
Data Protection Policy

***in accordance with the General Data Protection Regulation (GDPR)***

Monitored and updated by: The data protection lead for the trust

Approved by Board of Trustees on14th October 2021

Last reviewed by data protection officer October 2022

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| Data Protection Officer for the trust: | Gary Hipple, Wandsworth Borough CouncilGary.Hipple@richmondandwandsworth.gov.uk  |
| Data Controller: | The Quality First Education Trust is registered as data controller with the Information Commissioners Office (ICO). |

# 1. Introduction

The Quality First Education (Q1E) Trust aims to ensure that all personal data collected about staff, pupils, parents, local governors, trustees, visitors and other individuals is collected, stored and processed in accordance with the [General Data Protection Regulation (UK GDPR)](http://data.consilium.europa.eu/doc/document/ST-5419-2016-INIT/en/pdf) and the provisions of the Data Protection Act 2018 (DPA 2018) as set out in the [Data Protection Bill](https://publications.parliament.uk/pa/bills/cbill/2017-2019/0153/18153.pdf).

This policy applies to **all personal data**, regardless of whether it is in paper or electronic format.

This policy applies to **all staff** employed by Q1E schools, and to external organisations or individuals working on our behalf. Staff who do not comply with this policy may face disciplinary action.

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# 2. Legislation and guidance

This policy:

* meets the requirements of the GDPR and the provisions of the DPA 2018
* is based on guidance from the Information Commissioner’s Office (ICO) on the UK [GDPR](https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/)
* follows the ICO [code of practice for subject access requests](https://ico.org.uk/media/for-organisations/documents/2014223/subject-access-code-of-practice.pdf) and reflects the ICO [code of practice](https://ico.org.uk/media/for-organisations/documents/1542/cctv-code-of-practice.pdf) for use of surveillance cameras and personal data;
* complies with the Q1E trust’s funding agreement and articles of association.

# 3. Links with other policies

This data protection policy is linked to our:

* Q1E Child protection and safeguarding policy
* Q1E Online safety policy
* Q1E ICT acceptable use policy.

# 4. Definitions

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| **Term** | **Definition** |
| **Personal data** | Any information relating to an identified, or identifiable, individual.This may include the individual’s: * Name (including initials)
* Photograph
* Identification number
* Location data
* Online identifier, such as a username

It may also include factors specific to the individual’s physical, physiological, genetic, mental, economic, cultural or social identity. |
| **Special categories of personal data** | Personal data which is more sensitive and so needs more protection, including information about an individual’s:* Racial or ethnic origin
* Political opinions
* Religious or philosophical beliefs
* Trade union membership
* Genetics
* Biometrics, where used for identification purposes
* Health – physical or mental
* Sex life or sexual orientation
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| **Processing** | Anything done to personal data, such as collecting, recording, organising, structuring, storing, adapting, altering, retrieving, using, disseminating, erasing or destroying. Processing can be automated or manual.  |
| **Data subject** | The identified or identifiable individual whose personal data is held or processed. |
| **Data controller** | A person or organisation that determines the purposes and the means of processing of personal data.  |
| **Data processor** | A person or other body, other than an employee of the data controller, who processes personal data on behalf of the data controller.  |
| **Personal data breach** | A breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data. |

# 5. Roles and responsibilities

**5.1 Board of Trustees**

The Board of Trustees (the governing board of the trust) has overall responsibility for ensuring that our schools comply with all relevant data protection obligations.

**5.2 Q1E data protection lead/coordinator** *(formerly this role was merged in with the DPO)*

The data protection lead is responsible for monitoring and updating this policy and developing related guidance where applicable. The data protection lead will be a point of contact for parents and staff with data protection queries or data access requests.

**5.3 Data protection officer**

The data protection officer (DPO) is responsible for monitoring our compliance with data protection law. The DPO will provide an annual report to the Board of Trustees and, where relevant, report to the board his/her advice and recommendations on school data protection issues. The DPO will provide support and advice to the trust’s data protection lead, and directly to school/trust staff when required. The DPO is the first point of contact for the ICO.

**5.4 Headteachers**

The headteacher acts as the representative of the data controller on a day-to-day basis and is responsible for overseeing the implementation of this policy by school staff.

**5.5 All staff**

Staff are responsible for:

* Collecting, storing and processing any personal data in accordance with this policy.
* Informing the school of any changes to their personal data, e.g. change of address.
* Contacting the data protection lead:
	+ If they are unsure about data protection law, retaining personal data, using personal data in a particular way, or keeping personal data secure.
	+ If they have any concerns that this policy is not being followed.
* If they need to rely on or capture consent, draft a privacy notice or respond to a data access request.
* If there has been (or may have been) a data breach.
* If they undertake a new activity that may affect the privacy rights of individuals.
* If they need help with any contracts or sharing personal data with third parties.

**6. Data protection principles**

The UK GDPR is based on data protection principles that the trust’s schools must comply with.

The principles say that personal data must be:

* Processed lawfully, fairly and in a transparent manner
* Collected for specified, explicit and legitimate purposes
* Adequate, relevant and limited to what is necessary to fulfil the purposes for which it is processed
* Accurate and, where necessary, kept up to date
* Kept for no longer than is necessary for the purposes for which it is processed
* Processed in a way that ensures it is appropriately secure

This policy sets out how the school aims to comply with these principles.

# 7. Collecting personal data

**7.1 Lawfulness, fairness and transparency**

We will only process personal data where we have one of 6 ‘lawful bases’ (legal reasons) to do so under data protection law:

* The data needs to be processed so that the school can **fulfil a contract** with the individual, or the individual has asked the school to take specific steps before entering into a contract
* The data needs to be processed so that the school can **comply with a legal obligation**
* The data needs to be processed to ensure the **vital interests** of the individual e.g. to protect someone’s life
* The data needs to be processed so that the school, as a public authority, can perform a task **in the public interest,** and carry out its official functions
* The data needs to be processed for the **legitimate interests** of the school or a third party (provided the individual’s rights and freedoms are not overridden)
* The individual (or their parent/carer when appropriate in the case of a pupil) has freely given clear **consent**

For special categories of personal data, we will also meet one of the special category conditions for processing which are set out in the UK GDPR and Data Protection Act 2018.

If we offer online services to pupils, such as classroom apps, and we intend to rely on consent as a basis for processing, we will get parental consent (except for online counselling and preventive services).

Whenever we first collect personal data directly from individuals, we will provide them with the relevant information required by data protection law.

**7.2 Limitation, minimisation and accuracy**

We will only collect personal data for specified, explicit and legitimate reasons. We will explain these reasons to the individuals when we first collect their data.

If we want to use personal data for reasons other than those given when we first obtained it, we will inform the individuals concerned before we do so, and seek consent where necessary.

Staff must only process personal data where it is necessary in order to do their jobs.

When staff no longer need the personal data they hold, they must ensure it is deleted or anonymised.

All records containing personal information, or sensitive policy information should be made either unreadable or unreconstructable. Paper records should be shredded. CDs / DVDs should be cut into pieces. Hard Disks should be destroyed in line with good practice guidance.

**8. Sharing personal data**

We will not normally share personal data with anyone else, but may do so where:

* There is an issue with a pupil or parent/carer that puts the safety of our children, staff or parents/carers at risk
* We need to liaise with other agencies – we will seek consent where appropriate before doing this
* Our suppliers or contractors need data to enable us to provide services to our staff and pupils – for example, IT companies. When doing this, we will:
	+ Only appoint suppliers or contractors which can provide sufficient guarantees that they comply with data protection law
	+ Establish a data sharing agreement with the supplier or contractor, either in the contract or as a standalone agreement, to ensure the fair and lawful processing of any personal data we share
	+ Only share data that the supplier or contractor needs to carry out their service, and information necessary to keep them safe while working with us

We will also share personal data with law enforcement and government bodies where we are legally required to do so, including for:

* The prevention or detection of crime and/or fraud
* The apprehension or prosecution of offenders
* The assessment or collection of tax owed to HMRC
* In connection with legal proceedings
* Where the disclosure is required to satisfy our safeguarding obligations
* Research and statistical purposes, as long as personal data is sufficiently anonymised or consent has been provided

We may also share personal data with emergency services and local authorities to help them to respond to an emergency situation that affects any of our pupils or staff.

Where we transfer personal data to a country or territory outside the European Economic Area, we will do so in accordance with data protection law.

# 9. Subject access requests and other rights of individuals

**9.1 Subject access requests**

Individuals have a right to make a ‘subject access request’ to gain access to personal information that the school holds about them. This includes:

* Confirmation that their personal data is being processed
* Access to a copy of the data
* The purposes of the data processing
* The categories of personal data concerned
* Who the data has been, is being, or will be, shared with
* How long the data will be stored for, or if this isn’t possible, the criteria used to determine this period
* The source of the data, if not the individual
* Whether any automated decision-making is being applied to their data, and what the significance and consequences of this might be for the individual

Subject access requests must be submitted in writing, either by letter or email to the DPO. They should include:

* Name of individual
* Correspondence address
* Contact number and email address
* Details of the information requested

If staff receive a subject access request they must immediately forward it to the DPO.

**9.2 Children and subject access requests**

Personal data about a child belongs to that child, and not the child's parents or carers. For a parent or carer to make a subject access request with respect to their child, the child must either be unable to understand their rights and the implications of a subject access request, or have given their consent.

Children below the age of 12 are generally not regarded to be mature enough to understand their rights and the implications of a subject access request. Therefore, most subject access requests from parents or carers of pupils at our school may be granted without the express permission of the pupil. This is not a rule and a pupil’s ability to understand their rights will always be judged on a case-by-case basis.

**9.3 Responding to subject access requests**

When responding to requests, we:

* May ask the individual to provide 2 forms of identification;
* May contact the individual via phone to confirm the request was made by them;
* Will respond without delay and within 1 month of receipt of the request;
* Will provide the information free of charge;
* May tell the individual we will comply within 3 months of receipt of the request, where a request is complex or onerous. We will inform the individual of this within 1 month, and explain why the extension is necessary.

We will not disclose information if it:

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

If the request is unfounded or excessive, we may refuse to act on it, or charge a reasonable fee which takes into account administrative costs.

A request will be deemed to be unfounded or excessive if it is repetitive, or asks for further copies of the same information.

When we refuse a request, we will tell the individual why, and tell them they have the right to complain to the ICO.

**9.4 Other data protection rights of the individual**

In addition to the right to make a subject access request (see above), and to receive information when we are collecting their data about how we use and process it (see section 7), individuals also have the right to:

* Withdraw their consent to processing at any time
* Ask us to rectify, erase or restrict processing of their personal data, or object to the processing of it (in certain circumstances)
* Prevent use of their personal data for direct marketing
* Challenge processing which has been justified on the basis of public interest
* Request a copy of agreements under which their personal data is transferred outside of the European Economic Area
* Object to decisions based solely on automated decision making or profiling (decisions taken with no human involvement, that might negatively affect them)
* Prevent processing that is likely to cause damage or distress
* Be notified of a data breach in certain circumstances
* Make a complaint to the ICO
* Ask for their personal data to be transferred to a third party in a structured, commonly used and machine-readable format (in certain circumstances)

Individuals should submit any request to exercise these rights to the DPO. If staff receive such a request, they must immediately forward it to the DPO.

# 10. Biometric recognition systems (new section)

Currently, schools in the Q1E trust do not use, or have plans to use, any biometric recognition systems (for example, the use of fingerprints, retina and iris patterns) for identification purposes. Were such a system to be introduced, parents/carers would be notified and the school would obtain written parental consent, which could be withdrawn at any time.

**11. CCTV**

We use CCTV in various locations around our school sites to ensure they remain safe.

We will adhere to the ICO’s [code of practice](https://ico.org.uk/media/for-organisations/documents/1542/cctv-code-of-practice.pdf) for the use of CCTV.

We do not need to ask individuals’ permission to use CCTV, but we make it clear where individuals are being recorded. Security cameras are clearly visible and accompanied by prominent signs explaining that CCTV is in use.

Any enquiries about a school’s CCTV system or footage should be directed to the headteacher.

**12. Photographs and videos**

As part of our school activities, we may take photographs and record images of individuals within our school.

The following are examples of how images may be used within school without the need for specific parental consent, as the purpose is to benefit of the education and school experience of our pupils, include:

* As part of a learning activity; e.g. a teacher photographing the children at work and then sharing the pictures in the classroom, allowing them to see their work and make improvements.
* For presentation purposes around the school; e.g. in wall displays or slideshows that celebrate children’s work and achievements (we will not use a child’s name beside a photograph of them).
* As part of a recorded lesson observation; e.g. teachers using video to help them review and evaluate their practice, and discuss their lesson with other staff in order to develop their teaching.

We will obtain written consent from parents/carers for photographs and videos to be taken of their child for communication, marketing and promotional materials. We will clearly explain how the photographs and/or videos will be used to both the parent/carer and pupil.

Uses may include:

* School or Trust magazines, brochures, newsletters, prospectuses etc.
* Online on our school website or social media pages
* In an external presentation about a school/the Trust and its work, in order to share our practice with other schools or educators
* In the media (very rarely); e.g. if a newspaper photographer or television film crew attend an event.

Consent can be refused or withdrawn at any time. If consent is withdrawn, we will delete the photograph or video and not distribute it further.

When using photographs and videos in this way we will not accompany them with any other personal information about the child, to ensure they cannot be identified.

Any photographs and videos taken by parents/carers at school events for their own personal use are not covered by data protection legislation. However, we will ask that photos or videos with other pupils are not shared publicly on social media for safeguarding reasons, unless all the relevant parents/carers have agreed to this.

Our child protection and safeguarding policy includes more information on our use of photographs and videos.

**13. Remote learning**

When accessing personal data for remote learning purposes, all staff will use the secure cloud-based access service.

Staff may need to collect and/or share personal data such as email addresses as part of the remote learning system. As long as this processing is necessary for the school’s official functions, individuals won’t need to give permission for this to happen. However, staff are reminded to collect and/or share as little personal data as possible online.

All staff will take appropriate steps to ensure their devices remain secure. Please refer to our separate Acceptable Use of ICT Policy for more details.

**14. Data** **protection by design and default**

We will put measures in place to show that we have integrated data protection into all of our data processing activities, including:

* Appointing a suitably qualified DPO, and ensuring they have the necessary resources to fulfil their duties and maintain their expert knowledge
* Only processing personal data that is necessary for each specific purpose of processing, and always in line with the data protection principles set out in relevant data protection law (see section 6)
* Completing privacy impact assessments where the school’s processing of personal data presents a high risk to rights and freedoms of individuals, and when introducing new technologies (the DPO will advise on this process)
* Integrating data protection into internal documents including this policy, any related policies and privacy notices
* Regularly training members of staff on data protection law, this policy, any related policies and any other data protection matters; we will also keep a record of attendance
* Regularly conducting reviews and audits to test our privacy measures and make sure we are compliant
* Maintaining records of our processing activities, including:
	+ For the benefit of data subjects, making available the name and contact details of our school and DPO and all information we are required to share about how we use and process their personal data (via our privacy notices)
	+ For all personal data that we hold, maintaining an internal record of the type of data, data subject, how and why we are using the data, any third-party recipients, how and why we are storing the data, retention periods and how we are keeping the data secure

# 15. Data security and storage of records

We will protect personal data and keep it safe from unauthorised or unlawful access, alteration, processing or disclosure, and against accidental or unlawful loss, destruction or damage.

In particular:

* Paper-based records and portable electronic devices, such as laptops and hard drives that contain personal data are kept under lock and key when not in use.
* Papers containing confidential personal data must not be left on desks, on staffroom tables, pinned to notice/display boards, or left anywhere else where there is general access.
* Passwords that are at least 8 characters long containing letters and numbers are used to access school computers, laptops and other electronic devices. Staff and pupils are reminded to change their passwords at regular intervals.
* Encryption software is used to protect all portable devices and removable media, such as laptops and USB devices.
* Staff, pupils or governors who store personal information on their personal devices are expected to follow the same security procedures as for school-owned equipment (see our online safety policy for more information).
* Where we need to share personal data with a third party, we carry out due diligence and take reasonable steps to ensure it is stored securely and adequately protected.
* Adhere to all aspects of the schools Acceptable Use Policy.

# 16. Disposal of records

Personal data that is no longer needed will be disposed of securely. Personal data that has become inaccurate or out of date will also be disposed of securely, where we cannot or do not need to rectify or update it. For example, we will shred or incinerate paper-based records, and overwrite or delete electronic files. We may also use a third party to safely dispose of records on the school’s behalf. If we do so, we will require the third party to provide sufficient guarantees that it complies with data protection law.

**17. Personal data breaches**

The school will make all reasonable endeavours to ensure that there are no personal data breaches. In the unlikely event of a suspected data breach, we will follow the procedure set out in **appendix 1**. When appropriate, our DPO will report the data breach to the ICO within 72 hours. Such breaches in a school context may include, but are not limited to:

* A non-anonymised dataset being published on the school website
* Safeguarding information being made available to an unauthorised person
* The theft of a school laptop containing non-encrypted personal data about pupils.

# 18. Training

All staff and governors are provided with data protection training. This will form part of continuing development, where changes to legislation, guidance or the school’s processes make it necessary.

# Appendix 1: Personal data breach procedure

This procedure is based on [guidance on personal data breaches](https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/personal-data-breaches/) produced by the ICO.

* **On finding or causing a breach, or potential breach, the school must immediately notify the DPO at** Gary.Hipple@richmondandwandsworth.gov.uk. This can be done directly, or via the trust’s data protection lead.
* The DPO will investigate the report, and determine whether a breach has occurred. To decide, the DPO will consider whether personal data has been accidentally or unlawfully:
	+ Lost
	+ Stolen
	+ Destroyed
	+ Altered
	+ Disclosed or made available where it should not have been
	+ Made available to unauthorised people
* The DPO or the trust’s data protection lead will alert the headteacher and the lead trustee for data protection.
* The DPO will make all reasonable efforts to contain and minimise the impact of the breach, assisted by relevant staff members or data processors where necessary.
* If the breach has occurred via email, the DPO will ensure the sender attempts to recall the email as soon as they become aware of the error. If the sender is unavailable or cannot recall the email for any reason, the DPO will ask the IT department to recall it. If the recall is unsuccessful, the DPO will contact the relevant unauthorised individuals who received the email, explain that the information was sent in error, and request that those individuals delete the information and do not share, publish, save or replicate it in any way. The DPO will ensure we receive a written response from all the individuals who received the data, confirming that they have complied with this request. The DPO will carry out an internet search to check that the information has not been made public; if it has, we will contact the publisher/website owner or administrator to request that the information is removed from their website and deleted.
* The DPO will assess the potential consequences, based on how serious they are, and how likely they are to happen
* The DPO will work out whether the breach must be reported to the ICO. This must be judged on a case-by-case basis. To decide, the DPO will consider whether the breach is likely to negatively affect people’s rights and freedoms, and cause them any physical, material or non-material damage (e.g. emotional distress), including through:
	+ Loss of control over their data
	+ Discrimination
	+ Identify theft or fraud
	+ Financial loss
	+ Unauthorised reversal of pseudonymisation (for example, key-coding)
	+ Damage to reputation
	+ Loss of confidentiality
	+ Any other significant economic or social disadvantage to the individual(s) concerned

If it’s likely there will be a risk to people’s rights and freedoms, the DPO must notify the ICO.

* The DPO will document the decision (either way), in case it is challenged at a later date by the ICO or an individual affected by the breach. Documented decisions are stored on the school’s computer system.
* Where the ICO must be notified, the DPO will do this via the [‘report a breach’ page of the ICO website](https://ico.org.uk/for-organisations/report-a-breach/) within 72 hours. As required, the DPO will set out:
	+ A description of the nature of the personal data breach including, where possible:
		- The categories and approximate number of individuals concerned
		- The categories and approximate number of personal data records concerned
	+ The name and contact details of the DPO
	+ A description of the likely consequences of the personal data breach
	+ A description of the measures that have been, or will be taken, to deal with the breach and mitigate any possible adverse effects on the individual(s) concerned
* If all the above details are not yet known, the DPO will report as much as they can within 72 hours. The report will explain there is a delay, the reasons why, and when the DPO expects to have further information. The DPO will submit the remaining information as soon as possible
* The DPO will also assess the risk to individuals, again based on the severity and likelihood of potential or actual impact. If the risk is high, the DPO will inform in writing all individuals whose personal data has been breached, without undue delay. This notification will set out:
	+ The name and contact details of the DPO
	+ A description of the likely consequences of the personal data breach
	+ A description of the measures that have been, or will be, taken to deal with the data breach and mitigate any possible adverse effects on the individual(s) concerned
* The DPO will notify any relevant third parties who can help mitigate the loss to individuals – for example, the police, insurers, banks or credit card companies
* The DPO will document each breach, irrespective of whether it is reported to the ICO. For each breach, this record will include the:
	+ Facts and cause
	+ Effects
	+ Action taken to contain it and ensure it does not happen again (such as establishing more robust processes or providing further training for individuals)

Records of all breaches will be stored on the school’s computer system

* The DPO and headteacher will meet to review what happened and how it can be prevented from happening again. This meeting will happen as soon as reasonably possible

**Actions to minimise the risk of data breaches**

We will take the actions set out below to mitigate the risk of different types of data breach. We will review the effectiveness of these actions and amend them as necessary after any data breach.

All staff, governors and trustees will be required to read a copy of the **ICT Acceptable Use Policy**. Within this, users are advised that they should **take every precaution to ensure that data is kept secure** and is used appropriately, and are reminded that they must not:

* disclose any passwords for school systems or email accounts;
* use school/Trust ICT equipment or systems for non-school/Trust activities
* install any hardware or software on any school owned device without permission
* import personal data into any unauthorised programmes or apps
* use a USB stick to store or transfer unencrypted personal data
* keep photos or videos of children on a phone or any other personal device
* use children’s names or identifiable photos or videos on a school website, blog, app or social media page, unless in exceptional circumstances in which specific parental permission has been obtained (e.g. to celebrate an individual achievement in a news item)
* send unencrypted personal data via email.