



# **St Matthew's Primary School**

## **Data Protection Policy**

### **Luton Borough Council Policy**

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**November 2023**

# DATA PROTECTION POLICY

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# 1 Introduction

Our school is committed to protecting the rights and freedom of all individuals in relation to the processing of their personal data.

## 2 Scope of this policy

The school needs to comply with the Data Protection Act 2018 and EU General Data Protection Regulations. This policy has been developed to ensure all staff, contractors and partners understand their obligations when processing personal and special category data.

This policy and the legislation apply to all personal data, both that held in paper files and electronically. So long as the processing of the data is carried out for school purposes, it applies regardless of where data is held.

'Processing' data is widely defined and includes obtaining, recording, keeping, or using it in any way; sharing or disclosing it; erasing and destroying it.

We aim to follow the DfE guidance on data protection in schools <https://www.gov.uk/guidance/data-protection-in-schools>.

## 3 Data protection principles

Personal and special category data must be:

### 3.1 Processed lawfully

All personal and special category data must be processed lawfully, fairly and in a transparent manner in relation to individuals

### 3.2 Used for a specific purpose

The data must be collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes

### 3.3 Be relevant to the purpose

The data must be adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed

### 3.4 Be accurate

Data should be accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay

### 3.5 Kept no longer than necessary

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Kept in a form which permits identification of data 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 personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes subject to implementation of the appropriate technical and organisational measures required by the GDPR in order to safeguard the rights and freedoms of individuals

### **3.6 Kept securely**

Processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures

## **4 Types of personal data**

### **4.1 Personal data**

Personal data is information that relates to an identified or identifiable living individual. Examples of personal data include:

- identity details (for example, a name, title or role)
- contact details (for example, an address or a telephone number)
- information about pupil behaviour and attendance
- assessment and exam results
- staff recruitment information
- staff contracts
- staff development reviews
- staff and pupil references

### **4.2 Special Category Data**

Special category data is personal data that's considered more sensitive and given greater protection in law. Special category data includes:

- racial or ethnic origin
- political opinions
- religious or philosophical beliefs
- trade-union membership
- genetic information
- biometric information (for example, a fingerprint)
- health matters (for example, medical information)
- sexual matters or sexual orientation

We also treat as special category data any personal data about:

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- a safeguarding matter
- pupils in receipt of pupil premium
- pupils with special educational needs and disability (SEND)
- children in need (CIN)
- children looked after by a local authority (CLA)

### 4.3 Criminal offence data

Criminal offence data is personal data that's treated in a similarly sensitive way to special category data. It records criminal convictions and offences or related security measures.

Criminal offence data includes:

- the alleged committing of an offence
- the legal proceedings for an offence that was committed or alleged to have been committed, including sentencing

Schools process criminal offence data in storing the outcome of a Disclosure and Barring Service (DBS) check on their employees, non-employed staff and volunteers. As this data relates to criminal convictions, collecting and retaining it means the school is processing criminal offence data. This applies even though the check has not revealed any conviction.

You can read about handling DBS data in the [statutory guidance on keeping children safe in education](#).

### 4.4 Data Subjects

Schools collect, store and use personal data about a variety of individuals. In this context, those individuals are known as data subjects. Our data subjects include:

- pupils and former pupils
- parents and carers
- employees and non-employed staff
- governors and trustees
- local-authority personnel
- volunteers, visitors and applicants

### 4.5 Data assets

We hold personal data in several forms. These are collectively known as our data assets.

Data assets comprise:

- data items – single pieces of information
- data item groups – data items about the same process
- data sets – collections of related data that can be manipulated as a unit by a computer

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- systems – administrative software
- system groups – the larger systems housing administrative software

## 5 Governance

### 5.1 Data controller

For most of the personal data we collect, store and use, we are the data controller. This means we are responsible under the Data Protection Act 2018 for protecting data in every situation where we decide:

- whose information to collect
- what types of data we need
- why we need it
- whether the information can be shared with a third party
- when and where data subjects' rights apply
- for how long we keep the data

As a data controller, we register with the Information Commissioners Office.

Where we are required to supply a copy of some personal data to the Department for Education or the local authority, these organisations also becomes an independent data controller of the copy they receive.

### 5.2 Governors and trustees

The responsibility and accountability for compliance sits with governors and trustees.

Our governors and trustees check that we:

- monitors our data protection performance
- support the data protection officer
- have good network security infrastructure to keep personal data protected
- have a business continuity plan in place that includes cyber-security

### 5.3 Senior leaders

Senior leaders are accountable for:

- deciding how we use technology and maintains our security
- deciding what data is shared and how
- setting school policies for the use of data and technology
- understanding what UK GDPR and the Data Protection Act covers and getting advice from the data protection officer, as appropriate
- assuring governors and trustees that the school has the right policies and procedures in place
- making sure any contracts with third-party data processors cover the relevant areas of data protection

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- making sure staff receive annual training on data protection, including specific school processes such as personal data breach reporting processes and the escalation of information rights requests

#### 5.4 All staff

All staff should be aware of what:

- personal data is
- 'processing' means
- their duties are in handling personal information
- the processes are for using personal information
- is permitted usage of that data
- the risks are if data gets into the wrong hands
- their responsibilities are when recognising and responding to a personal data breach
- the process is for recognising and escalating information rights requests

This includes:

- teaching staff
- catering staff
- welfare supervisors
- library staff
- cleaners
- first-aiders
- governors and trustees
- volunteers

There are extra requirements for any staff who:

- create and store data
- enter data into applications or software
- decide if and when they'll process certain data
- handle paper documents

Staff who collect, store or view personal data are responsible for:

- making sure they have a legitimate need to process the data
- checking that any data they store is needed to carry out necessary tasks
- identifying any risks
- understanding the governance arrangements that oversee the management of risks

#### 5.5 Data protection officer's responsibilities

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The data protection officer is responsible for:

- advising school leaders and staff about their data obligations
- monitoring compliance
- conducting regular data audits
- developing and updating data protection policies and procedures
- monitoring who in the school has access to personal data
- advising when data protection impact assessments are needed
- answering data protection enquiries from staff, parents and pupils
- making sure privacy notices are regularly reviewed and updated
- supporting and advising staff who have data protection queries
- communicating with the Information Commissioner's Office (ICO)
- reporting to the governing board or trustees about data protection
- advising the governing board or trustees on data protection risks
- advising on and co-ordinating responses to information rights requests
- making sure all assets containing personal data are appropriately managed and secure

## **6 Responsibilities of staff and contractors.**

Staff and contractors must:

- Complete the Data Protection Act 2018 training as soon as they join the school. This is a mandatory requirement
- Complete an annual refresher course as directed by their manager
- Ensure that they only ever process personal data in accordance with requirements of the Data Protection Act 2018
- Follow the 6 Principles highlighted above
- Seek help and advice from the Head

## **7 Personal data in the public domain**

Our school holds certain information about people in the public domain, for example the Head Teachers name will be on the website. Personal data classified as being in the 'public domain' refers to information which will be publicly available world-wide and may be disclosed to third parties without recourse to the data subject.

## **8 Artificial intelligence (AI)**

AI tools are now widespread and easy to access. Staff, pupils and parents/carers may be familiar with generative chatbots such as ChatGPT and Google Bard.

Our school recognises that AI has many uses to help pupils learn, but also poses risks to sensitive and personal data.

To ensure that personal and sensitive data remains secure, no one will be permitted to enter such data into unauthorised generative AI tools or chatbots.

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If personal and/or sensitive data is entered into an unauthorised generative AI tool, our school will treat this as a data breach.

## 9 Data security

Keeping personal data properly secure is vital in complying with the Data Protection Act. All staff and contractors are responsible for ensuring that any personal data we have access to is kept securely. We are also responsible for ensuring that personal data is not disclosed inappropriately (either orally or in writing or accidentally) to any unauthorised third party.

This includes, as a minimum:

- We should always keep passwords safe and never share them.
- Lock away any personal data kept in paper format in a lockable cabinet or pedestal. Do not leave documents on desks unattended at any time
- If it is necessary to take hard copy documents out of the school make sure that those documents are looked after at all times, this includes note books and files. Consider whether it is necessary to take files out of the school at all or if so, take them on an encrypted handheld device or laptop.
- If data has to go onto a disc or memory stick make sure that the device that used is encrypted and that the data is password protected.
- If we have access to these devices make sure that they are stored securely and locked away safely when not being used.

## 10 Sharing personal data

### 10.1 Who we share data with

To keep children and young people safe in school, we need to share information appropriately, so the correct decisions can be made to protect them.

We do not share data unless we have a compelling reason to share personal data. Sharing children's data with third parties can expose them to unintended risks if not done properly. We will carry out a data protection impact assessment to assess any risk before sharing personal information about our pupils.

We ensure that any data we share will comply with the ICO's [data sharing code of practice](#).

### 10.2 Safeguarding

To keep children safe and make sure they get the support they need, we will share information with other schools and children's social care teams. It's not usually necessary to ask for consent to share personal information for the purposes of safeguarding a child.

Our designated safeguarding lead will decide if personal data needs to be shared. They will record:

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- who they're sharing that information with
- why they're sharing the data
- whether they have consent from the pupil, parent or carer

Read [working together to safeguard children](#) to find out more information about sharing a pupil's safeguarding file and [keeping children safe in education](#).

### 10.3 Sharing data with local authorities and government

We may need to share personal information about your pupils with local authorities, other schools or children's services. For example:

- if a pupil shows signs of physical or mental abuse, we may need to pass this information on to children's services
- another school may need to know which pupils will be at their sports day or on a joint school trip

Sharing information can help provide appropriate services that safeguard and promote the welfare of children. The Data Protection Act 2018 and UK GDPR provides a framework to make sure that personal information is shared appropriately.

Before we share any data, we will:

- consider all the legal implications
- check if we need permission to share the data
- confirm who needs the data, what data is needed and what they'll use it for
- make sure that we have the ability to share the specified data securely
- check that the actions cannot be completed or verified without the data

We also have a statutory requirement to share personal data about our pupils with DfE through the [school census](#). We do not need to get consent from pupils, parents or carers to share this data.

We may also need to share personal data about our staff with the local authority and government, plus any regulatory bodies or other relevant agencies.

### 10.4 Sharing data with other schools

If a pupil moves to another school, we will where possible transfer their records to the new school. This includes the pupil's [common transfer file](#) and educational record. We will:

- make sure you transfer the data securely
- transfer the record within 15 days of getting confirmation the pupil is registered at another school
- be able to trace the record during the transfer

To securely share and transfer pupil records, we will:

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- use the [school to school \(S2S\) system](#)
- send them to a named person using an encrypted email
- ask our local authority to transfer them
- deliver any paper records in person or ask the new school to collect them

If we are organising a school trip with another school, we will need to share data with them to confirm which pupils are going. We may also need to share details such as dietary requirements or medical information to make sure pupils are safe.

## 11 Taking and using photos in school

Photos are used in school for many different reasons. We will get consent for each different use of a photograph including:

- share photos on our social media channels
- include photos of pupils and staff in our prospectus or other marketing material
- use a photo of a pupil in our school displays
- take a photo for a newspaper article

If you're using a photo of a pupil, we will not include their name unless we have specific consent to do so.

We will only use a photo in line with the consent provided and we will make it clear for how long we will use the photograph.

Photos used in identity management systems may be essential for performing the public task of the school, but we will delete them once a child is no longer a pupil at our school.

## 12 Publishing exam results

UK GDPR does not stop schools from publishing exam results online or in the local press.

We do not need to get consent from pupils, parents or carers to publish exam results. However, we will tell pupils where and how their results will be published before they're published. This gives you an opportunity to ask us to remove their results from the list should you wish to.

## 13 Sending personal data securely

We can send documents containing personal data securely using the following methods:

Requested by:	Method:
Hard copy	Documents should be hand delivered to the data subject wherever possible. Check ID and address for sending before handing over

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	<p>documents. Make sure that the documents are securely contained in a sealed envelope.</p> <p>If it not possible for the data subject to collect the documents themselves use the <b>special delivery service</b> and include the name of the data subject on the envelope to ensure that they sign for the documents.</p> <p><b>Note:</b> Check you have the correct address before posting</p>
<b>Encrypted device</b>	Where the data is especially sensitive consider saving the documents on a password protected, encrypted memory device rather than posting hard copies. The password can be sent to the data subject once they have received the device by post to ensure that only they have access.
<b>Email</b>	<b>This is the preferred method.</b> Scan a copy of the file and move it to a secure location on the school's network prior to emailing. Use a secure email system such as Egress where possible. Ask the data subject to confirm receipt of the documents as soon as possible

## 14 Data subject rights

Data subjects have defined rights over the use of their data. These rights have been reinforced and extended by the Data Protection Act 2018.

These rights are:

### Informed

- Individuals have the right to be informed about the collection and use of their personal data. This is a key transparency requirement under the Data Protection Act 2018.
- We must provide individuals with information including: the purposes for processing their personal data, the retention periods for that personal data, and who it will be shared with. This is called 'privacy information'.
- We must provide privacy information to individuals at the point of collection of their personal data from them.
- If we obtain personal data from other sources, privacy information must provided be within a reasonable period of obtaining the data and no later than 28 calendar days

### Access

- Individuals have the right to access their personal data.
- This is commonly referred to as subject access.
- Individuals can make a subject access request verbally or in writing.
- We have one month [or 20 working days] to respond to a request.
- We cannot charge a fee to deal with a request in most circumstances.

### Rectification

- The Data Protection Act 2018 includes a right for individuals to have inaccurate personal data rectified, or completed if it is incomplete.

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- An individual can make a request for rectification verbally or in writing.
- We have one month [or 20 working days] to respond to a request.
- In certain circumstances the school can refuse a request for rectification. Seek help from the Head Teacher to refuse a request to rectify data

**Erasure**

- The Data Protection Act 2018 introduces a right for individuals to have personal data erased.
- The right to erasure is also known as ‘the right to be forgotten’.
- Individuals can make a request for erasure verbally or in writing.
- We have one month [or 20 working days] to respond to a request.
- The right is not absolute and only applies in certain circumstances.

**Restrict processing**

- Individuals have the right to request the restriction or suppression of their personal data.
- This is not an absolute right and only applies in certain circumstances.
- When processing is restricted, the school is permitted to store the personal data, but not use it.
- An individual can make a request for restriction verbally or in writing.
- We have one month [or 20 working days] to respond to a request.

**Data Portability**

- The right to data portability allows individuals to obtain and reuse their personal data for their own purposes.
- It allows them to move, copy or transfer personal data easily from one IT environment to another in a safe and secure way, without affecting its usability.
- The right only applies to information an individual has provided to a controller.

**Object**

- The Data Protection Act 2018 gives individuals the right to object to the processing of their personal data in certain circumstances.
- Individuals have an absolute right to stop their data being used for direct marketing.
- In other cases where the right to object applies the school may be able to continue processing if it can be shown that there is a compelling reason for doing so.
- The school must tell individuals about their right to object.
- An individual can make an objection verbally or in writing.
- We have one month [or 20 working days] to respond to an objection

**Automated decision making and profiling**

The Data Protection Act 2018 has provisions on:

1. Automated individual decision-making (making a decision solely by automated means without any human involvement); and

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2. Profiling (automated processing of personal data to evaluate certain things about an individual). Profiling can be part of an automated decision-making process.

The Data Protection Act 2018 applies to all automated individual decision-making and profiling. The Act has additional rules to protect individuals if the school is carrying out solely automated decision-making that has legal or similarly significant effects on them.

We can only carry out this type of decision-making where the decision is:

- Necessary for the entry into or performance of a contract; or
- Authorised by Union or Member state law applicable to the controller; or
- Based on the individual's explicit consent.

If we are carrying out any of these activities, we must:

- Give individuals information about the processing;
- Introduce simple ways for them to request human intervention or challenge a decision;

Carry out regular checks to make sure that the school's systems are working as intended.

The above rights are conditional depending on the reason we hold the data and why we may need to retain it.

Where we have a legal obligation to collect and process data or we are collecting the data to carry out a public task, we cannot always agreed with any objection application to the processing of that data. We will consider all requests and explain the reason for the decision.

Similarly if an individual claims that there is an error in the recording of a behavioural incident, it is unlikely that these records will be amended because it is likely that the records contain the professional opinion of a professional. Whilst the school would be unable to amend the original we would be able to place the individual's objections on file next to the original record so that their objections can be noted.

Were we rely on consent to process data about an individual we will be obliged in most cases to apply the above rights.

## 15 Prohibited activities

The following activities are strictly prohibited when processing personal and special category data:

- Sharing passwords to access data
- Sending personal data to a personal email address to work on at home
- Sending data to unauthorised personal. Always check that the recipients are authorised to view the information being sent
- Sending personal data in an insecure format
- Losing or misplacing personal and sensitive data
- Leaving personal data unprotected
- Accessing information about a pupil or member of staff where there is no legitimate reason for doing do

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- Accessing personal data about an individual for personal use
- Disclosing personal data to a third person outside of the school without a lawful basis

### 9.1 Implications of breaching this policy

It is a condition of employment in the case of staff and contractors that they abide by the law and the policies of the school. Any breach of this policy could be considered to be a disciplinary offence and may lead to disciplinary action. A serious breach of the Data Protection Act may also result in the school and/or the individual being held liable in law.

## 16 Privacy by Design

Under the Data Protection Act 2018 the school has a general obligation to implement technical and organisational measures to show that we have considered and integrated data protection into our processing activities. In order to achieve this, staff is expected to complete Privacy Impact Assessments to help identify and minimise any data protection risks

## 17 Privacy impact assessments (PIA)

The school must do a PIA for certain listed types of processing, or any other processing that is likely to result in a high risk to individuals' interests:

- Use systematic and extensive profiling or automated decision-making to make significant decisions about people.
- Process special category data on a large scale.
- Use new technologies.
- Carry out profiling on a large scale, including evaluation or scoring of individuals.
- Process biometric or genetic data.
- Combine, compare or match data from multiple sources.
- Process personal data without providing a privacy notice directly to the individual.
- Process personal data in a way which involves tracking individuals' online or offline location or behaviour.
- Process children's personal data for profiling or automated decision-making or for marketing purposes, or offer online services directly to them.
- Process personal data which could result in a risk of physical harm in the event of a security breach.

We must consider completing a PIA when you identify:

- Automated decision-making with significant effects.
- Systematic monitoring.
- Processing of sensitive data or data of a highly personal nature.
- Processing on a large scale.
- Processing of data concerning vulnerable data subjects.
- Innovative technological or organisational solutions.
- Processing involving preventing data subjects from exercising a right or using a service or contract.

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## 18 International transfers

The Data Protection Act 2018 imposes restrictions on the transfer of personal data outside the European Union, to third countries or international organisations. Personal data may only be transferred outside of the EU in compliance with the conditions for transfer set out in Chapter V of the GDPR.

We may transfer personal data where the organisation receiving the personal data has provided adequate safeguards. Individuals' rights must be enforceable and effective legal remedies for individuals must be available following the transfer.

Adequate safeguards may be provided for by a legally binding agreement between public authorities or bodies or the transfer is

- Necessary for important reasons of public interest;
- Necessary for the establishment, exercise or defence of legal claims;
- Necessary to protect the vital interests of the data subject or other persons, where the data subject is physically or legally incapable of giving consent; or
- Made from a register which under UK or EU law is intended to provide information to the public (and which is open to consultation by either the public in general or those able to show a legitimate interest in inspecting the register).

## 19 Exemptions

Exemptions to the Data Protection Act 2018 can apply in a small number of areas and only where the restriction respects the essence of the individual's fundamental rights and freedoms and it is a necessary and proportionate measure in a democratic society to safeguard:

- National security;
- Defence;
- Public security;
- The prevention, investigation, detection or prosecution of criminal offences;
- Other important public interests, in particular economic or financial interests, including budgetary and taxation matters, public health and security;
- Breaches of ethics in regulated professions;
- Monitoring, inspection or regulatory functions connected to the exercise of official authority regarding security, defence, other important public interests or crime/ethics prevention;
- The protection of the individual, or the rights and freedoms of others; or
- The enforcement of civil law matters

## 20 Conclusion

Compliance with the Data Protection Act 2018 is the responsibility of all members of staff and contractors. Any questions about this policy or any queries concerning data protection matters should be raised with the Head.

## 21 Definitions

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<b>Subject Access Request or SAR</b>	A request for access to data by a living person under the Act is known as a Subject Access Request or SAR. All records that contain the personal data of the subject will be made available, subject to certain exemptions.
<b>Freedom of Information Request or FOI.</b>	A request for access to data held is dealt with under the Freedom of Information Act 2000 and is known as a Freedom of Information Request or FOI. Requests for the data of deceased people may be processed under this legislation.
<b>Personal Data</b>	<p>Personal data means data which relate to a living individual who can be identified directly or indirectly from the data, particularly by reference to an identifier.</p> <p>Personal data can be factual (such as a name, address or date of birth) or it can be an opinion (such as a performance appraisal).</p> <p>Examples of personal data are the name and address of an individual; email and phone number; a Unique Pupil reference number or an NHS number</p>
<b>Special Category Data</b>	<p>Certain personal data, special category data, is given special protections under the Act because misuse could create more significant risks to a person's fundamental rights and freedoms. For example, by putting them at risk of unlawful discrimination.</p> <p>Information relating to criminal activities or convictions is not special category data but must be treated with similar safeguards in place.</p> <p>Special category data includes:</p> <ul style="list-style-type: none"> <li>• race or ethnic origin of the data subject</li> <li>• their political opinions</li> <li>• their religious beliefs or other beliefs of a similar nature</li> <li>• whether they are a member of a trade union</li> <li>• their physical or mental health or condition</li> <li>• their sexual life</li> <li>• sexual orientation</li> <li>• Biometrics (where used for ID purposes)</li> <li>• Genetics</li> </ul>
<b>Confidential Data</b>	<p>Data given in confidence or data which is confidential in nature and that is not in the public domain.</p> <p>Some confidential data will also be personal data and/or special category data and therefore come within the terms of this policy. Staff working in social care and in management roles will handle confidential data regularly and must be careful not to disclose this information incorrectly.</p>
<b>Data Controller</b>	The organisation which determines the purposes and the manner in which, any personal data is processed is known as the data controller. The school is the data controller of all personal data used and held by the school.

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<b>Data Processors</b>	Organisations or individuals who process personal data on behalf of the data controller are known as data processors. Employees of data controllers are excluded from this definition but it could include suppliers which handle personal data on our behalf.
<b>Data Subject</b>	A living individual who is the subject of personal data is known as the data subject. This need not be a UK national or resident. Provided that the data controller is subject to the Act, rights with regards to personal data are available to every data subject, wherever his nationality or residence.
<b>Lawful Basis</b>	The grounds specified by the Regulations which need to be satisfied for any data processing to be legal. One ground needs to exist for processing personal data. Where special category data is processed a second ground must also exist.
<b>Relevant Professional</b>	The practitioners who supply information held on Social Services records, and various other medical and educational records. A relevant professional will consider where disclosure is likely to cause serious physical or mental harm to the applicant or any third party.
<b>Data Breach</b>	<p>A data breach is a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed.</p> <p>A data breach may occur by accidentally sending an email to the wrong person or leaving a file in a public place. Breaches which result in a high risk to the individual must be reported to the ICO within 72 hours.</p>

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