



YSGOL CEFN MAWR

Data Protection Policy

*Learning, Enjoying, Achieving*

## Introduction

We are committed to preserving the privacy of our children, parents/guardians and staff and to complying with the Data Protection Act 1998. To achieve this commitment, the personal information that we hold is collected and used fairly, stored safely and not unlawfully disclosed to any other person.

We comply with our duties under the Data Protection Act 1998.

The first priority of this policy at all times is the avoidance of harm or distress to individuals.

In order to operate efficiently, we have to collect and use information about children, parents/guardians and staff. This personal information is handled and dealt with properly, no matter how it is collected, recorded and used, and whether it is on paper, in computer records or recorded by any other means.

### **The Principles of the Data Protection Act**

The Act stipulates that anyone processing personal data must comply with eight Principles of good practice. These Principles are legally enforceable.

The Principles require that personal information:

1. Shall be processed fairly and lawfully and in particular, shall not be processed unless specific conditions are met.
2. Shall be obtained only for one or more specified and lawful purposes and shall not be further processed in any manner incompatible with that purpose or those purposes.
3. Shall be adequate, relevant and not excessive in relation to the purpose or purposes for which it is processed.
4. Shall be accurate and where necessary, kept up to date.
5. Shall not be kept for longer than is necessary for that purpose or those purposes.
6. Shall be processed in accordance with the rights of data subjects under the Act.
7. Shall be kept secure i.e. protected by an appropriate degree of security.
8. Shall not be transferred to a country or territory outside the European Economic Area, unless that country or territory ensures an adequate level of data protection.

The Act provides conditions for the processing of any personal data. It also makes a distinction between personal data and "sensitive" personal data.

Personal data is defined as, data relating to a living individual who can be identified

from:

- that data;
- that data and other information (including any images from which the individual can be identified) which is in the possession of, or is likely to come into the possession of the data controller and includes an expression of opinion about the individual and any indication of the intentions of the data controller, or any other person in respect of the individual.

Sensitive personal data is defined as personal data consisting of information about:

- racial or ethnic origin;
- religious or other beliefs;
- trade union membership;
- physical or mental health or condition;
- sexual life;
- criminal proceedings or convictions.

### **Rights to Access Personal Data**

The Data Protection Act allows individuals to place a Subject Access Request (SAR) to see the information held about themselves in electronic and in paper records.

There is also a separate right for parents to access their child's education record - the Education (Pupil Information) (Wales) Regulations 2004.

All requests for access to personal data must be made in writing to the Headteacher.

### **Subject Access Requests (SAR)**

If an individual wants to exercise this subject access right, they should write to the Headteacher. The request must be accompanied by the appropriate fee which in most cases would be a maximum of £10.

### **Applicants have the right to:**

- be supplied with the data held by the school;
- change incorrect data;
- prevent data being used about them if it will cause distress;
- stop data being used in attempts to sell them something;
- use the law to gain compensation.

## **Information about examinations**

Special rules apply to SARs relating to information about the outcome of academic, professional or other examinations. These rules, which apply to requests for examination scripts, marks or markers' comments, are designed to prevent the right of subject access being used as a means of circumventing an examination body's processes for announcing results. Information comprising the answers given by a candidate during an examination are exempt from the right of subject access. So a SAR cannot be used to obtain a copy of an individual's examination script.

Even if a child is too young to understand the implications of subject access rights, data about them is still their personal data and does not belong to anyone else, such as a parent or guardian. So it is the child who has a right of access to the information held about them, even though in the case of young children these rights are likely to be exercised by those with parental responsibility for them. Before responding to a SAR for information held about a child, the Headteacher will consider whether the child is mature enough to understand their rights. If the Headteacher is confident that the child can understand their rights, the response will be to the child rather than the parent. What matters is that the child is able to understand (in broad terms) what it means to make a SAR and how to interpret the information they receive as a result of doing so.

In borderline cases, the Headteacher will take into account, among other things:

- where possible, the child's level of maturity and their ability to make decisions like this;
- the nature of the personal data;
- any court orders relating to parental access or responsibility that may apply;
- any duty of confidence owed to the child or young person;
- any consequences of allowing those with parental responsibility access to the child's or young person's information. This is particularly important if there have been allegations of abuse or ill treatment;
- any detriment to the child or young person if individuals with parental responsibility cannot access this information;
- any views the child or young person has on whether their parents should have access to information about them.

*In Scotland, the law presumes that a child aged 12 years or more has the capacity to make a SAR. The presumption does not apply in England and Wales or in Northern Ireland, but it does indicate an approach that will be reasonable in many cases. It does not follow that, just because a child has capacity to make a SAR, they also have capacity to consent to sharing their personal data with others - as they may still not fully understand the implications of doing so.*

## **Timescales for Response**

SARs for information contained in a pupil's 'education record' must be provided within 15 school days. The fee charged will be dependent upon the number of pages supplied as detailed in the Information Commissioner's Office Subject Access Code of Practice.

If the SAR does not relate to any information that forms part of the educational record, then the usual 40-day time limit for responding applies. The maximum fee for dealing with the request is £10.

Sample acknowledgement letter Appendix 1

Covering letter for response Appendix 2

## **Parental Rights to Access educational Records**

Although this policy is only concerned with the right of subject access under the Data Protection Act, it is important to understand what is meant by a pupil's 'educational record'. This is because there is an overlap with SARs and also because 'educational record' is relevant when ascertaining the fee we may charge for responding to a SAR.

The statutory definition of 'educational record' differs between England and Wales, Scotland and Northern Ireland. Broadly speaking, however, the expression has a wide meaning and includes most information about current and past pupils that is processed by or on behalf of a school. However, information kept by a teacher solely for their own use does not form part of the educational record. It is likely that most of the personal information a school holds about a particular pupil will form part of the pupil's educational record. However, it is possible that some of the information could fall outside the educational record, e.g. information about the pupil provided by the parent of another child is not part of the educational record.

Unlike the distinct right of access to the educational record, the right to make a SAR is the pupil's right.

### **Information may legally be withheld if:**

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

## **Images**

Images are included in the scope of the Data Protection Act where they can be used to identify a living individual. Increasingly, technology is making it easier for pictures and images (include photographs - both digital and film, as well as videos) to be used inappropriately as printed material or on the web and so we have included a specific section in this policy about images. It is important that pictures and images of pupils taken, not only by the school, but also by parents/guardians, external agencies including press and other pupils, are done so in a way that reflects the protective ethos of the school.

We recognise that staff will be required to take pictures of pupils for curriculum purposes ranging from Foundation Phase through to Year 6. The guidance outlined within this policy applies to curriculum (including assessment), extra-curricular activities, publicity and celebrating achievement.

Using children's images can be motivating for the pupils involved, provide crucial evidence for assessment and provide a good opportunity to promote the work of the school. At Ysgol Cefn Mawr, we will aim to make full and proper use of images whilst complying with the law and preserving the safety of children.

We also recognise that parents and other family members will wish to take images of our pupils during open events e.g. Christmas concerts, class assemblies, sports days. Again, the school aims to preserve the safety of children.

The taking of visual images during school activities is not prohibited by the Data Protection Act if these are taken for **personal** use and not uploaded onto the internet, including Social Media e.g. Facebook.

However, written and informed consent **must** be obtained from all parents/guardians of pupils whose images they intend to **publish** anywhere. These may include:-

- Printed publications including external and internal publications e.g. school magazines, annual report, newsletters;
- School notice boards; i.e. display boards in public areas of the school;
- Media - including newspapers and TV.

On our school website:

- photos will not be captioned with the children's names;
- personal details of children such as e-mail address, home address and telephone number will not be revealed on the website;
- no individual child must be identifiable or contacted by visitors to the school's website;
- general shots of classroom or group activities are preferable to close-up pictures of individual children.

### **Permission from Parents/Guardians**

Parents/Guardians will be required to complete a personal information form which will include a permission slip for the use of images in school, in press releases and on the school website. The school secretary will compile a list of all pupils whose parents have not given full permission and this list will be distributed, displayed and referred to as required.

All staff will be reminded annually about this policy. The policy will also be included in the School Staff Handbook for Teaching Students.

## **Images taken by Visitors at School Events**

The Information Commissioner states: "The Data Protection Act is unlikely to apply in many cases where photographs are taken in school. Fear of breaching the provisions of the Act should not be wrongly used to stop people taking photographs or videos which provide many with much pleasure."

However, the school does have a duty to ensure, as far as reasonably possible, that such photos and videos are used for personal use only, "for the family album." In particular, that they are not uploaded onto the web. At Ysgol Cefn Mawr, we will remind parents of this before events and, wherever practicable, ask visitors with cameras to sign an agreement form. Clearly, the school can only go so far in terms of setting out these conditions and does not have control over photographs taken by parents.

The school recognises that some parents may have very good reasons to be concerned that their child may be filmed and those concerns may not relate to images being enhanced and exploited but rather they are a family fleeing violence and do not wish their whereabouts to be known. Additionally, there may be Child Protection issues to consider and the Headteacher will take advice on whether inclusion in a photograph/video might pose a risk to a child. The school will deal with such situations sensitively and discuss how best to resolve the situation. The aim would be to try and avoid the child being excluded from such activities but the welfare of that child and the rest of children need to be taken into account.

## **External Photographers**

We have a written contract with Tempest to take individual, family, class, team and whole school photos. Tempest is a reputable company which ensures that all its staff are DBS checked. The contract also ensures that the images taken will only be made available to the parents of pupils and the school and that Tempest will employ safe and secure storage arrangements.

The school may also use the services of a professional photographer to provide images, for example, for the school prospectus. The school will ensure that the photographer has a DBS check and that images are stored safely and securely.

## **Use of Cameras by Members of Staff**

When taking photos of pupils, staff will endeavor to ensure that pupils are appropriately dressed. General shots of classroom/group activities are preferable to close up pictures of individual pupils but it is recognised that, particularly for assessment there may be a need to take more individual images. Staff will avoid recording images in one to one situations or to demonstrate inappropriate/undesirable behaviours.

Staff will only use school cameras, ipads and video recorders or personal cameras with school memory cards. Personal mobile devices e.g. phones, tablets will not be used. The storage of images is of paramount importance. Images will not be downloaded onto personal computers or memory sticks.

Storage devices such as school memory sticks, external hard drives and CDs must be stored safely and securely.

Images may be printed, in school or externally, and stored appropriately. Discarded prints will be disposed of safely.

Staff will refer to the permissions list before publishing photos of pupils on display boards or the school website. The guidelines mentioned previously will be adhered to. Images used for assessment purposes should be stored safely and securely.

Information in relation to a student on admission to or registration in a school and for school record purposes may include a visual image of the student. This does not require parental consent.

Incidents of inappropriate or intrusive photography should be reported to the Headteacher or Governing Body.

### **Images taken by Pupils**

Pupils are not permitted to use personal mobile devices e.g. phones or tablets in school; they are stored by a member of staff when brought onto school premises. Pupils are also discouraged from bringing cameras to school.

Pupils are permitted to take photos on some school visits and residential trips. The school will require parents and pupils to sign a permission slip agreeing that images taken will only be used for personal use and will not be uploaded onto the worldwide web.

### **Photographs in the Press**

Occasionally, a press photographer will take images of the pupils for publicity or information purposes. The school will endeavor to ensure that pupils whose parents have not given the relevant permission will not appear in such images. In addition, the school will not release full names of pupils to the press i.e. first name and surname. Wherever practicable, the school will inform parents that a press photographer will be present at a particular event.

On occasions, the school may submit images taken in school to the press for similar purposes and the same guidelines will be followed.

The use of photographs in newspapers is already subject to strict guidelines. Newspaper editors must adhere to the Press Complaints Commission Code of Practice. Several scenarios can occur such as team photographs and other photo opportunities.

Where schools merely allow access to a local newspaper photographer, they are not included in the Data Protection Act unless they provide the personal details of the pupils in the photographs. If names are to be used the consent from the parents must be obtained.

## **CCTV Images**

CCTV is installed on school premises for the purposes of crime prevention and detection. Where available it is also used to establish facts for the purposes of investigation e.g. reviewing a playground incident. Signs indicating that CCTV is in use are clearly displayed at the school entrance. Only the Headteacher or Assistant Headteacher may authorise CCTV images to be downloaded from the system if retention of records is required in support of an investigation. Images downloaded on removable media will be destroyed as soon as they are no longer required for the specific investigation. CCTV will not be routinely monitored by staff nor shown as a matter of routine to either parents or children. Authorisation is required from either the Headteacher or Assistant Headteacher before showing CCTV to parents/children. When making the decision to allow parents/children to see the CCTV, the authoriser will take in to account any privacy issues associated with anyone captured on the CCTV images under review.

## **Information Handling**

Staff/governors handling personal information about staff or pupils must ensure that:

- personal information is secure and only accessible by those authorised to see it;
- they are mindful of the need not to disclose personal information about others when in discussions with parents;
- personal information is not discussed in public places;
- computers are locked when not attended;
- all portable media e.g. laptops (including removable media) containing personal information is encrypted;
- usernames and passwords for school systems are not shared with anyone else.

## **Police / Third party requests for data – things to consider.**

It is possible that you might receive a request for access to records from the Police, or other third party, in order to obtain an individual's personal data.

It is important that the Police do not have unchecked rights to access information, and that they still need to follow processes to advise exactly what they want, and why they want it.

You do not necessarily need a specific process in place for this (unless you want to create a written document), but it is important to know how to deal with a request when it comes in.

The Police can ask you for information, but they should provide a form with the request (North Wales Police use what they refer to as an '**SA3**' form), and the form should include:

1. the specific information they are wanting, and
2. confirmation that they need the data for crime prevention/detection, and to apprehend or prosecute offenders.

They should be aware of this process, so do not feel pressured into providing information without this written request. You are perfectly within your rights to ask the police to be specific about the information they want.

However, there may be emergency situations where the information is required as a matter of urgency (e.g. if there is likely risk of serious harm to a pupil), and under such circumstances, as an exception, you may want to assist without delay and consider releasing the data without the form being provided.

If you ever get a request for information from a **Solicitor**, the data subject should have provided their consent for the solicitor to act on their behalf, so you just need to check that you have the permission to disclose before you provide anything.

Finally, if you receive a request, **keep a record of what the applicant has asked for, and how you responded** - dates, what they wanted, what you provided, the legal basis for providing, etc.

This policy was reviewed Christine Jones and adopted by the Wellbeing Safeguarding Committee on the 4<sup>th</sup> November 2021.

Signed \_\_\_\_\_ Headteacher

Signed \_\_\_\_\_ Chair of Governors

Review date: November 2024

**SAMPLE ACKNOWLEDGEMENT LETTER**

(Date)

Dear \_\_\_\_\_

**The Data Protection Act 2018 Data Subject Access Request**

Thank you for your proof of identity and request for information under the Data Protection Act. According to the Act, you should receive a response within one month. This should be by \_\_\_\_\_.

Please note that we will only disclose information dated up to the date of the submitted request.

If you are happy with the way the school handles your request, you may ask for an internal school review. Please contact the Headteacher email at [headteacher@cefnmawr-pri.wrexham.sch.uk](mailto:headteacher@cefnmawr-pri.wrexham.sch.uk), or telephone 01978 820719 if you require an internal review of your case.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at - Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AS, telephone 0303 123 1113, [www.ico.org.uk](http://www.ico.org.uk).

Yours sincerely

Mrs A Green  
Headteacher

**COVERING LETTER FOR RESPONSE**

(Date)

Dear \_\_\_\_\_

**Subject Access Request**

Further to your request for information, regarding the personal data the school holds about \_\_\_\_\_.

Please find enclosed the request information, which the school is required to release in line with the current data protection legislation.

The document explains how the school uses your information can be found at the following link:

*(Insert link to school privacy notice)*

Under the current data protection legislation, you are entitled to request rectification, erasure or restriction of processing, or you may have the right to object to such processing. Should you have any queries, please contact the Headteacher on 01978 820719.

If you are unhappy with the way the school has handled your request you may register your complaint following our school complaint procedure *(insert details)*.

If you are not content with the outcome, you have the right lodge a complaint directly with the Information Commissioner for a decision. The Information Commissioner can be contacted at - Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AS, telephone 0303 123 1113, [www.ico.org.uk](http://www.ico.org.uk).

If you have any further queries, please contact us on 01978 820719.

Yours sincerely

Mrs A Green  
Headteacher

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