# Privacy Notices – An Explanation

## Introduction

Schools have a duty to inform pupils, staff and parents of how they process the data that is within their control – this should be done through a privacy notice.
On 15 May 2018, the DfE released guidance on what privacy notices are, offering tips on when they should be used and what information should be included in them. Our guidance breaks down the tips from the DfE and also includes links to a number of template privacy notices to ensure you remain compliant with the GDPR.

## When should privacy notices be shared?

Privacy notices must be made available or highlighted at the start of each school year to parents and pupils – it is also recommended that they are published on the school's website. For new staff, privacy notices should be included in their induction pack and be made available on staff noticeboards or the intranet. Existing staff members must be made aware of the privacy notice at the start of each academic year.

## What information should privacy notices contain?

A good privacy notice will:

- Be written in clear language.
- Be truthful and not misleading in any way.
- Contain the following sections:
    - The categories of data collected.
    - Why the data is collected.
    - How the data is used.
    - The lawful basis for processing the data.
    - How the data is stored and for how long.
    - How data is kept secure.
    - Who the data is shared with and why, and what they do with the data.
    - Individuals' rights over their data.
    - The school's contact details.
- Highlight any changes made to the way personal data is processed.
- Be easily accessible to data subjects.

The list above is not exhaustive, and schools should tailor their notices to meet their own requirements and local arrangements.

## When should privacy notices be reviewed?

Privacy notices should be updated as need occurs, i.e. if any aspect of the way you manage data changes – it is also good practice to conduct an annual review of all privacy notices, ensuring they are still in line with legislation and guidance.

# How should privacy notices be worded?

This section is for guidance only and schools must review and amend their notices to reflect local needs and circumstances.

### Categories of data processed

Schools are expected to share the categories of data they process – these could include the following:

- Admissions
- Attainment
- Attendance
- Behaviour
- Exclusions
- Personal identifiers, contacts and pupil characteristics
- Identity management/authentication
- Catering and free school meal management
- Trips and activities
- Medical information and administration
- Safeguarding and SEND

Include an example of the data alongside its category to ensure data subjects understand what the category refers to – e.g. attendance includes data such as sessions attended, number of absences and reason for absence.

It is likely the categories of data processed will change, so schools should ensure they highlight where a full data asset register can be found.

### Purpose and lawful basis for collecting data

Data will be collected by schools for a number of reasons – these must be included in privacy notices and be listed in a clear, understandable way.

Schools must also state which lawful basis they are using to process data (i.e. consent, contract, legal obligation, vital interests, public task, legitimate interests). If the data being processed is 'special category data' (i.e. racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, health or sex life), an additional basis from Article 9 of the GDPR is also required.

Schools process some sensitive personal data not outlined in the GDPR as special category, such as FSM status, eligibility for the pupil premium and some SEND information – the processing of this data should be treated with the same high status as special category data.

Schools do not need to list the lawful bases for each data category, just for the different processing purposes.

Where schools collect data using the consent basis – this will likely be a rare occurrence – this should be explained in a separate consent form.

### How data is collected

Schools should explain how they usually collect data – examples include registration forms, staff contracts and child protection plans.

Where data is collected within a mandatory process, some specific items may be voluntary – these should be highlighted at the point of collection. Where voluntary data is lawfully shared with the DfE and an individual has declined to provide this data, the information should be returned using the code 'refused'.

**How data is stored**

Individual data retention and security policies must be defined – schools can attach policies or link to the school's website within privacy notices, so individuals can see more information.

**Who data is shared with**

Schools should list all instances of routine data sharing in privacy notices. This refers to data shared on a regular basis – any one-off transfers do not need to be listed; however, any such sharing must have a lawful reason.

**Why data is shared**

Schools should expand on why they share information with the list of named recipients – use the section to list the reasons for sharing and any relevant legislation that allows the data to be shared.
Also include information about how data is transferred and provide links to the data retention policies of the recipient, where this is possible.
**Individuals' rights**

Under the GDPR, data subjects have the right to:

- Request access about the information the school holds on them.
- Object to the processing of personal data.
- Prevent processing for the purpose of direct marketing.
- Object to automated decision making.
- In certain circumstances, have inaccurate personal data rectified, blocked, erased or destroyed.
- Seek compensation, either through the ICO or courts.

These rights should be made clear in the privacy notice and specifically how they can request data from the school, ensuring full contact details are included.
The privacy notice must also mention the right to complain to the ICO – schools should link to the ICO's concerns page.

**How the DfE uses personal data**

This section of a privacy notice should further explain why data is shared with the DfE and what happens to the data once it has been transferred.
For pupil and parent privacy notices, schools should specifically mention the national pupil database, which is where the DfE holds a large proportion of data.

# How should privacy notices be formatted?

It is up to schools to decide how to format their privacy notices. Where a notice appears to be 'too long', it is acceptable to adopt a layered approach. This is where

key information is given in the notice and other important information is made readily available elsewhere, e.g. the school's website or an accessible noticeboard.
Schools may also wish to create a Child-friendly GDPR Privacy Notice to ensure younger pupils are aware of how their data is used.

# What's next?

Our GDPR-compliant Privacy Notices resource pack contains a number of templates schools can use to inform individuals of how their data is processed – these include privacy notices for pupils, parents, staff and more.

# Bibliography

DfE (2018) 'Privacy notices'

Related terms: data protection, General Data Protection Regulation

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