Data Protection (GDPR) Policy

St Peter's Eaton Square C of E Primary School

DATE APPROVED	25 April 2018	
REVIEW DATE **Biennial**	25 April 2019 This policy will normally be under a two yearly review, but with the introduction of the Data Protection Act 2019 following Brexit, the review period has been shortened in the first instance.	
Head Teacher		27/04/2018
Chair of Governors	Ralph Williams	27/04/2018

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1. Aims

The school aims to ensure that all personal data collected, stored, processed and destroyed about any natural person, whether they be a member of staff, pupil, parent, school governor, visitor, contractor, consultant, a member of supply staff or other individual in the School is done so in accordance with the General Data Protection Regulation (GDPR) and the expected provisions of the forthcoming revised Data Protection Act 2018 (DPA 2018) as set out in the current Data Protection Bill. This policy will be reviewed in line with the implementation of this new legislation.

This policy applies to all personal data, collected, stored, processed and destroyed by the school, regardless of whether it is in paper or electronic format, or the type of filing system it is stored in, and whether the collection or processing of data was, or is, in any way automated.

2. Legislation and guidance

This policy meets the requirements of the GDPR and the expected provisions of the DPA 2018. It is based on guidance published by the Information Commissioner's Office (ICO) on the GDPR and the ICO's code of practice for subject access requests. It is also based on the ICO guidance on GDPR, and information provided by the Article 29 Working Party.

The policy meets the requirements of the Protection of Freedoms Act 2012, ICO's code of practice in relation to CCTV usage, and the DBS Code of Practice in relation to handling sensitive information. This policy also complies with the Education (Pupil Information) (England) Regulations 2005, which gives parents the right of access to their child's educational record.

3. Definitions

Term	Definition
The school	Refers to St Peter's Eaton Sq C of E primary school throughout this policy.
Data controller	The natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data.
Data processor	A natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller, following the Controller's instruction.
Data subject	The identified or identifiable individual whose personal data is held

	or processed.
Consent	Freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her.
Personal data	Any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.
Special categories of personal data	Personal data which is more sensitive and so needs more protection, including Information about an individual's: Racial or ethnic origin Political opinions Religious or philosophical beliefs Trade union membership Genetics Biometrics (such as fingerprints, retina and iris patterns), where used for identification purposes Health – physical or mental Sex life or sexual orientation history of offences, convictions or cautions [1]
Processing	Any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction. Processing can be automated or manual.
Data breach	A breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data.

[1] Note: whilst criminal offences are not classified as "sensitive data" within GDPR, within this policy template we have included them as such as acknowledgement of the care needed with this data set.

4. The data controller

The school processes personal data relating to parents, pupils, staff, governors, visitors and others, and therefore is a data controller and a data processor.

5. Roles and responsibilities

This policy applies to **all staff** employed by our school, school governors and to external organisations or individuals working on our behalf. Staff who do not comply with this policy may face disciplinary action.

5.1 Governing Board

The Governing Board has overall responsibility for ensuring that our school complies with all relevant data protection obligations.

5.2 Data Protection Officer

The data protection officer (DPO) for the school is

Robert Bullett

and is contactable via

Robert.bullett@london.anglican.org

The DPO responsible for overseeing the implementation of this policy in the first instance, before reviewing our compliance with data protection law, and developing related policies and guidelines where applicable.

The DPO will provide an annual report of the school's compliance and risk issues directly to the governing board and will report to the board their advice and recommendations on school data protection issues.

The DPO is also the first point of contact for individuals whose data the school processes, and for the ICO.

Full details of the DPO's responsibilities are set out in the LDBS SLA for the is service.

5.3 Headteacher

The Headteacher acts as the representative of the data controller on a day-to-day basis.

5.4 All staff

Staff (regardless of role) are responsible for:

- Collecting, storing and processing any personal data in accordance with this policy.
- Informing the school of any changes to their personal data, eg a change of address, telephone number, or bank details.
- Contacting the DPO;
    - With any questions about the operation of this policy, data protection law, retaining personal data or keeping personal data secure.
    - If they have any concerns that this policy is not being followed.

- If they are unsure whether or not they have a lawful basis to use personal data in a particular way.
- If they need to rely on or capture consent, draft a privacy notice, deal with data protection rights invoked by an individual, or transfer personal data outside the European Economic Area.
- If there has been a data breach.
- Whenever they are engaging in a new activity that may affect the privacy rights of individuals.
- If they need help with any contracts or sharing personal data with third parties.

6. The GDPR Data protection principles

The GDPR is based on 6 data protection principles that the school must comply with.

These are that data must be;

- Processed lawfully, fairly and in a transparent manner.
- Collected for specified, explicit and legitimate purposes.
- Adequate, relevant and limited to what is necessary to fulfil the purposes for which it is processed.
- Accurate and, where necessary, kept up to date.
- Kept for no longer than is necessary for the purposes for which it is processed.
- Processed in a way that ensures it is appropriately secure.

This policy sets out how the school aims to comply with these key principles.

7. Collecting personal data

7.1 Lawfulness, fairness and transparency

We will only process personal data where we have one of 6 'lawful basis' (legal reasons) to do so under data protection law:

- The individual (or their parent/carer when appropriate in the case of a pupil) has freely given clear **consent.**
- The data needs to be processed so that the school can **fulfil a contract** with the individual, or the individual has asked the school to take specific steps before entering into a contract.
- The data needs to be processed so that the school can **comply with a legal obligation.**
- The data needs to be processed to ensure the **vital interests** of the individual e.g. to protect someone's life.
- The data needs to be processed so that the school, as a public authority, can perform a task **in the public interest,** and carry out its official functions.
- The data needs to be processed for the **legitimate interests** of the school or a third party (provided the individual's rights and freedoms are not overridden).

For special categories of personal data, we will also meet one of the special category conditions for processing which are set out in the GDPR and Data Protection Act 2018.

These are where:

- The individual (or their parent/carer when appropriate in the case of a pupil) has given explicit consent.

- It is necessary to fulfil the obligations of controller or of data subject.
- It is necessary to protect the vital interests of the data subject.
- Processing is carried out by a foundation or not-for-profit organisation (includes religious, political or philosophical organisations and trade unions).
- The personal data has manifestly been made public by the data subject.
- There is the establishment, exercise or defence of a legal claim.
- There are reasons of public interest in the area of public health.
- Processing is necessary for the purposes of preventive or occupational medicine, for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment.
- There are archiving purposes in the public interest.
- The Government has varied the definition of a special category.

If we decide to offer online services to pupils, such as classroom apps, and we intend to rely on consent as a basis for processing, and we will get parental consent for this (except for online counselling and preventive services).

Whenever we first collect personal data directly from individuals, we will provide them with the relevant information required by data protection law, in the form of a privacy notice, which can found on the school website. Hard copies are available on request.

7.2 Limitation, minimisation and accuracy

We will only collect personal data for specified, explicit and legitimate reasons. We will explain these reasons to the individuals when we first collect their data in our privacy notices.

If we want to use personal data for reasons other than those given when we first obtained it, we will inform the individuals concerned before we do so, and seek consent where necessary.

Staff must only process personal data where it is necessary in order to do their jobs.

When personal data is longer required, staff must ensure it is deleted. This will be done in accordance with the school's document retention policy, which states how longer particular documents should be kept, and how they should be destroyed.

8. Sharing personal data

We will not normally share personal data with anyone else, but may do so where:

- There is an issue with a pupil or parent/carer that puts the safety of our staff at risk.
- We need to liaise with other agencies or services – we will seek consent as necessary before doing this where possible.
- Our suppliers or contractors need data to enable us to provide services to our staff and pupils – for example, IT companies.

When doing this, we will:

  - Only appoint suppliers or contractors which can provide sufficient guarantees that they comply with data protection law, and have satisfactory security measures in place.

- Establish a data sharing agreement with the supplier or contractor, either in the contract or as a standalone agreement, to ensure the fair and lawful processing of any personal data we share.
- Only share data that the supplier or contractor needs to carry out their service, and information necessary to keep them safe while working with us.

We will also share personal data with law enforcement and government bodies where we are legally required to do so for:

- the prevention or detection of crime and/or fraud,
- the apprehension or prosecution of offenders,
- the assessment or collection of tax owed to HMRC,
- social services
- in connection with legal proceedings,
- where the disclosure is required to satisfy our safeguarding obligations,
- research and statistical purposes, as long as personal data is sufficiently anonymised or consent has been provided.

We may also share personal data with emergency services and local authorities to help them to respond to an emergency situation that affects any of our pupils or staff.

Where we transfer personal data to a country or territory outside the European Economic Area, we will do so in accordance with data protection law, and will consult with affected individuals first.

9. Individuals Rights under GDPR

9.1 Subject access requests

Individuals have a right to make a 'subject access request' to access personal information that the school holds about them. This includes:

- Confirmation that their personal data is being processed.
- Access to a copy of the data.
- The purposes of the data processing.
- The categories of personal data concerned.
- Who the data has been, or will be, shared with.
- How long the data will be stored for, or if this isn't possible, the criteria used to determine this period.
- The source of the data, if not the individual.
- Whether any automated decision-making is being applied to their data, and what the significance and consequences of this might be for the individual.

While the school will comply with the GDPR Regulations in regard to dealing with all Subject access requests submitted in any written format, individuals are asked to preferably submit their request by letter, email or fax addressed or marked for the attention of the Data Protection Officer.
They should include:

- Name of individual.

- Correspondence address.
- Contact number and email address.
- Details of the information requested.

If staff receive a subject access request they must immediately forward it to the DPO.

9.2 Children and subject access requests

Personal data about a child belongs to that child, and not the child's parents or carers. For a parent or carer to make a subject access request with respect to their child, the child must either be unable to understand their rights and the implications of a subject access request, or have given their consent.

Children below the age of 12 are generally not regarded to be mature enough to understand their rights and the implications of a subject access request. Therefore, most subject access requests from parents or carers of pupils at our school may be granted without the express permission of the pupil. This is not a rule and a pupil's ability to understand their rights will always be judged on a case-by-case basis.

9.3 Responding to subject access requests

When responding to requests, we may ask the individual to provide 2 forms of identification from the following list;

- passport
- driving licence
- utility bills with the current address
- Birth / Marriage certificate
- P45/P60
- credit card or mortgage statement

- We may contact the individual via phone to confirm the request was made.
- We will respond without delay and within 1 month (30 calendar days) of receipt of the request.
- We will provide the information free of charge.
- We may tell the individual that we will comply within 3 months of receipt of the request, where a request is complex or numerous. We will inform the individual of this as soon as possible, and explain why the extension is necessary.

We will not disclose information if it:

- Might cause serious harm to the physical or mental health of the pupil or another individual; or
- Would reveal that the child is at risk of abuse, where the disclosure of that information would not be in the child's best interests; or
- Is contained in adoption or parental order records; or
- Is given to a court in proceedings concerning the child

If the request is unfounded or excessive, we may refuse to act on it, or charge a reasonable fee which would only take into account administrative costs.

A request will be deemed to be unfounded or excessive if it is repetitive, or asks for further copies of the same information.

When we refuse a request, we will tell the individual why, and tell them they have the right to complain to the ICO.

9.4 Other data protection rights of the individual

In addition to the right to make a subject access request and to receive information when we are collecting their data about how we use and process it, individuals also have the right to:

- Withdraw their consent to processing at any time, where this is the lawful basis for processing.
- Ask us to rectify, erase or restrict processing of their personal data, or object to the processing of it in certain circumstances.
- Prevent use of their personal data for direct marketing.
- Challenge processing which has been justified on the basis of public interest.
- Request a copy of agreements under which their personal data is transferred outside of the European Economic Area.
- Object to decisions based solely on automated decision making or profiling (decisions taken with no human involvement, which might negatively affect them).
- Prevent processing that is likely to cause damage or distress.
- Be notified of a data breach in certain circumstances.
- Make a complaint to the ICO.
- Ask for their personal data to be transferred to a third party in a structured, commonly used and machine-readable format (in certain circumstances)

Individuals should submit any request to exercise these rights to the DPO. If staff receive such a request, they must immediately forward it to the DPO.

10. Parental requests to see the educational record

Parents, or those with parental responsibility, have a legal right to free access to their child's educational record (which includes most information about a pupil) within 15 school days of receipt of a written request.

Requests should be made in writing to the Data Protection Officer, and should include;

- Name of individual.
- Correspondence address.
- Contact number and email address.

11. CCTV

The school uses CCTV in various locations around the school site for security and safeguarding purposes. We adhere to the ICO's code of practice for the use of CCTV, and provide training to staff in its use.

We do not need to ask individuals' permission to use CCTV, but we make it clear where individuals are being recorded, with security cameras are clearly visible and accompanied by prominent signs explaining that CCTV is in use, and where further information can be sort.

Any enquiries about the CCTV system should be directed to DPO.

12. Photographs and videos

As part of our school activities, we may take photographs and record images of individuals within our school.

The school will obtain written consent from parents/carers for photographs and videos to be taken of their child for communication, marketing and promotional materials. We will clearly explain how the photograph and/or video will be used to both the parent/carer and pupil.

The School uses photographs:

- Within schools on notice boards and in school magazines, brochures, newsletters and prospectuses.
- Outside of school by external agencies and partners such as the school photographer, local and national newspapers and local and national campaigns we are involved with
- Online on our school website or social media pages
- EYFS Tapestry on-going assessment profiles

Consent can be refused or withdrawn at any time. If consent is withdrawn, we will delete the photograph or video and not distribute it further.

When using photographs and videos in this way we will not accompany them with any other personal information about the child, to ensure they cannot be identified. See our Safeguarding and Child Protection Policy for more information on our use of photographs and videos.

13. Data protection by design and default

We will put measures in place to show that we have integrated data protection into all of our data collection and processing activities.

These include, but are not limited to the following organisational and technical measures:

- Appointing a suitably qualified DPO, and ensuring they have the necessary resources to fulfil their duties and maintain their expert knowledge
- Only processing personal data that is necessary for each specific purpose of processing, and always in line with the data protection principles set out in relevant data protection regulations.
- Completing data privacy impact assessments where the school's processing of personal data presents a high risk to rights and freedoms of individuals, and when introducing new technologies or processing tools. Advice and guidance will be sort from the DPO.
- Integrating data protection into internal documents including this policy, any related policies and privacy notices
- Regular, at least annual training members of staff and governors on data protection law, this policy and any related policies and any other data protection matters. Records of attendance will be kept to record the training sessions, and ensure that all data handlers receive appropriate training.

- Termly reviews and audits to test our privacy measures and make sure we are compliant.
- Maintaining records of our processing activities, including:
    - For the benefit of data subjects, making available the name and contact details of our school and DPO and all information we are required to share about how we use and process their personal data (via our privacy notices).
    - For all personal data that we hold, maintaining an internal record of the type of data, data subject, how and why we are using the data, any third-party recipients, how and why we are storing the data, retention periods and how we are keeping the data secure.

14. Data security and storage of records

We will protect personal data and keep it safe from unauthorised or unlawful access, alteration, processing or disclosure, and against accidental or unlawful loss, destruction or damage.

In particular our or organisational and technical measures include;

- Paper-based records and portable electronic devices, such as laptops, tablets and hard drives that contain personal data will be kept under lock and key when not in use.
- Papers containing confidential personal data must not be left on office and classroom desks, on staffroom tables, pinned to notice/display boards, or left anywhere else where there is general access.
- Passwords that are at least 8 characters long containing letters and numbers are used to access school computers, laptops and other electronic devices. Staff and pupils are reminded to change their passwords at regular intervals.
- Encryption software is used to protect all portable devices and removable media, such as laptops, tablets and USB devices.
- Staff, pupils or governors who store personal information on their personal devices are expected to follow the same security procedures as for school-owned equipment (see the school's Online & E- safety policy, Computing policy, user agreements and email use policy for further information).
- Where we need to share personal data with a third party, we carry out due diligence and take reasonable steps to ensure it is stored securely and adequately protected.

15. Disposal of records

Personal data that is no longer needed will be disposed of securely. Personal data that has become inaccurate or out of date will also be disposed of securely, where we cannot or do not need to rectify or update it. We may use a third party to safely dispose of records on the school's behalf. If we do so, we will require the third party to provide sufficient guarantees that it complies with data protection law, and provide a certificate of destruction. A record of destruction is kept on our systems.

16. Personal data breaches

The school will make all reasonable endeavours to ensure that there are no personal data breaches.

In the unlikely event of a suspected data breach, we will follow the procedure set out in the school Breach Management procedure.

Where appropriate, we will report the data breach to the ICO within 72 hours. Such breaches in a school context may include, but are not limited to:

- A non-anonymised dataset being published on the school website which shows the exam results of pupils eligible for the pupil premium
- Safeguarding information being made available to an unauthorised person
- The theft of a school laptop containing non-encrypted personal data about pupils

17. Breach Management Procedure

On finding or causing a breach, or potential breach, the staff member or data processor must immediately notify the DPO.

The DPO will investigate the report, and determine whether a breach has occurred. To decide, the DPO will consider whether personal data has been accidentally or unlawfully:

- Lost,
- Stolen,
- Destroyed,
- Altered,
- Disclosed or made available where it should not have been,
- Made available to unauthorised people.

The DPO will alert the headteacher and the chair of governors.

The DPO will make all reasonable efforts to contain and minimise the impact of the breach, assisted by relevant staff members or data processors where necessary. (Actions relevant to specific data types are set out at the end of this procedure)

The DPO will assess the potential consequences, based on how serious they are, and how likely they are to happen

The DPO will work out whether the breach must be reported to the ICO. This must be judged on a case-by-case basis. To decide, the DPO will consider whether the breach is likely to negatively affect people's rights and freedoms, and cause them any physical, material or non-material damage (e.g. emotional distress), including through:

- Loss of control over their data,
- Discrimination,
- Identify theft or fraud.
- Financial loss
- Unauthorised reversal of pseudonymisation (for example, key-coding).
- Damage to reputation.
- Loss of confidentiality.
- Any other significant economic or social disadvantage to the individual(s) concerned.

- If it's likely that there will be a risk to people's rights and freedoms, the DPO must notify the ICO.

The DPO will document the decision (either way), in case it is challenged at a later date by the ICO or an individual affected by the breach. Documented decisions are stored in the Breach Management Record.

Where the ICO must be notified, the DPO will do this via the 'report a breach' page of the ICO website within 72 hours. As required, the DPO will set out:

- A description of the nature of the personal data breach including, where possible:
  - The categories and approximate number of individuals concerned.
  - The categories and approximate number of personal data records concerned
- The name and contact details of the DPO.
- A description of the likely consequences of the personal data breach.
- A description of the measures that have been, or will be taken, to deal with the breach and mitigate any possible adverse effects on the individual(s) concerned.

If all the above details are not yet known, the DPO will report as much as they can within 72 hours. The report will explain that there is a delay, the reasons why and when the DPO expects to have further information. The DPO will submit the remaining information as soon as possible.

The DPO will also assess the risk to individuals, again based on the severity and likelihood of potential or actual impact. If the risk is high, the DPO will promptly inform, in writing, all individuals whose personal data has been breached. This notification will set out:

- The name and contact details of the DPO.
- A description of the likely consequences of the personal data breach.
- A description of the measures that have been, or will be, taken to deal with the data breach and mitigate any possible adverse effects on the individual(s) concerned.

The DPO will notify any relevant third parties who can help mitigate the loss to individuals – for example, the police, insurers, banks or credit card companies.

The DPO will document each breach, irrespective of whether it is reported to the ICO. For each breach, this record will include the:

- Facts and cause.
- Impact.
- Action taken to contain it and ensure it does not happen again (such as establishing more robust processes or providing further training for individuals).
- Records of all breaches will be stored in the Breach management record.

The DPO and headteacher will meet to review what happened and how it can be stopped from happening again. This meeting will happen as soon as reasonably possible.

Actions to minimise the impact of data breaches

We will take the actions set out below to mitigate the impact of different types of data breach, focusing especially on breaches involving particularly risky or sensitive information. We will review the effectiveness of these actions and amend them as necessary after any data breach.

Sensitive information being disclosed via email (including safeguarding records)

- If special category data (sensitive information) is accidentally made available via email to unauthorised individuals, the sender must attempt to recall the email as soon as they become aware of the error.
- Members of staff who receive personal data sent in error must alert the sender and the DPO as soon as they become aware of the error.
- If the sender is unavailable or cannot recall the email for any reason, the DPO will ask the IT contractor to recall it.
- In any cases where the recall is unsuccessful, the DPO will contact the relevant unauthorised individuals who received the email, explain that the information was sent in error, and request that those individuals delete the information and do not share, publish, save or replicate it in any way.
- The DPO will ensure we receive a written response from all the individuals who received the data, confirming that they have complied with this request.
- The DPO will carry out an internet search to check that the information has not been made public; if it has, we will contact the publisher/website owner or administrator to request that the information is removed from their website and deleted.

18. Monitoring arrangements

The DPO is responsible for monitoring and reviewing this policy as part of the general monitoring and compliance work they carry out. As previously stated this policy will be reviewed after one year, and then after that point it will be reviewed every two years. The school governors will be included as part of the review process.

19. Links with other policies

This data protection policy is linked to our:

- Freedom of information publication scheme
- Online and E-Safety Policy
- Computer User Agreements
- Email Use procedures
- Breach Management procedures
- Asset Management Recording Policy
- Disaster Recovery/Business Continuity Planning and Risk Register.
- Safeguarding and Child Protection Policy