

Western Primary School

Data Protection Policy

Date: September 2023

Review: September 2024

Contents:

[Statement of intent](#)

1. [Legal framework](#)
2. [Applicable data](#)
3. [Principles](#)
4. [Accountability](#)
5. [Data protection officer \(DPO\)](#)
6. [Lawful processing](#)
7. [Consent](#)
8. [Sharing data without consent](#)
9. [The right to be informed](#)
10. [The right of access](#)
11. [The right to rectification](#)
12. [The right to erasure](#)
13. [The right to restrict processing](#)
14. [The right to data portability](#)
15. [The right to object](#)
16. [Automated decision making and profiling](#)
17. [Privacy by design and privacy impact assessments](#)
18. [Data breaches](#)
19. [Data security](#)
20. [Publication of information](#)
21. [CCTV and photography](#)
22. [Data retention](#)
23. [DBS data](#)
24. [Policy review](#)

Statement of intent

Western Primary School are required to keep and process certain information about its staff members and pupils in accordance with its legal obligations under the GDPR.

The school may, from time to time, be required to share personal information about its staff or pupils with other organisations, mainly the LA, other schools and educational bodies, and potentially children's services.

This policy is in place to ensure all staff and governors are aware of their responsibilities and outlines how the school complies with the following core principles of the GDPR.

Western Primary School believe that it is good practice to keep clear practical policies, backed up by written procedures.

1. Legal framework

1.1. This policy has due regard to legislation, including, but not limited to the following:

- The General Data Protection Regulation
- The Freedom of Information Act 2000
- The Education (Pupil Information) (England) Regulations 2005 (as amended in 2016)
- The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004
- The School Standards and Framework Act 1998
- The Data Protection Act 2018

1.2. This policy also has regard to the following guidance:

- ICO (2018) 'Guide to the General Data Protection Regulation (GDPR)'
- DfE (2018) 'Data protection: a toolkit for schools'

1.3. This policy will be implemented in conjunction with the following other school policies:

- Photography and Videos at School Policy
- Data and E-security Breach Prevention and Management Policy
- Freedom of Information Policy
- CCTV Policy
- Child Protection and Safeguarding Policy

2. Applicable data

2.1. For the purpose of this policy, **personal data** refers to information that relates to an identifiable individual, including information such as an online identifier, e.g. an IP address. The GDPR applies to both automated personal data and to manual filing systems, where personal data is accessible.

2.2. **Sensitive personal data** is referred to in the GDPR as 'special categories of personal data', which are broadly the same as those that were in the Data Protection Act (DPA) 1998. These specifically include the processing of genetic data, biometric data and data concerning health matters.

3. Principles

3.1. In accordance with the requirements outlined in the GDPR, personal data will be:

- Processed lawfully, fairly and in a transparently manner.

- Collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes.
- Adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed.
- Accurate and, where necessary, kept up-to-date; every reasonable step will be taken to ensure that personal data that are inaccurate, is erased or rectified without delay.
- Kept in a form which permits identification of subjects for no longer than is necessary for the purposes for which the personal data are processed. Personal data may be stored for longer periods, insofar as the archiving purposes in the public interest, required by the GDPR in order to safeguard the rights and freedoms of individuals.
- Processed in a manner that ensures security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage.

3.2. The GDPR also requires that “the controller shall be responsible for, and able to demonstrate, compliance with the principles”.

4. Accountability

4.1. Western Primary School will implement appropriate organisational measures to demonstrate that data is processed in line with the principles set out in the GDPR.

4.2. The school will provide comprehensive, clear and transparent privacy policies.

4.3. Internal records of processing activities will include the following:

- Name and details of the organisation
- Purpose(s) of the processing
- Description of the categories of individuals and personal data
- Retention schedules
- Categories of recipients of personal data
- Description of technical and organisational security measures
- Details of transfers to third countries, including documentation of the transfer mechanism safeguards in place

4.4. The school will implement measures that meet the principles of data protection by design and data protection by default, such as:

- Data minimisation.
- Pseudonymisation.
- Transparency.

- Allowing individuals to monitor processing.
- Continuously creating and improving security features.

4.5. Data protection impact assessments will be used, where appropriate.

5. Data protection officer (DPO)

5.1. A DPO will be appointed in order to:

- Inform and advise the school and its employees about their obligations to comply with the GDPR and other data protection laws.
- Monitor the school's compliance with the GDPR and other laws, including managing internal data protection activities, advising on data protection impact assessments, conducting internal audits, and providing the required training to staff members.

5.2. An existing employee will be appointed to the role of DPO provided that their duties are compatible with the duties of the DPO and do not lead to a conflict of interests.

5.3. The individual appointed as DPO will have professional experience and knowledge of data protection law, particularly that in relation to schools.

5.4. The DPO will report to the highest level of management at the school, which is the Executive Headteacher.

5.5. The DPO will operate independently and will not be dismissed or penalised for performing their task.

5.6. Sufficient resources will be provided to the DPO to enable them to meet their GDPR obligations.

6. Lawful processing

6.1. The legal basis for processing data will be identified and documented prior to data being processed.

6.2. Under the GDPR, data will be lawfully processed under the following conditions:

- The consent of the data subject has been obtained.
- Processing is necessary for:
 - Compliance with a legal obligation.
 - The performance of a task carried out in the public interest or in the exercise of official authority vested in the school.
 - For the performance of a contract with the data subject or to take steps to enter into a contract.
 - Protecting the vital interests of a data subject or another person.
 - For the purposes of legitimate interests pursued by the controller or a third party, except where such interests override the interests, rights or freedoms of the data subject.

- Sensitive data will only be processed under the following conditions:
- Explicit consent of the data subject, unless reliance on consent is prohibited by law.
- Processing relates to personal data made public by the data subject.
- Processing is necessary for:
 - Carrying out obligations under employment, social security or social protection law, or a collective agreement.
 - Protecting the vital interests of a data subject or another individual where the data subject is physically or legally incapable of giving consent.
 - The establishment, exercise or defence of legal claims or where courts are acting in their judicial capacity.
 - Reasons of public interest in the area of public health.
 - Archiving purposes in the public interest.

6.3. Where the school relies on:

- ‘Performance of contract’ to process a child’s data, the school considers the child’s competence to understand what they are agreeing to, and to enter into a contract.
- ‘Legitimate interests’ to process a child’s data, the school takes responsibility for identifying the risks and consequences of the processing, and puts age-appropriate safeguards in place.

7. Consent

- 7.1. Consent must be a positive given. It will not inferred.
- 7.2. Consent will only be accepted where it is freely given.
- 7.3. Where consent is given, a record will be kept documenting how and when consent was given.
- 7.4. The school will ensure that consent mechanisms meet the standards of the GDPR. Where the standard of consent cannot be met, an alternative legal basis for processing the data will be found, or the processing must cease.
- 7.5. Consent accepted under the DPA will be reviewed to ensure it meets the standards of the GDPR; however, acceptable consent obtained under the DPA will not be reobtained.
- 7.6. Consent can be withdrawn by the individual at any time.

In all other instances with regards to obtaining consent, an appropriate age of consent is considered by the school on a case-by-case basis, taking into account the requirements outlined in [7.2](#).

8. Sharing data without consent

- 8.1. The school may share information without consent in specific circumstances. These are:
- **Contract** – the processing is necessary for a contract held between the school and individual, or because the individual has asked the school to take specific tests before entering into a contract.
 - **Legal obligation** – the processing is necessary for the school to comply with the law.
 - **Vital interests** – the processing is necessary to protect someone's life.
 - **Public task** – the processing is necessary for the school to perform a task in the public interest or for its official functions, and the task or function has a clear basis in law.
 - **Legitimate interests** – the processing is necessary for the school's legitimate interests or the legitimate interests of a third party, unless there is good reason to protect the individual's personal data.
- 8.2. Where the school is able to justify one of these lawful bases outlined in 8.1, an [exemption](#) applies, or there is a requirement under another law, information may be shared without consent.
- 8.3. GDPR does not prevent, or limit, the sharing of information for the purposes of keeping children safe, and information may be shared without consent if to gain consent would place a child at risk.

9. The right to be informed

- 9.1. Adults and children have the same right to be informed about how the school uses their data.
- 9.2. The privacy notices supplied to individuals, including children, in regard to the processing of their personal data will be written in clear, plain, age-appropriate language which is concise, transparent, easily accessible and free of charge.
- 9.3. Data obtained both directly from the subject and not obtained directly from the subject, the following information will be supplied within the privacy notice:
- The identity and contact details of the controller (and where applicable, the controller's representative) and the DPO.
 - The purpose of, and the legal basis for processing the data.
 - The legitimate interests of the controller or third party.
 - Any recipient or categories of recipients of the personal data.
 - The retention period of criteria used to determine the retention period for any data
 - The existence of the data subject's rights, including the right to:

- Withdraw consent at any time.
 - Lodge a complaint with a supervisory authority.
 - The existence of automated decision making, including profiling, how decisions are made, the significance of the process and the consequences.
- 9.4. Where data is obtained directly from the subject, information regarding whether the provision of personal data is part of a statutory or contractual requirement, as well as any possible consequences of failing to provide the personal data, will be provided.
- 9.5. Where data is not obtained directly from the subject, information regarding the categories of personal data that the school holds, the source that the personal data originates from and whether it came from publicly accessible sources, will be provided.
- 9.6. For data obtained directly from the data subject, this information will be supplied at the time the data is obtained.
- 9.7. In relation to data that is not obtained directly from the data subject, this information will be supplied:
- Within one month of having obtained the data.
 - If disclosure to another recipient is envisaged, at the latest, before the data are disclosed.
 - If the data are used to communicate with the individual, at the latest, when the first communication takes place.

10. The right of access

- 10.1. Individuals, including children, have the right to obtain confirmation that their data is being processed.
- 10.2. Individuals, including children, have the right to submit a subject access request (SAR) to gain access to their personal data in order to verify the lawfulness of the processing.
- 10.3. The school will verify the identity of the person making the request before any information is supplied.
- 10.4. A copy of the information will be supplied to the individual free of charge; however, the school may impose a 'reasonable fee' to comply with requests for further copies of the same information.
- 10.5. Where a SAR has been made electronically, the information will be provided in a commonly used electronic format.
- 10.6. Where a request is unfounded, excessive or repetitive, a fee will be charged.
- 10.7. All fees will be based on the administrative cost of providing the information.
- 10.8. All requests will be responded to within one month of receipt.

- 10.9. In the event of numerous or complex requests, the period of compliance will be extended by a further two months. The individual will be informed of this extension, and will receive an explanation of why the extension is necessary, within one month of the receipt of the request.
- 10.10. Where a request is unfounded or excessive, the school holds the right to refuse to respond to the request. The individual will be informed of this decision and the reasoning behind it, as well as their right to complain within one month of the refusal.
- 10.11. In the event that a large quantity of information is being processed about an individual, the school will ask the individual to specify the information the request is in relation to.

11. The right to rectification

- 11.1. Individuals, including children, are entitled to have any inaccurate or incomplete personal data rectified.
- 11.2. Where the personal data in question has been disclosed to third parties, the school will inform them of the rectification where possible.
- 11.3. Where appropriate, the school will inform the individual about the third parties that the data has been disclosed to.
- 11.4. Requests for rectification will be responded to within one month; this will be extended by two months if it is complex.
- 11.5. Where no action is being taken in response to a request for rectification, the school will explain the reason for this to the individual, and will inform them of their right to complain.

12. The right to erasure

- 12.1. Individuals, including children, hold the right to request the deletion or removal of personal data where there is no compelling reason for its continued processing.
- 12.2. They have the right to erasure in the following circumstances:
- Where the personal data is no longer necessary in relation to the purpose for which it was originally collected/processed
 - When the individual withdraws their consent
 - When the individual objects to the processing and there is no overriding legitimate interest for continuing the processing
 - The personal data was unlawfully processed
 - The personal data is required to be erased in order to comply with a legal obligation

- The personal data is processed in relation to the offer of information society services to a child
- 12.3. The school has the right to refuse a request for erasure where the personal data is being processed for the following reasons:
- To exercise the right of freedom of expression and information
 - To comply with a legal obligation for the performance of a public interest task or exercise of official authority
 - For public health purposes in the public interest
 - For archiving purposes in the public interest.
 - The exercise or defence of legal claims
- 12.4. Where personal data has been disclosed to third parties, they will be informed about the erasure of the personal data, unless it is impossible or involves disproportionate effort to do so.
- 12.5. Where personal data has been made public within an online environment, the school will inform other organisations who process the personal data to erase links to and copies of the personal data in question.

13. The right to restrict processing

- 13.1. Individuals, including children, have the right to block or suppress the school's processing of personal data.
- 13.2. In the event that processing is restricted, the school will store the personal data, but not further process it.
- 13.3. The school will restrict the processing of personal data in the following circumstances:
- Where an individual contests the accuracy of the personal data,
 - Where an individual has objected to the processing and the school is considering whether their legitimate grounds override those of the individual
 - Where processing is unlawful and the individual opposes erasure and requests restriction instead
 - Where the school no longer needs the personal data but the individual requires the data to establish, exercise or defend a legal claim
- 13.4. If the personal data in question has been disclosed to third parties, the school will inform them about the restriction on the processing of the personal data, unless it is impossible or involves disproportionate effort to do so.
- 13.5. The school will inform individuals when a restriction on processing has been lifted.

14. The right to data portability

- 14.1. Individuals, including children, have the right to obtain and reuse their personal data for their own purposes across different services.
- 14.2. Personal data can be easily moved, copied or transferred from one IT environment to another in a safe and secure manner.
- 14.3. The right to data portability only applies in the following cases:
 - To personal data that an individual has provided to a controller
 - Where the processing is based on the individual's consent or for the performance of a contract
 - When processing is carried out by automated means
- 14.4. Personal data will be provided in a structured, commonly used and machine-readable form.
- 14.5. The school will provide the information free of charge.
- 14.6. Where feasible, data will be transmitted directly to another organisation at the request of the individual.
- 14.7. The school is not required to adopt or maintain processing systems which are technically compatible with other organisations.
- 14.8. In the event that the personal data concerns more than one individual, the school will consider whether providing the information would prejudice the rights of any other individual.
- 14.9. The school will respond to any requests for portability within one month.
- 14.10. Where the request is complex, or a number of requests have been received, the timeframe can be extended by two months, ensuring that the individual is informed of the extension and the reasoning behind it within one month of the receipt of the request.
- 14.11. Where no action is being taken in response to a request, the school will, without delay and at the latest within one month, explain to the individual the reason for this and will inform them of their right to complain.

15. The right to object

- 15.1. The school will inform individuals, including children, of their right to object at the first point of communication, and this information will be outlined in the privacy notice and explicitly brought to the attention of the subject.
- 15.2. Individuals, including children, have the right to object to the following:
 - Processing based on legitimate interests or the performance of a task in the public interest

- Direct marketing
 - Processing for purposes of scientific or historical research and statistics.
- 15.3. Where personal data is processed for the performance of a legal task or legitimate interests:
- An individual's grounds for objecting must relate to his or her particular situation.
 - The school will stop processing the individual's personal data unless the processing is for the establishment, exercise or defence of legal claims, or, where the school can demonstrate legitimate grounds for the processing.
- 15.4. Where personal data is processed for direct marketing purposes:
- The school will stop processing personal data for direct marketing purposes as soon as an objection is received.
 - The school will not refuse an individual's objection regarding data that is being processed for direct marketing purposes.
- 15.5. Where personal data is processed for research purposes:
- The individual must have grounds relating to their particular situation in order to exercise their right to object.
 - Where the processing of personal data is necessary for the performance of a public interest task, the school is not required to comply with an objection to the processing of the data.
- 15.6. Where the processing activity is outlined above, but is carried out online, the school will offer a method for individuals to object online.

16. Automated decision making and profiling

- 16.1. Individuals have the right not to be subject to a decision when:
- It is based on automated processing.
 - It produces a legal effect or a similarly significant effect on the individual.
- 16.2. The school will take steps to ensure that individuals are able to express their point of view, and obtain an explanation of the decision and challenge it.
- 16.3. When automatically processing personal data for profiling purposes, the school will ensure that the appropriate safeguards are in place, including:
- Ensuring processing is fair and transparent by providing meaningful information about the logic involved, as well as the significance and the predicted impact.
 - Using appropriate mathematical or statistical procedures.

- Implementing appropriate measures to enable inaccuracies to be corrected and minimise the risk of errors.
 - Securing personal data in a way that is proportionate to the risk to the interests and rights of the individual and prevents discrimination.
- 16.4. Automated decisions must not concern a child or be based on the processing of sensitive data, unless:
- The school has the explicit consent of the individual.
 - The processing is necessary for reasons of substantial public interest on based on law

17. Privacy by design and privacy impact assessments

- 17.1. The school will act in accordance with the GDPR by adopting a privacy by design approach and implementing technical and organisational measures which demonstrate how the school has considered and integrated data protection into processing activities.
- 17.2. Data protection impact assessments (DPIAs) will be used to identify the most effective method of complying with the school's data protection obligations and meeting individuals' expectations of privacy.
- 17.3. DPIAs will allow the school to identify and resolve problems at an early stage.
- 17.4. A DPIA will be carried out when using new technologies or when the processing is likely to result in a high risk to the rights and freedoms of individuals.
- 17.5. A DPIA will be used for more than one project, where necessary.
- 17.6. High risk processing includes, but is not limited to, the following:
- Systematic and extensive processing activities, such as profiling
 - Large scale processing of special categories of data or personal data which is in relation to criminal convictions or offences
 - The use of CCTV.
- 17.7. The school will ensure that all DPIAs include the following information:
- A description of the processing operations and the purposes
 - An assessment of the necessity and proportionality of the processing in relation to the purpose
 - An outline of the risks to individuals
 - The measures implemented in order to address risk
- 17.8. Where a DPIA indicates high risk data processing, the school will consult the ICO to seek its opinion as to whether the processing operation complies with the GDPR.

18. Data breaches

- 18.1. The term 'personal data breach' refers to a breach of security which has led to the destruction, loss, alteration, unauthorised disclosure of, or access to, personal data.
- 18.2. The Executive Headteacher will ensure that all staff members are made aware of, and understand, what constitutes a data breach as part of their CPD training.
- 18.3. Where a breach is likely to result in a risk to the rights and freedoms of individuals, the relevant authority will be informed.
- 18.4. All notifiable breaches will be reported within 72 hours of the school becoming aware of it.
- 18.5. The risk of the breach having a detrimental effect on the individual, and the need to notify the relevant supervisory authority, will be assessed on a case-by-case basis.
- 18.6. In the event that a breach is likely to result in a high risk to the rights and freedoms of an individual, the school will notify those concerned directly.
- 18.7. A 'high risk' breach means that the threshold for notifying the individual is higher than that for notifying the relevant authority.
- 18.8. In the event that a breach is sufficiently serious, the public will be notified without undue delay.
- 18.9. Effective and robust breach detection, investigation and internal reporting procedures are in place at the school.
- 18.10. Within a breach notification, the following information will be outlined:
 - The nature of the personal data breach, including the categories and approximate number of individuals and records concerned
 - The name and contact details of the DPO
 - An explanation of the likely consequences of the personal data breach
 - A description of the proposed measures to be taken to deal with the personal data breach
 - Where appropriate, a description of the measures taken to mitigate any possible adverse effects
- 18.11. Failure to report a breach when required to do so may result in a fine, as well as a fine for the breach itself.

19. Data security

- 19.1. Confidential paper records will be kept in a locked filing cabinet, drawer or safe, with restricted access.

- 19.2. Confidential paper records will not be left unattended or in clear view anywhere with general access.
- 19.3. Digital data is kept on a network drive that is regularly backed up off-site.
- 19.4. Where data is saved on removable storage or a portable device, the device will be kept in a locked filing cabinet, drawer or safe when not in use.
- 19.5. Memory sticks will not be used to hold personal information unless they are password-protected and fully encrypted.
- 19.6. Where possible, the school enables electronic devices to allow the remote blocking or deletion of data in case of theft.
- 19.7. Staff and governors will not use their personal laptops or computers for school purposes.
- 19.8. All necessary members of staff are provided with their own secure login and password, and every computer regularly prompts users to change their password.
- 19.9. Emails containing sensitive or confidential information are sent on the Move It system if there are unsecure servers between the sender and the recipient.
- 19.10. Where personal information that could be considered private or confidential is taken off the premises, either in electronic or paper format, staff will take extra care to follow the same procedures for security, e.g. keeping devices under lock and key. The person taking the information from the school premises accepts full responsibility for the security of the data.
- 19.11. Before sharing data, all staff members will ensure:
 - They are allowed to share it.
 - That adequate security is in place to protect it.
 - Who will receive the data has been outlined in a privacy notice.
- 19.12. Under no circumstances are visitors allowed access to confidential or personal information. Visitors to areas of the school containing sensitive information are supervised at all times.
- 19.13. The physical security of the school's buildings and storage systems, and access to them, is reviewed on a termly basis. If an increased risk in vandalism/burglary/theft is identified, extra measures to secure data storage will be put in place.
- 19.14. Western Primary School takes its duties under the GDPR seriously and any unauthorised disclosure may result in disciplinary action.
- 19.15. The School Admin Assistants are responsible for continuity and recovery measures are in place to ensure the security of protected data.

20. Publication of information

- 20.1. Western Primary School publishes a publication scheme on its website outlining classes of information that will be made routinely available, including:
- Policies and procedures
 - Minutes of meetings
 - Annual reports
 - Financial information
- 20.2. Classes of information specified in the publication scheme are made available quickly and easily on request.
- 20.3. Western Primary School will not publish any personal information, including photos, on its website without the permission of the affected individual.
- 20.4. When uploading information to the school website, staff are considerate of any metadata or deletions which could be accessed in documents and images on the site.

21. CCTV and photography

- 21.1. The school understands that recording images of identifiable individuals constitutes as processing personal information, so it is done in line with data protection principles.
- 21.2. The school notifies all pupils, staff and visitors of the purpose for collecting CCTV images via notice boards, letters and email.
- 21.3. Cameras are only placed where they do not intrude on anyone's privacy and are necessary to fulfil their purpose.
- 21.4. All CCTV footage will be kept for 28 days for security purposes; the school admin assistants are responsible for keeping the records secure and allowing access.
- 21.5. The school will always indicate its intentions for taking photographs of pupils and will retrieve permission before publishing them.
- 21.6. If the school wishes to use images/video footage of pupils in a publication, such as the school website, prospectus, or recordings of school plays, written permission will be sought for the particular usage from the parent of the pupil.
- 21.7. Precautions, as outlined in the Photography and Videos at School Policy, are taken when publishing photographs of pupils, in print, video or on the school website.
- 21.8. Images captured by individuals for recreational/personal purposes, and videos made by parents for family use, are exempt from the GDPR.

22. Data retention

- 22.1. Data will not be kept for longer than is necessary.
- 22.2. Unrequired data will be deleted as soon as practicable.
- 22.3. Some educational records relating to former pupils or employees of the school may be kept for an extended period for legal reasons, but also to enable the provision of references or academic transcripts.
- 22.4. Paper documents will be shredded or pulped, and electronic memories scrubbed clean or destroyed, once the data should no longer be retained.

23. DBS data

- 23.1. All data provided by the DBS will be handled in line with data protection legislation; this includes electronic communication.
- 23.2. Data provided by the DBS will never be duplicated.
- 23.3. Any third parties who access DBS information will be made aware of the data protection legislation, as well as their responsibilities as a data handler.

24. Policy review

- 24.1. This policy is reviewed every two years by the Headteacher and Governing Body.
- 24.2. The next scheduled review date for this policy is September 2026