

# Privacy Notice: Children Unable to Understand Their Rights

**Adopted Date:**

01/09/2023

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01/09/2024

## **Equality and Inclusion Statement:**

We include our equality statement in the beginning of all policies to emphasise our commitment to equality and inclusion.

At Apex Specialist Education we are committed to promoting equality of opportunity, eliminating discrimination and harassment, valuing diversity and promoting positive relationships. We provide an inclusive education which enables all pupils to develop their full potential meeting the requirements of the Equality Act 2010 and Special Educational Needs and Disability Code of Practice 2014.

At Apex Specialist Education, we believe that diversity is a strength which should be respected and celebrated by all those who learn, teach and visit us.

In line with the public sector equality duty (PSED) standards, Apex Specialist Education will have due regard to the need to:

- Eliminate discrimination.
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it.
- Foster good relations across all characteristics, between people who share a protected characteristic and people who do not share it.

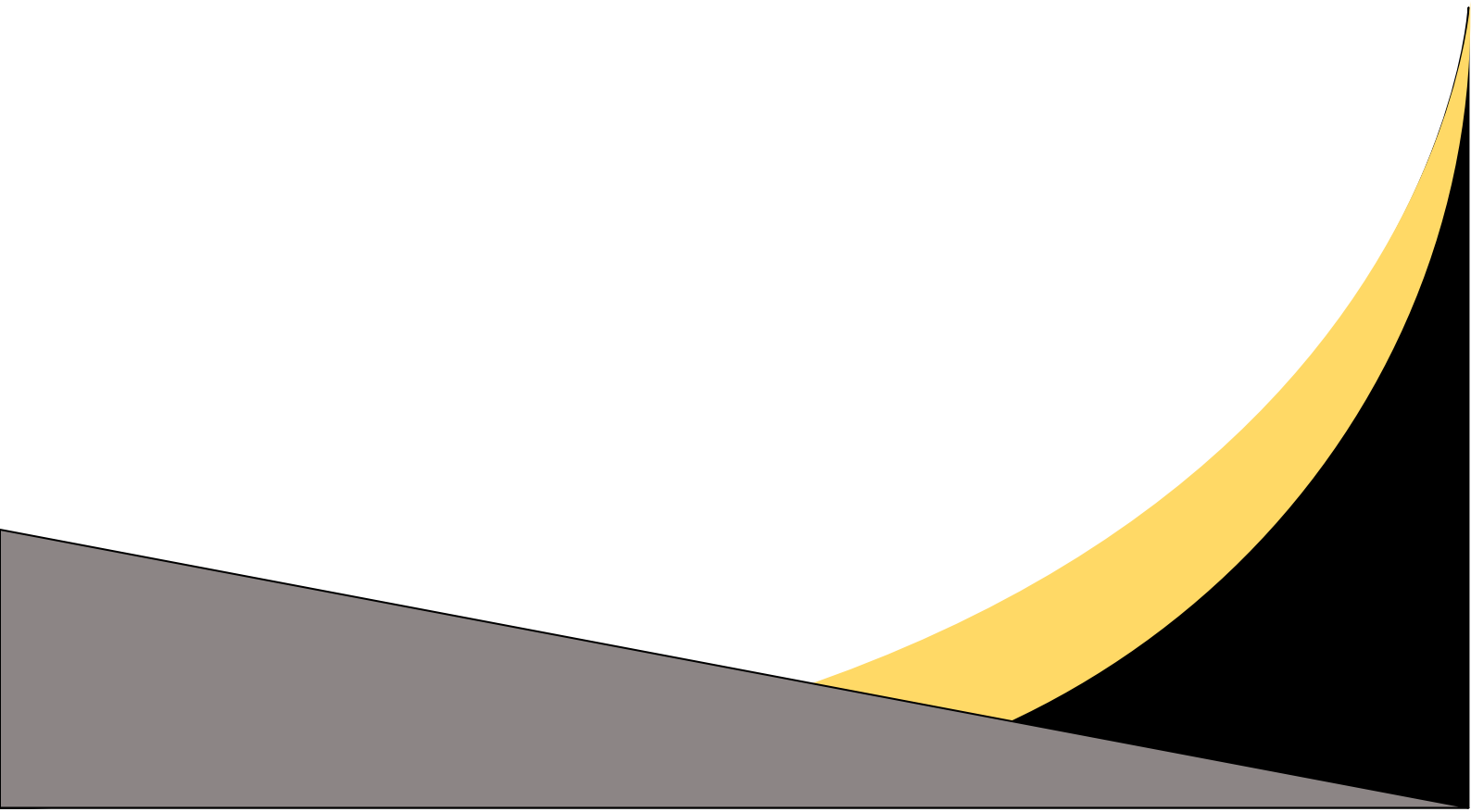
In practice, due regard means that the proprietary board and the leadership team will:

- Be aware of the duty to have due regard when making decisions or taking action and will assess whether it may have implications for people with particular protected characteristics.
- Consider equality implications before and at the time that they develop policies and take decisions, not as an afterthought and keep them under review on a continuing basis.
- Integrate PSED into the implementation of all school functions and ensure that the analysis necessary to comply with the duty is carried out seriously, rigorously and with an open mind.
- It is unlawful to discriminate in the following areas, termed as protected characteristics: age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy, race, religion or belief and sexual orientation.

All members of Apex Specialist Education community are responsible for promoting Apex Specialist Education's equality statement and are obliged to respect and act in accordance with it.

For further information please see Apex Specialist Education's Equality and Diversity Policy.

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## 1. Introduction

Under UK data protection law, individuals have a right to be informed about how our school uses any personal data that we hold about them. We comply with this right by providing 'privacy notices' (sometimes called 'fair processing notices') to individuals where we are processing their personal data.

This privacy notice explains how we collect, store and use personal data about **pupils at our school**.

This privacy notice applies while we believe your child is not capable of understanding and exercising their own data protection rights.

Once your child is able to understand their rights over their own data (generally considered to be age 12, but this has to be considered on a case-by-case basis), you should instead refer to our privacy notice for pupils to see what rights they have over their own personal data. This can be accessed through contacting our school directly.

We, Apex Specialist Education (Healey Learning Centre, Unit 16 Hollows Works, Shawclough Road, Rochdale, OL12 6LN), are the 'data controller' for the purposes of UK data protection law.

Our data protection officer is Matthew McCann (see 'Contact us' below).

## 2. The personal data we hold

Personal data that we may collect, use, store and share (when appropriate) about you includes, but is not restricted to:

- Contact details, contact preferences, date of birth, identification documents
- Results of internal assessments and externally set tests
- Pupil and curricular records
- Exclusion information
- Attendance information
- Safeguarding information
- Details of any support received, including care packages, plans and support providers
- Information about your child's use of our information and communications systems, equipment and facilities (e.g. school computers)

We may also collect, use, store and share (when appropriate) information about you We may also collect, use, store and share (when appropriate) information about your child that falls into 'special categories' of more sensitive personal data. This includes, but is not restricted to:

- Information about any medical conditions we need to be aware of, including physical and mental health
- Photographs and CCTV images captured in school
- Information about characteristics, such as ethnic background or special educational needs

We may also hold data about your child that we have received from other organisations, including other schools and social services.

### **3. Why we use this data**

We use the data listed above to:

- a) Support pupil learning
- b) Monitor and report on pupil progress
- c) Provide appropriate pastoral care
- d) Protect pupil welfare
- e) Assess the quality of our services
- f) Administer admissions waiting lists
- g) Carry out research
- h) Comply with the law regarding data sharing
- i) Make sure our information and communication systems, equipment and facilities (e.g. school computers) are used appropriately, legally and safely

#### **3.1 Use of your child's personal data for marketing purposes**

Where you have given us consent to do so, we may send your child marketing information by email or text promoting school events, campaigns, charitable causes or services that may be of interest to them.

You can withdraw consent or 'opt out' of receiving these emails and/or texts at any time by clicking on the 'Unsubscribe' link at the bottom of any such communication, or by contacting us (see 'Contact us' below).

#### **3.2 Use of your child's personal data in automated decision making and profiling**

We don't currently put pupils' personal data through any automated decision making or profiling process. This means we don't make decisions about children using only computers, without any human involvement.

If this changes in the future, we will update this notice in order to explain the processing to you, including your right to object to it.

### 3.3 Use of your child's personal data for filtering and monitoring purposes

While your child is in in our school, we may monitor their use of our information and communication systems, equipment and facilities (e.g. school computers). We do this so that we can:

- Comply with health and safety and other legal obligations
- Comply with our policies and our legal obligations
- Keep our network(s) and devices safe from unauthorised access, and prevent malicious software from harming our network(s)
- Protect your child's welfare

### 4. Our lawful basis for using this data

We only process personal data for the purposes listed above, in accordance with the 6 lawful bases as set out in Article 6 of the UK GDPR:

- Consent:** the individual has given clear consent for you to process their personal data for a specific purpose. Where you have provided us with consent to use your data, you may withdraw this consent at any time. We will make this clear when requesting your consent, and explain how you would go about withdrawing consent if you wish to do so.
- Contract:** the processing is necessary for a contract you have with the individual, or because they have asked you to take specific steps before entering into a contract.
- Legal obligation:** the processing is necessary for you to comply with the law (not including contractual obligations).
- Vital interests:** the processing is necessary to protect someone's life.
- Public task:** the processing is necessary for you to perform a task in the public interest or for your official functions, and the task or function has a clear basis in law.
- Legitimate interests:** the processing is necessary for your legitimate interests or the legitimate interests of a third party, unless there is a good reason to protect the individual's personal data which overrides those legitimate interests. (This cannot apply if you are a public authority processing data to perform your official tasks.)

### 4.1 Our basis for using special category data

For 'special category' data, we only collect and use it when we have both a lawful basis, as set out above, and 1 of the following conditions for processing as set out in UK data protection law:

- We have obtained your explicit consent to use your child's personal data in a certain way
- We need to perform or exercise an obligation or right in relation to employment, social security or social protection law
- We need to protect an individual's vital interests (i.e. protect your life or someone else's life), in situations where you're physically or legally incapable of giving consent
- The data concerned has already been made manifestly public by you
- We need to process it for the establishment, exercise or defence of legal claims
- We need to process it for reasons of substantial public interest as defined in legislation
- We need to process it for health or social care purposes, and the processing is done by, or under the direction of, a health or social work professional or by any other person obliged to confidentiality under law
- We need to process it for public health reasons, and the processing is done by, or under the direction of, a health professional or by any other person obliged to confidentiality under law
- We need to process it for archiving purposes, scientific or historical research purposes, or for statistical purposes, and the processing is in the public interest

For criminal offence data, we will only collect and use it when we have both a lawful basis, as set out above, and a condition for processing as set out in UK data protection law. Conditions include:

- We have obtained your consent to use it in a specific way
- We need to protect an individual's vital interests (i.e. protect your child's life or someone else's life), in situations where you're physically or legally incapable of giving consent
- The data concerned has already been made manifestly public by you
- We need to process it for, or in connection with, legal proceedings, to obtain legal advice, or for the establishment, exercise or defence of legal rights
- We need to process it for reasons of substantial public interest as defined in legislation

## **5. Collecting this data**

While the majority of information we collect about your child is mandatory, there is some information that can be provided voluntarily.

Whenever we seek to collect information from you, we make it clear whether you must provide this information (and if so, what the possible consequences are of not complying), or whether you have a choice.

Most of the data we hold about your child will come from you, but we may also hold data about your child from:

- Local authorities
- Government departments or agencies
- Police forces, courts or tribunals

## **6. How we store this data**

We keep personal information about your child while they are attending our school. We may also keep it beyond their attendance at our school if this is necessary. Our retention schedule sets out how long we keep information about pupils.

Our retention schedule is available on request via directly contacting Apex Specialist Education.

We have put in place appropriate security measures to prevent your child's personal information from being accidentally lost, used or accessed in an unauthorised way, altered or disclosed.

We will dispose of your child's personal data securely when we no longer need it.

## **7. Who we share data with**

We do not share information about your child with any third party without consent unless the law and our policies allow us to do so.

Where it is legally required, or necessary (and it complies with UK data protection law), we may share personal information about your child with:

- Our local authority, Rochdale – to meet our legal obligations to share certain information with it, such as safeguarding concerns
- Government departments or agencies
- Our regulator, Ofsted
- Suppliers and service providers:
- SENSO monitoring and filtering
- Financial organisations
- Survey and research organisations
- Health authorities
- Security organisations
- Health and social welfare organisations
- Professional advisers and consultants
- Charities and voluntary organisations
- Police forces, courts or tribunals



## National Pupil Database

We are required to provide information about pupils to the Department for Education as part of statutory data collections such as the school census.

Some of this information is then stored in the [National Pupil Database \(NPD\)](#), which is owned and managed by the Department for Education and provides evidence on school performance to inform research.

The database is held electronically so it can easily be turned into statistics. The information is securely collected from a range of sources including schools, local authorities and exam boards.

The Department for Education may share information from the NPD with third parties, such as other organisations which promote children's education or wellbeing in England. These third parties must agree to strict terms and conditions about how they will use the data.

For more information, see the Department for Education's webpage on [how it collects and shares personal data](#).

You can also [contact the Department for Education](#) with any further questions about the NPD.

### 7.1 Transferring data internationally

Where we transfer your child's personal data to a third-party country or territory, we will do so in accordance with UK data protection law.

In cases where we have to set up safeguarding arrangements to complete this transfer, you can get a copy of these arrangements by contacting us.

## 8. Your rights

### 8.1 How to access personal information that we hold about your child

You have a right to make a 'subject access request' to gain access to personal information that we hold about your child.

If you make a subject access request, and if we do hold information about your child, we will (subject to any exemptions that apply):

- Give you a description of it
- Tell you why we are holding and processing it, and how long we will keep it for
- Explain where we got it from, if not from you
- Tell you who it has been, or will be, shared with
- Let you know whether any automated decision-making is being applied to the data, and any consequences of this

- Give you a copy of the information in an intelligible form

You may also have the right for your child's personal information to be transmitted electronically to another organisation in certain circumstances.

If you would like to make a request, please contact us (see 'Contact us' below).

Once your child is able to understand their rights over their own data (generally considered to be age 12, but this has to be considered on a case-by-case basis), we will need to obtain consent from your child for you to make a subject access request on their behalf.

## **8.2 Your right to access your child's educational record**

Parents, or those with parental responsibility, also have the right to access their child's educational record (which includes most information about a pupil). This right applies as long as the pupil is aged under 18.

There are certain circumstances in which this right can be denied, such as if releasing the information might cause serious harm to the physical or mental health of the pupil or another individual, or if it would mean releasing exam marks before they are officially announced.

To make a request, please contact our Headteacher.

## **8.3 Your other rights regarding your child's data**

Under UK data protection law, you have certain rights regarding how your child's personal data is used and kept safe. For example, you have the right to:

- Object to our use of your child's personal data
- Prevent your child's data being used to send direct marketing
- Object to and challenge the use of your child's personal data for decisions being taken by automated means (by a computer or machine, rather than by a person)
- In certain circumstances, have inaccurate personal data corrected
- In certain circumstances, have the personal data we hold about your child deleted or destroyed, or restrict its processing
- Withdraw your consent, where you previously provided it for the collection, processing and transfer of your child's personal data for a specific purpose
- In certain circumstances, be notified of a data breach
- Make a complaint to the Information Commissioner's Office
- Claim compensation for damages caused by a breach of the data protection regulations

To exercise any of these rights, please contact us (see 'Contact us' below).

Once your child is able to understand their rights over their own data (generally considered to be age 12, but this has to be considered on a case-by-case basis), we will need to obtain consent from your child for you to make these requests on their behalf.

## 9. Complaints

We take any complaints about our collection and use of personal information very seriously.

If you think that our collection or use of personal information is unfair, misleading or inappropriate, or have any other concern about our data processing, please raise this with us in the first instance.

Alternatively, you can make a complaint to the Information Commissioner's Office:

- Report a concern online at <https://ico.org.uk/make-a-complaint/>
- Call 0303 123 1113
- Or write to: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF

## 10. Contact us

If you have any questions or concerns, or would like more information about anything mentioned in this privacy notice, please contact our **data protection lead**:

- Matthew McCann (Proprietor/Headteacher)
  - 07915 269 720
  - [matthew.mccann@apex-specialisteducation.com](mailto:matthew.mccann@apex-specialisteducation.com)

