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SEN Trust Southend



SEN Trust Southend



INDIVIDUAL RIGHTS POLICY

SEN TRUST SOUTHEND

KINGSDOWN SCHOOL

LANCASTER SCHOOL

ST. NICHOLAS SCHOOL

THE ST. CHRISTOPHER SCHOOL

CREATED:	OCTOBER 2018
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Context

Under the General Data Protection Regulations (GDPR) which came into force in May 2018, organisations are required to ensure that provision of individual rights are made. This policy outlines individual rights and will be updated when the legislation comes into force to ensure it accurately reflects the regulations.

SEN Trust Southend is committed to ensuring provision of an outstanding education to its pupils. In order to carry out its legal obligations it is required to collect personal data about the pupils and specific information about their parents.

In preparation for the implementation of the GDPR, the Trust has reviewed and updated its existing related policies and procedures which are detailed at the end of this policy.

1. The Right to be Informed

The 'right to be informed' encompasses the Trust's obligation to provide 'fair processing information'. We meet our obligation by issuing Privacy Notices to staff and parents [**Appendix 1 and 2**]. Information supplied by SEN Trust Southend is:

- Concise, transparent, intelligible and easily accessible. The Privacy Notice adopted by SEN Trust Southend was recommended by the Department for Education (DfE) to ensure it is compliant. It is concise and outlines the purpose of data collection along with details of third parties with whom we may share that information. It is issued to staff on appointment and annually thereafter. An electronic version is stored on each school's network.
- Written in clear, plain English
- Free of charge

2. The Right of Access (Subject Access Requests)

Staff at SEN Trust Southend and parents of children attending each of the schools have the right to obtain:

- Confirmation that their data is being processed
- Access to their personal data
- Other supplementary information

The GDPR clarifies that the reason for allowing individuals to access their personal data is so that they are aware of, and can verify the lawfulness of, the processing. Requests for access are referred to as *Subject Access Requests*.

2.1 Response Times

Subject Access Requests are handled by the Headteacher at each school acting for the Trust as data controller. Such requests will be dealt with within one month of receipt of request. SEN Trust Southend has the right to extend the period by a further two months where the requests are numerous or complex. However, the Trust will inform the individual of this extension within one month of receipt of the request.

2.2 Subject Access Request - Fees

The GDPR states that organisations will not charge a fee for provision of access unless the request is manifestly unfounded or excessive, particularly because they are repetitive. In accordance with this, SEN Trust Southend has the right to charge a reasonable fee which is calculated on the amount of administrative time required to fulfil the requirements of the request. The individual will be informed of the fee within one month of the request being made.

2.3 Refusal to Respond

The Trust has the right to refuse to respond to a request that is *manifestly unfounded or excessive*. In the event that the Trust refuses to respond it will inform the individual, without undue delay and within one month, of the reason for the refusal and their right to complain.

2.4 How the Information is Issued

In ensuring compliance with data protection legislation the Trust will verify the identity of the person making the request using 'reasonable means'. This will be through identity checking.

Information may be supplied electronically or in paper format. An analysis will be made to determine which of the formats is the most appropriate and the decision will be agreed between the person making the request and the Trust. In the event that the information is supplied electronically it will be provided in PDF format.

Whilst the GDPR recommends good practice to have access to a self-service portal this is not possible at SEN Trust Southend.

3. The Right to Rectification

The GDPR gives individuals the right to have personal data rectified if it is inaccurate or incomplete.

3.1 Right to Rectification Timeframe

SEN Trust Southend will respond to individuals within one month. Where the request for rectification is complex, the Trust reserves the right to extend this timeline to two months.

In the event that the Trust is not taking action in response to a request for rectification we will explain to the individual, in writing, and outline the reasons for this along with their right to complain.

3.2 Right to Rectification – Third Parties

Where a third party has information about an individual that requires rectification, the Trust will inform those parties without undue delay.

4. The Right to Erasure

The right to erasure is also known as the 'right to be forgotten'. The broad principle underpinning this right is to enable an individual to request the deletion or removal of personal data where there is no compelling reason for its continued processing.

4.1 When the Right to Erasure Applies

Individuals have the right to have personal data erased and to prevent further processing in specific 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 consent.
- When the individual objects to the processing and there is no overriding legitimate reason for continuing the processing.
- The personal data was unlawfully processed (ie in breach of GDPR).
- The personal data has to be erased in order to comply with a legal obligation.
- The personal data is processed in relation to information society services to a child.

Under GDPR the right to erasure is not limited to processing that causes unwarranted and substantial damage or distress. However, if the processing does cause unwarranted and substantial damage or distress the case for erasure will be strengthened.

4.2 Refusal to Comply with Right to Erasure Request

In accordance with data protection legislation, SEN Trust Southend has the right to refuse to comply with requests for erasure where the personal data is 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.
- Archiving purposes in the public interest, scientific research, historical research or statistical purposes.
- The exercise or defence of legal claims.

4.3 The Right to Erasure of Children's Data

Schools have the right to collect pupil data in order to carry out its legal obligation for the performance of a public interest task. However, the GDPR enhances protection of children's data particularly in relation to online environments. Where consent has been given and a request for erasure is later received the Trust will remain mindful that the initial consent may have been given without full awareness of the impact of its use.

4.4 Informing Third Parties of Erasure

Where a school has disclosed personal data to third parties SEN Trust Southend will inform those parties, without undue delay, about the personal data erasure unless it is impossible or involves disproportionate effort to do so.

5. The Right to Restrict Processing

Individuals have the right to block or suppress processing of personal data. In these instances SEN Trust Southend shall be permitted to store data but not to process it further.

5.1 When the Right to Restrict Processing Applies

The Trust shall be required to restrict processing in the following circumstances:-

- Where an individual contests the accuracy of the personal data the Trust will restrict further processing until the accuracy of the personal data has been verified.
- Where an individual has objected to the processing (where it was necessary for the performance of a public interest task or purpose of legitimate interests), and the Trust is considering whether its legitimate reasons override those of the individual.
- When processing is unlawful and the individual opposes erasure and requests restriction instead.
- If the Trust no longer needs the data but the individual requires it to establish, exercise or defend a legal claim.

5.2 Informing Third Parties of Restriction of Processing

Where personal data becomes subject to restriction of processing and has been disclosed to a third party, SEN Trust Southend will inform the third party, without undue delay, unless it is impossible or involves disproportionate effort to do so.

When a school/the Trust decides to lift a restriction on processing it must inform the individual.

6. The Right to Object

Individuals have the right to object to:-

- Processing based on legitimate reasons or the performance of a task in the public interest/exercise of official authority.
- Direct marketing.
- Processing for purposes of scientific/historical research and statistics.

6.1 Compliance with the Right to Object for the Performance of a Legal Task

Individuals must have an objection on 'grounds relating to his or her particular situation'. SEN Trust Southend will stop the processing of personal data unless:-

- We can demonstrate compelling legitimate grounds for the processing, which overrides the interests, rights and freedoms of the individual; or
- The processing is for the establishment, exercise or defence of legal claims.

Individuals are informed of their right to object within the Trusts privacy notices. We will also inform individuals of their right to object at the point of the first communication and will be 'explicit and presented clearly'.

Appendix 1: Privacy Notice to Parents

Privacy Notice (How we use pupil information)

This privacy notice sets out how each school within SEN Trust Southend collects information about pupils.

Why do we collect and use pupil information?

We collect and use pupil information under Article 6 (1) (e) of the General Data Protection Regulations (GDPR) because it is necessary to collect such information in order for the Trust to educate your child(ren) which is carried out in the public interest.

We use the pupil data:

- To support pupil learning
- To monitor and report on pupil progress
- To provide appropriate pastoral care
- To comply with the law regarding data sharing

The categories of pupil information that we collect, hold and share, include:

- Personal information such as name, unique pupil number, date of birth and address
- Characteristics such as ethnicity, language, nationality, country of birth and free school meal eligibility, relevant medical information and special educational needs information
- Attendance information such as number of absences and reasons for absences
- Academic information such as academic progress, exam participation and results

Collecting pupil information

Whilst the majority of pupil information you provide to us is mandatory, some of it is provided to us on a voluntary basis. In order to comply with the General Data Protection Regulations, we will inform you whether you are required to provide certain pupil information to us or if you have a choice in this.

Storing pupil data

We hold pupil data for as long as the school/Trust is required to hold it. Pupil data is held for as long as the pupil attends their school within SEN Trust Southend or for as long as is required by law.

Who do we share pupil information with?

We routinely share pupil information with:

- Schools that the pupil attends after leaving us
- Our local authority
- Local authority where the pupil resides or is in care of

- The Department for Education (DfE)
- School Counsellor (if required)
- Staff (as required)
- Allocated school paediatrician/doctor/dentist/Health authority
- School passenger transport

Why we share pupil information

We do not share information about our pupils with anyone without consent unless the law and our policies allow us to do so. We share pupils' data with the Department for Education (DfE) on a statutory basis. This data sharing underpins school funding and educational attainment policy and monitoring.

We are required to share information about our pupils with our local authority and the DfE under section 3 of The Education (Information about Individual Pupils) (England) Regulations 2013.

Data collection requirements

To find out more about the data collection requirements placed on us by the Department for Education please visit <https://www.gov.uk/education/data-collection-and-censuses-for-schools>.

The National Pupil Database (NPD)

The NPD is owned and managed by the DfE and contains information about pupils in schools in England. It provides invaluable evidence on educational performance to inform independent research, as well as studies commissioned by the DfE. It is held in electronic format for statistical purposes. This information is securely collected from a range of sources including school, local authorities and awarding bodies.

We are required, by law, to provide information about our pupils to the DfE as part of statutory data collections such as the school census and early years' census. Some of the information is then stored in the NPD. The law that allows this is the Education (Information about Individual Pupils) (England) Regulations 2013.

To find out more about the pupil information we share with the department, for the purpose of data collections, go to <https://www.gov.uk/education/data-collection-and-censuses-for-schools>. To find out more about the NPD go to <https://www.gov.uk/government/publications/national-pupil-database-user-guide-and-supporting-information>.

The DfE may share information about our pupils from the NPD with third parties who promote the education or well-being of children in England by:

- Conducting research or analysis
- Producing statistics
- Providing information, advice or guidance

The DfE has robust processes in place to ensure the confidentiality of our data is maintained and there are stringent controls in place regarding access and use of the data. Decisions on whether

DfE releases data to third parties are subject to a strict approval process and based on a detailed assessment of:

- Who is requesting the data
- The purpose for which it is required
- The level and sensitivity of the data requested
- The arrangements in place to store and handle the data

To be granted access to pupil information, organisations must comply with strict terms and conditions covering the confidentiality and handling of the data, security arrangements and retention and use of the data. For more information about the DfE's data sharing process please visit <https://www.gov.uk/data-protection-how-we-collect-and-share-research-data>.

For information about which organisations the DfE has provided pupil information (and for which project) please visit <https://www.gov.uk/government/publications/national-pupil-database-requests-received>.

To contact the DfE please visit <https://www.gov.uk/contact-dfe>

Requesting access to your personal data

Under data protection legislation, parents and pupils have the right to request access to information about them that we hold. To make a request for your personal information, or be given access to your child's educational record, contact the school office in person, by telephone on 01702 524193 or email office@tscs.southend.sch.uk

You also have the right to:

- Object to processing of personal data that is likely to cause, or is causing, damage or distress
- Prevent processing for the purpose of direct marketing
- Object to decisions being taken by automated means
- In certain circumstances, have inaccurate personal data rectified, blocked, erased or destroyed; and
- Claim compensation for damages caused by a breach of the Data Protection regulations.

If you have a concern about the way we are collecting or using your personal data, you should raise your concern with us in the first instance or directly to the Information Commissioner's Office at <https://ico.org.uk/concerns/>

Contact:

If you would like to discuss anything in this privacy notice please contact:

Jackie Mullan, Executive Headteacher, SEN Trust Southend

Tel: 01702 524193

Email: office@tscs.southend.sch.uk

Appendix 2: Privacy Notice to Staff

Privacy Notice

The School Workforce: those employed to teach, or otherwise engaged to work at SEN Trust Southend

The Data Protection Act 1998: How we use your information

SEN Trust Southend is the Data Controller.

The school has engaged the services of SBM Services (uk) Ltd to carry out the DPO duties on our behalf. They can be contacted by email on info@sbmservices.co.uk or by phone on 01206 671103.

We process personal data relating to those we employ to work at, or otherwise engage to work at SEN Trust Southend. This is for employment purposes to assist in the running of the school and/or to enable individuals to be paid. The collection of this information will benefit both national and local users by:

- Improving the management of workforce data across the sector
- Enabling development of a comprehensive picture of the workforce and how it is deployed
- Informing the development of recruitment and retention policies
- Allowing better financial modelling and planning
- Enabling ethnicity and disability monitoring; and
- Supporting the work of the School Teachers' Review Body

The categories of school workforce information that we collect, process, hold and share include:

- personal information (such as name, employee or teacher number, national insurance number, address, next of kin, contact details)
- special categories of data including characteristics information such as gender, age, ethnic group
- contract information (such as start dates, hours worked, post, roles and salary information)
- work absence information (such as number of absences and reasons)
- qualifications (and, where relevant, subjects taught)

Why we collect and use this information

We use school workforce data to:

- enable the development of a comprehensive picture of the workforce and how it is deployed
- inform the development of recruitment and retention policies
- enable individuals to be paid

- comply with legislative requirements

The lawful basis on which we process this information

We process this information under Article 6(e) of the General Data Protection Regulations (GDPR), to allow us to carry out a public task. We also collect data under the Education Act 1996.

We will not share information about you with third parties without your consent unless the law allows us to. We are required, by law, to pass on some of this personal data to:

- Our Local Authority, Southend on Sea Borough Council
- The Department for Education
- Payroll bureau

Local Authority

We are required to share information about our workforce members with our local authority (LA) under section 5 of the Education (Supply of Information about the School Workforce) (England) Regulations 2007 and amendments.

Department for Education (DfE)

We share personal data with the Department for Education (DfE) on a statutory basis. This data sharing underpins workforce policy monitoring, evaluation, and links to school funding / expenditure and the assessment educational attainment.

We are required to share information about our school employees with our local authority (LA) and the Department for Education (DfE) under section 5 of the Education (Supply of Information about the School Workforce) (England) Regulations 2007 and amendments.

The department may share information about school employees with third parties who promote the education or well-being of children or the effective deployment of school staff in England by:

- conducting research or analysis
- producing statistics
- providing information, advice or guidance

The department has robust processes in place to ensure that the confidentiality of personal data is maintained and there are stringent controls in place regarding access to it and its use. Decisions on whether DfE releases personal data to third parties are subject to a strict approval process and based on a detailed assessment of:

- who is requesting the data
- the purpose for which it is required
- the level and sensitivity of data requested; and
- the arrangements in place to securely store and handle the data

Payroll Provider

We are required to share information about our workforce members with the payroll provider to ensure the workforce are paid in accordance with terms of their employment.

To be granted access to school workforce information, organisations must comply with its strict terms and conditions covering the confidentiality and handling of the data, security arrangements and retention and use of the data.

For more information about the department's data sharing process, please visit:

<https://www.gov.uk/data-protection-how-we-collect-and-share-research-data>

To contact the department: <https://www.gov.uk/contact-dfe>

Requesting access to your personal data

Under data protection legislation, you have the right to request access to information about you that we hold. To make a request for your personal information, contact your school office directly.

You also have the right to:

- object to processing of personal data that is likely to cause, or is causing, damage or distress
- prevent processing for the purpose of direct marketing
- object to decisions being taken by automated means
- in certain circumstances, have inaccurate personal data rectified, blocked, erased or destroyed; and
- claim compensation for damages caused by a breach of the Data Protection regulations

If you have a concern about the way we are collecting or using your personal data, we ask that you raise your concern with us in the first instance. Alternatively, you can contact the Information Commissioner's Office at <https://ico.org.uk/concerns/>

Further information

If you would like to discuss anything in this privacy notice, please contact:

Jackie Mullan, Executive Headteacher, SEN Trust Southend
01702 524193
office@tscs.southend.sch.uk