mailto:thomas.ng@westberks.gov.uk) for guidance on this.
- All requesters should be advised they can request a review of the handling of their request if they are dissatisfied with the response – this should be carried out by another staff member or a Governor. The LA's Officer can provide guidance on the statutory FoI review process if required.
- After a review, requesters may contact the Information Commissioner if they remain dissatisfied and should be directed to his office. Again, ask for advice on this process from the LA's Officer.

## 9: Access to other school information – The Freedom of Information Act

- The Freedom of Information Act came into force on 1st January 2005. Under this Act, all schools which receive a written or emailed request for information which they hold or publish are required to respond within 20 working days. Further guidance is given in the iCollege's Freedom of Information Policy available on the website [Requests for information](#)
- The Freedom of Information Act came into force on 1st January 2005. Under this Act, all schools which receive a written or emailed request for information which they hold or publish are required to respond within 20 working days. Further guidance is given in the iCollege's Freedom of Information Policy available on the website
- If the information is published by another organisation (for example, Ofsted reports, DfE leaflets) iCollege will direct the enquirer to the organisation which supplied the information or publication unless it is legal and possible to provide the information direct (for example, a copy of the summary of an Ofsted report, spare copies of a DfE leaflet).
- In most cases it will not be legal to photocopy a publication in its entirety and supply this to an enquirer unless the school owns the copyright – this is particularly important where the original publication was a charged item. The enquirer will be required to obtain the publication from the publishing organisation or through a commercial source.
- The school will keep the original request and note against this who dealt with the request and when the information was provided.
- Any complaint about the provision of information will be handled by the Head Teacher or another senior member of staff. All complaints should be in writing and documented. The Publication Scheme will include information on who to contact for both enquiries and complaints.
- All enquirers should be advised that they may complain to the Information Commissioner if they are unhappy with the way their request has been handled.

## 10: Other Issues

**Footnote:** Section 576 of the Education Act 1996 defines a parent and includes all natural parents, someone who is not a parent of a pupil but who has parental responsibility for him, and a person who has care of the pupil

### **Reviewing:**

This Policy will be reviewed, and updated if necessary every year or sooner if new legislation or regulation and associated guidance is published relevant to iCollege

## 11: Further information

### **Information Commissioner**

The Information Commissioner is the Regulator for Data Protection and Freedom of Information and provides tailored guidance for schools on his website. <https://ico.org.uk/your-data-matters/schools/>

Refer to the website for the most up to date guidance on a range of Data Protection and Freedom of Information issues.

### **Department for Education**

The Department for Education provides guidance on statutory responsibilities and non-statutory guidance. Advice on Data Protection and Freedom of Information can be found here:

<https://www.gov.uk/government/collections/departmental-advice-schools#dataprotection>

## 13: Appendix

### **UK GDPR (General Data Protection Regulation)**

#### **ICO (Information Commissioners Office)**

The UK's independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals.

#### **What is personal data?**

This means any data that is held about a living individual who can be identified from that data or from other information that may be known about that individual. The definition also specifically includes opinions about the individual, or what is intended for them.

#### **What is a data protection breach?**

This is an incident in which sensitive, protected or confidential data has potentially been viewed, shared, altered, stolen, destroyed or used by an individual unauthorised to do so. This can be deliberate or accidental.

#### **What is a data controller?**

It is a person who (either alone or jointly or in common with other persons) determines the purposes for which and the manner in which any personal data are, or are to be, processed.

#### **What is a data processor?**

any organisation or person who processes data on behalf of the data controller.

#### **Some examples of data protection breaches**

- Personal data being posted to the incorrect address
- Email being sent to an incorrect address

- Documents dropped or left in a public place
- Personal data left unattended at a printer
- Personal documents left unattended and not locked away
- Verbal discussing or disclosing personal data with someone not entitled to it – either by phone or in person.
- Devices containing personal data being lost or stolen
- Loss of diary/bag containing personal information
- Alteration of personal data without permission
- Deliberate action to access personal data beyond individuals job role.
- Deliberate or accidental action (or inaction) by a controller or a processor
- Opening a malicious email attachment or unfamiliar link or source which leads to school equipment being subject to a virus or malicious attack which results in unauthorised access to, loss, destruction or damage of personal data.

A personal data breach can be broadly defined as a security incident that has affected the confidentiality, integrity or availability of personal data. In short, there will be a personal data breach whenever any personal data is lost, destroyed, corrupted or disclosed; if someone accesses the data or passes it on without proper authorisation; or if the data is made unavailable and this unavailability has a significant negative effect on individuals.

<b>Head Teacher:</b> Jacqueline Davies	<b>Sign:</b>	<b>Chair of Governing Body:</b> Maureen Sims	<b>Sign:</b>
<b>Date</b>		<b>Date:</b>	

Change Record				
Version Number	Date Approved	Management Committee Minute Reference	Description of Amendments	Review Date
1	20.3.18 H&SPIT	Management Committee	New Version	Jan 2018
9.2	10/01/22	MR updated	the UK's DPA 2018 has already enacted the EU GDPR's requirements into UK law and, with effect from 1 January 2021, the DPPEC (Data Protection,	Jan 2022



			<p>Privacy and Electronic Communications (Amendments etc) (EU Exit)) Regulations 2019 amended the DPA 2018 and merged it with the requirements of the EU GDPR to form a new, UK-specific data protection regime that works in a UK context after Brexit as part of the DPA 2018. This new regime is known as the 'UK GDPR'. As updated in policy.</p> <p>Amended MR's details and title in key contacts within iCollege</p> <p>KCSIE statement updated to 2021</p>	
<b>9.2</b>			Reviewed, updated KCSE statement 11/12/13 MR	
<b>9.3</b>	12.12.23	MC	Reviewed, updated KCSIE statement MR	Dec 23

### Keeping Children Safe in Education

All staff at iCollege take seriously their responsibility to protect and safeguard the welfare of children and young people in their care; this includes protecting children from maltreatment; preventing impairment of children's mental and physical health or development; ensuring that children grow up in circumstances consistent with the provision of safe and effective care; and taking action to enable all children to have the best outcomes.