

Madani Academy Primary School

DATA PROTECTION POLICY

Status: statutory

This policy should be read in conjunction with the Data Protection Act 1998 (DPA), the Education Pupil (Information) Regulations 2005, the School Staffing (England) Regulations 2009 (maintained schools) and the Independent School Standards Regulations 2010 (academies)

Background

- The DPA applies only to living individuals.
- Under the DPA, there are stringent regulations that apply to the collection, using, disclosing, storing or disposing of personal data.
- There are even stricter regulations that apply to what is termed 'sensitive personal data'. This is information that relates to race, ethnicity, political opinions, religious beliefs, membership of trade unions, physical or mental health, sexuality and criminal offences. Schools all hold a great deal of sensitive data in their pupil and staff records.
- In this context, the school (technically the governing body) is the data controller for the purposes of the relevant legislation and has the primary responsibility for ensuring that all legal requirements are met.
- All schools are legally obliged to protect any information, either personal data or sensitive personal data, about pupils and staff from unauthorised access and from accidental loss or damage.
- Schools have a duty to notify the Information Commissioner's Office (ICO) that they are processing personal data and therefore are data controllers. That notification must be renewed whenever the data held changes in any substantial way.
- Schools also have a duty to publish a privacy notice – see appendix 2.
- Under the DPA, any individual has the right to make a request to access the personal information held about them.
- In addition, under the DPA the school may hold some information about parents and guardians.
- The Education Pupil Information Regulations 2005 cover the rights of parents to access their child's educational record.
- There is a statutory exception to the above, where parents do have an automatic right to access defined materials under the Education (School Records) Regulations 1989. The school will observe these statutory rights.

Records management

Under section 46 of the Freedom of Information Act 2000, schools are required to follow a Code of Practice on managing their records. Schools are strongly advised to have in place a records management policy to sit alongside their data protection policy, a freedom of information policy and other documents including audit procedures, equal opportunities policy and the school's on-line ethics statement.

Other suggestions for good practice can be accessed on-line through the Information and Records Management Society's records management toolkit for schools. This includes:

- How to formulate a records management policy.
- A model for the format in which pupil records can be stored.
- Details of how to conduct a school information audit.
- Advice on information security.
- Guidance on the safe disposal of records.
- An invaluable chart detailing what records should be kept and for how long. In particular, the chart lists which documents involve data protection issues.

SCHOOL DATA PROTECTION POLICY

Introduction

At our school, we acknowledge that to function properly we need to collect and use certain types of information about staff, students and other individuals who come into contact with the school. We are also obliged to collect and use data to fulfil our obligations to the local authority (LA), DFE and other bodies. We deal with information properly in whatever way it is collected, recorded and used – on paper, electronically or any other way. We regard the lawful and correct treatment of personal information as very important to successful operations and to maintaining confidence between those with whom we deal and ourselves. We are conscious that much of the data we hold is classified as sensitive personal data and we are aware of the extra care this kind of information requires. We ensure that our organisation treats all personal information lawfully and correctly. To this end, we fully endorse and adhere to the data protection principles as contained in the Data Protection Act 1998.

Data protection principles

All members of staff employed in our school are required to adhere to the eight enforceable data protection principles as set out in the Data Protection Act 1998.

- Data shall be processed fairly and lawfully and in particular shall not be processed unless specific conditions are met.
- Personal data shall be obtained only for one or more specified and lawful purpose and shall not be further processed in any manner incompatible with that purpose or those purposes.
- Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.
- Personal data shall be accurate and where necessary, kept up-to-date.
- Personal data shall not be kept for longer than is necessary for that purpose or those purposes.
- Personal data shall be processed in accordance with the rights of data subjects under the DPA.
- 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.
- Personal data shall not be transferred to a country or territory outside the European Economic Area, 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.

School practice

Within school we will strictly apply the following criteria and controls. These are to:

- Notify the ICO that we process personal data and re-notify if procedures change or are amended.
- Observe fully the conditions regarding the fair collection and use of information. To achieve this we have in place and use a privacy notice, sometimes called a fair processing notice – see appendix 2.
- Meet our legal obligations to specify the purposes for which information is used.

- Collect and process appropriate information and only to the extent that it is needed to fulfil operational needs or to comply with any legal requirements.
- Ensure the quality of information used.
- Apply strict checks to determine the length of time information is held.
- Ensure that the rights of the persons about whom information is held can be fully exercised under the Act. These include the right to be informed that processing is being undertaken, the right to access to one's personal information, the right to prevent processing in certain circumstances and the right to correct, rectify, block or erase information which is regarded as wrong information.
- Take appropriate technical and organisational security measures to safeguard personal information. We will review the physical security of buildings and storage systems as well as access to them. All portable electronic devices must be kept as securely as possible on and off school premises.
- Ensure that all Disclosure and Barring Service (DBS, formerly Criminal Records Bureau) records (recruitment and vetting checks) are kept in a safe central place and that no unnecessary certification information is kept longer than six months.
- Ensure that personal information is not transferred abroad without suitable safeguards.
- Treat people justly and fairly whatever their age, religion, disability, gender, sexual orientation or ethnicity when dealing with requests for information.
- Set out clear procedures for responding to requests for information – see appendix 1.
- Have in place secure methods for safely disposing of all electronic and paper records.
- Be sure that photographs of pupils are not included in any school publication or on the school website without specific consent.
- Take care that CCTV that captures or processes images of identifiable individuals is done in line with the data protection principles.

We shall also ensure that:

- There is a named person with specific responsibility for data protection within the school.
- All persons managing and handling personal information understand that they are contractually responsible for following good data protection practice.
- All persons managing and handling personal information are trained to do so.
- Anyone wanting to make enquiries about handling personal information knows what to do.
- Anyone managing and handling personal information is appropriately supervised.
- Queries about handling personal information are properly and courteously dealt with.
- Methods of handling personal information are clearly described.

- A regular review and audit is made of the way personal information is held, managed and used.
- Methods of handling personal information are regularly assessed and evaluated.
- Performance with handling personal information is regularly assessed and evaluated.
- A breach of the rules and procedures identified in this policy may lead to disciplinary action being taken against the members of staff concerned.
- On occasions when information is authorised for disposal, it is done appropriately.

Appendix 1

Dealing with a subject access request

- Requests for information must be made in writing (which includes the use of e-mail) and be addressed to the headteacher. If the initial request does not clearly specify the information required, then the school will make further enquiries.
- The headteacher must be confident of the identity of the individual making the request. When the request concerns data about a pupil, checks will also be carried out regarding proof of relationship to the child. In addition, evidence of identity will be established by requesting production of:
 - Passport.
 - Driving licence.
 - Utility bills with the current address.
 - Birth/marriage certificate.
 - P45/P60.
 - Credit card or mortgage statement (this list is not exhaustive).
- As stated above, any individual has the right of access to information held about them. However, in the case of children this is dependent upon their capacity to understand (normally age 12 or above) and the nature of the request. The headteacher should discuss the request with the child and take their views into account when making a decision. A child with competency to understand can refuse to consent to the request for their records. Where the child is not deemed to be competent, an individual with parental responsibility or guardian shall make the decision on behalf of the child.
- The school may make a charge for the provision of information, depending on the following:
 - No charge can be made if the requester simply wants to view the educational record of a child.
 - Should the information requested require a copy of the educational record, then the amount charged will be dependent upon the number of pages provided. This type of record is available to all parents until the child becomes an adult with or without the consent of the child. The school is required to respond within 15 school days.
 - Should the information requested be personal information that is not an educational record, schools can charge up to £10 to provide it.
- The response time for subject access requests, other than for educational records, is 40 days from receipt (this refers to calendar days irrespective of school holiday periods).
- The DPA allows exemptions as to the provision of some information; therefore all information will be reviewed prior to disclosure.
- Third party information is information that has been provided by another person such as the LA, the police, a health care professional or another school. It is normal good practice to seek the

consent of the third party before disclosing information. Even if the third party does not consent, or consent is explicitly not given, the data may be disclosed. (There is no need in the case of third party requests to adhere to the 40-day statutory timescale.)

- Any information that could cause serious harm to the physical, emotional or mental health of a pupil or another person may not be disclosed, nor should information that would reveal that the child is at risk of abuse. The same stricture applies to information relating to court proceedings.
- If there are concerns about the disclosure of information, then additional advice should be sought, usually from the Information Commission's Office.
- When redaction (blacking out or obscuring of data) has taken place, then a full copy of the information provided will be retained in order to establish, if a complaint is made, what was redacted and why.
- Information disclosed should be clear, with any codes, technical terms, abbreviations or acronyms explained. If information contained within the disclosure is difficult to read or illegible, it will be retyped.
- Information can be provided at the school with a member of staff on hand to assist if requested, or provided at face-to-face handover. The views of the applicant will be taken into account when considering the method of delivery. If postal systems have to be used, then registered or recorded mail will be used.
- Complaints will be dealt with in accordance with the school complaints procedure, which is available on-line or from the school office. Should the complainant wish to take the matter further, it may be referred to the Information Commissioner www.ico.gov.uk.
- This policy will be reviewed by the headteacher at least every two years.

Appendix 2

DPA privacy notice

Introduction

Schools, LAs and the DFE all hold data on pupils in order to run the education system. In so doing, all have to follow the Data Protection Act 1998. The chief implication of this is that data held about pupils may only be used for specific purposes permitted by law. This notice is to inform you what types of data we hold, why it is held and to whom it may be passed on.

- We hold 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 help us assess how the school is performing overall. This data will include contact details, national curriculum assessment results, attendance information, characteristics such as ethnicity, SEN and any relevant medical information.
- The school may include images of or information about pupils on the school website. If this is a problem to you for any reason, please let us know and we will ensure that this information is not included. However, parents do need to know that at times we may be legally bound to disclose information to other bodies such as the police which the school will try to do with the knowledge of the relevant parent(s).
- From time-to-time, we are required to pass on information to the LA/DFE, to another school to which your child may be transferring, to the DFE and to the Standards and Testing Agency which is responsible for the national curriculum and associated assessment arrangements.
- The government may require the school to share information with other agencies such as health, other LA departments and other relevant public bodies. The school will inform parents when this type of processing occurs and seek consent where this is necessary.