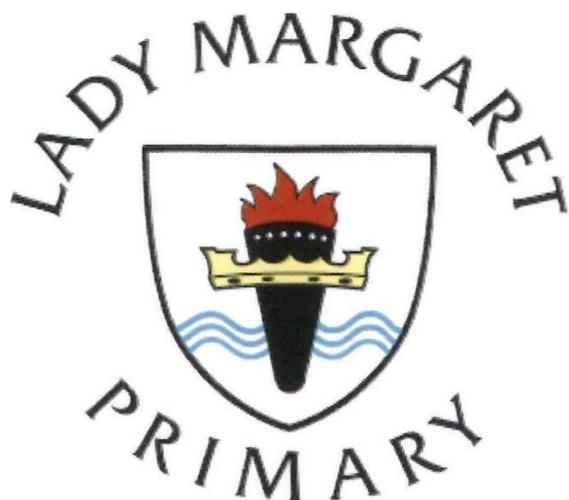


Lady Margaret Primary School



Where children come FIRST

Personal Data Breach Policy

Approved by: [Name]

Date: [Date]

Last reviewed on: [Date]

Next review due by: [Date]

This policy supports the **Rights Respecting principles** adopted by Lady Margaret Primary School and is particularly relevant to the following articles:

UNICEF - Convention on the Rights of the Child (CRC)

Article 3

The best interests of the child must be a top priority in all things that affect children.

Article 16

Every child has the right to privacy. The law should protect the child's private, family and home life.

The General Data Protection Regulation (GDPR) aims to protect the rights of individuals about whom data is obtained, stored, processed or supplied and requires that organisations take appropriate security measures against unauthorised access, alteration, disclosure or destruction of personal data.

The GDPR places obligations on staff to report actual or suspected data breaches and our procedure for dealing with breaches is set out below. All members of staff are required to familiarise themselves with its content and comply with the provisions contained in it.

Training will be provided to all staff to enable them to carry out their obligations within this policy.

Data Processors will be provided with a copy of this policy and will be required to notify the School of any data breach without undue delay after becoming aware of the data breach. Failure to do so may result in a breach to the terms of the processing agreement.

Breach of this policy will be treated as a disciplinary offence which may result in disciplinary action under the School's Disciplinary Policy and Procedure up to and including summary dismissal depending on the seriousness of the breach.

This policy does not form part of any individual's terms and conditions of employment with the School and is not intended to have contractual effect. Changes to data protection legislation will be monitored and further amendments may be required to this policy in order to remain compliant with legal obligations.

Definitions

Personal Data

Personal data is any information relating to an individual where the individual can be identified (directly or indirectly) from that data alone or in combination with other identifiers we possess or can reasonably access. This includes special category data and pseudonymised personal data but excludes anonymous data or data that has had the identity of an individual permanently removed.

Personal data can be factual (for examples a name, email address, location or date of birth) or an opinion about that person's actions or behaviour.

Personal data will be stored either electronically or as part of a structured manual filing system in such a way that it can be retrieved automatically by reference to the individual or criteria relating to that individual.

Special Category Data

Previously termed "Sensitive Personal Data", Special Category Data is similar by definition and refers to data concerning an individual's racial or ethnic origin, political or religious beliefs, trade union membership, physical and mental health, sexuality, biometric or genetic data and personal data relating to criminal offences and convictions.

Personal Data Breach

A personal data breach is a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data or special category data transmitted, stored or otherwise processed.

Data Subject

Person to whom the personal data relates.

ICO

ICO is the Information Commissioner's Office, the UK's independent regulator for data protection and information.

This procedure is based on [guidance on personal data breaches](#) produced by the ICO.

Responsibility

The Headteacher has overall responsibility for breach notification within the School. They are responsible for ensuring breach notification processes are adhered to by all staff and are the designated point of contact for personal data breaches.

On finding or causing a breach, or potential breach, the staff member or data processor must immediately notify the Headteacher:

In the absence of the headteacher, please do contact Amanda Hancock school business manager.

The Data Protection Officer (DPO)

The (DPO) is responsible for overseeing this policy and developing data-related policies and guidelines.

Please contact the DPO with any questions about the operation of this policy or the GDPR or if you have any concerns that this policy is not being or has not been followed.

The DPO's contact details are set out below: -

Data Protection Officer	Craig Stilwell
Company:	Judicium Consulting Ltd
Address:	72 Cannon Street, London, EC4N 6AE
Email: dataservices@judicium.com	Web: www.judiciumeducation.co.uk
Telephone: 0203 326 9174	

Security and Data-Related Policies

Staff should refer to the following policies that are related to this policy: -

- Security Policy which sets out the School's guidelines and processes on keeping personal data secure against loss and misuse.
- Data Protection Policy which sets out the School's obligations under GDPR about how they process personal data.

These policies are also designed to protect personal data and can be found in the staff shared drive [T:\2. Policies and Procedures](#)

Data Breach Procedure

What Is A Personal Data Breach?

A personal data breach is a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data or special category data transmitted, stored or otherwise processed.

Examples of a data breach could include the following (but are not exhaustive): -

- Loss or theft of data or equipment on which data is stored, for example loss of a laptop or a paper file (this includes accidental loss);
- Accidentally destroyed
- Inappropriate access controls allowing unauthorised use;
- Equipment failure;
- Human error (for example sending an email or SMS to the wrong recipient);
- Disclosed or made available where it should not have been
- Unforeseen circumstances such as a fire or flood;
- Hacking, phishing and other "blagging" attacks where information is obtained by deceiving whoever holds it.

When Does It Need To Be Reported?

The School must notify the ICO of a data breach where it is likely to result in a risk to the rights and freedoms of individuals. This means that the breach needs to be more than just losing personal data and if unaddressed the breach is likely to have a significant detrimental effect on individuals.

Examples of where the breach may have a significant effect includes: -

- potential or actual discrimination;
- potential or actual financial loss;
- potential or actual loss of confidentiality;
- risk to physical safety or reputation;

- exposure to identity theft (for example through the release of non-public identifiers such as passport details);
- the exposure of the private aspect of a person's life becoming known by others.

If the breach is likely to result in a high risk to the rights and freedoms of individuals then the individuals must also be notified directly.

Reporting a Data Breach

If you know or suspect a personal data breach has occurred or may occur which meets the criteria above, you should: -

- Complete a data breach report form (which can be obtained from the school business manager or downloaded from the school website www.ladymargaret.ealung.sch.uk;
- Email the completed form to sbm@ladymargaret.ealing.sch.uk.

Where appropriate, you should liaise with your line manager about completion of the data report form. Breach reporting is encouraged throughout the School and staff are expected to seek advice if they are unsure as to whether the breach should be reported and/or could result in a risk to the rights and freedom of individuals. They can seek advice from their line manager, a member of the senior leadership team or the DPO.

Once reported, you should not take any further action in relation to the breach. In particular you must not notify any affected individuals or regulators or investigate further. The school business manager will acknowledge receipt of the data breach report form and take appropriate steps to deal with the report in collaboration with the DPO.

Managing and Recording the Breach

On being notified of a suspected personal data breach, the school business manager will notify the DPO. Collectively they will take immediate steps to establish whether a personal data breach has in fact occurred. If so they will take steps to:-

- Where possible, make all reasonable efforts to contain and minimise the impact of the breach, assisted by relevant staff members or data processors where necessary. (Actions relevant to specific data types are set out at the end of this procedure in appendix 1)
- As far as possible, recover, rectify or delete the data that has been lost, damaged or disclosed;
- Assess and record the breach in the School's data breach register;
- Notify the ICO
- Notify data subjects affected by the breach;
- Notify other appropriate parties to the breach;
- Take steps to prevent future breaches.

Notifying the ICO

The Headteacher/SBM in consultation with 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

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.

If it's likely that there will be a risk to people's rights and freedoms, the Headteacher/SBM must notify the ICO.

Where the ICO must be notified, the Headteacher/SBM will do this via the ['report a breach' page of the ICO website](#) within **72 hours**.

The Headteacher/SBM 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 headteacher/SBM will report as much as they can within 72 hours. The report will explain that there is a delay, the reasons why, and when the headteacher/SBM expects to have further information. The headteacher/SBM will submit the remaining information as soon as possible.
- The Headteacher/SBM will alert the DPO and chair of governors

Notifying Data Subjects

The Headteacher/SBM in consultation with 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 Headteacher/SBM will promptly inform, in writing, all individuals whose personal data has been breached. 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 SBM 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 SBM 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.

Assessing the Breach

Once initial reporting procedures have been carried out, the School will carry out all necessary investigations into the breach.

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

The School will identify how the breach occurred and take immediate steps to stop or minimise further loss, destruction or unauthorised disclosure of personal data. We will identify ways to recover correct or delete data (for example notifying our insurers or the police if the breach involves stolen hardware or data).

Having dealt with containing the breach, the School will consider the risks associated with the breach. These factors will help determine whether further steps need to be taken (for example notifying the ICO and/or data subjects as set out above). These factors include: -

- What type of data is involved and how sensitive it is;
- The volume of data affected;
- Who is affected by the breach (i.e. the categories and number of people involved);
- The likely consequences of the breach on affected data subjects following containment and whether further issues are likely to materialise;
- Are there any protections in place to secure the data (for example, encryption, password protection, pseudonymisation);
- What has happened to the data;
- What could the data tell a third party about the data subject;
- What are the likely consequences of the personal data breach on the school; and
- Any other wider consequences which may be applicable.

Preventing Future Breaches

Once the data breach has been dealt with, the School will consider its security processes with the aim of preventing further breaches. In order to do this, we will: -

- Establish what security measures were in place when the breach occurred;
- Assess whether technical or organisational measures can be implemented to prevent the breach happening again;
- Consider whether there is adequate staff awareness of security issues and look to fill any gaps through training or tailored advice;
- Consider whether it's necessary to conduct a privacy or data protection impact assessment;
- Consider whether further audits or data protection steps need to be taken;
- To update the data breach register;
- To debrief governors/management following the investigation.

Reporting Data Protection Concerns

Prevention is always better than dealing with data protection as an after-thought. Data security concerns may arise at any time and we would encourage you to report any concerns (even if they don't meet the criteria of a data breach) that you may have to the School Business Manager,

Amanda Hancock, the Headteacher or the DPO. This can help capture risks as they emerge, protect the School from data breaches and keep our processes up to date and effective.

Monitoring

We will monitor the effectiveness of this and all of our policies and procedures and conduct a full review and update as appropriate.

Our monitoring and review will include looking at how our policies and procedures are working in practice to reduce the risks posed to the School.

Appendix 1 -Actions to minimise the impact of data breaches

We will take the actions set out below to mitigate the impact of different types of data breach, focusing especially on breaches involving particularly risky or sensitive information. We will review the effectiveness of these actions and amend them as necessary after any data breach.

Sensitive information being disclosed via email (including safeguarding records)

- If special category data (sensitive information) is accidentally made available via email to unauthorised individuals, the sender must attempt to recall the email as soon as they become aware of the error
- Members of staff who receive personal data sent in error must alert the sender and the Headteacher/SBM as soon as they become aware of the error
- If the sender is unavailable or cannot recall the email for any reason, the Headteacher/SBM will ask the ICT support provider Azteq Solutions to recall it
- In any cases where the recall is unsuccessful, the Headteacher/SBM 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 Headteacher/SBM will ensure we receive a written response from all the individuals who received the data, confirming that they have complied with this request
- The SBM 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
- Notification will be sent to the individuals whose personal data has been affected by the incident will include a description of how and when the breach occurred and the data involved. Specific and clear advice will be given on what they can do to protect themselves, and include what action has already been taken to mitigate the risks. Individuals will also be provided with a way in which they can contact the school for further information or to ask questions on what has occurred.

Sensitive information being disclosed via school website

- If special category data (sensitive information) is accidentally made available via the school website the information will be removed by school administrators as soon as they become aware of the error.
- The website administrators must alert the Headteacher/SBM as soon as they become aware of the error.
- The SBM 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 SBM will ensure we receive a written response from the website owner or administrator confirming that they have complied with this request.
- Notification will be sent to the individuals whose personal data has been affected by the incident will include a description of how and when the breach occurred and the data involved. Specific and clear advice will be given on what they can do to protect themselves, and include what action has already been taken to mitigate the risks. Individuals will also be provided with a way in which they can contact the school for further information or to ask questions on what has occurred.

Sensitive information being disclosed to governors in school reports

- If special category data (sensitive information) is accidentally shared with governors during meetings, the reports will be immediately withdrawn.

- The clerk to governors must alert the Headteacher/SBM as soon as they become aware of the error.
- Notification will be sent to the individuals whose personal data has been affected by the incident will include a description of how and when the breach occurred and the data involved. Specific and clear advice will be given on what they can do to protect themselves, and include what action has already been taken to mitigate the risks. Individuals will also be provided with a way in which they can contact the school for further information or to ask questions on what has occurred.

Sensitive information being disclosed as a result of a cyber attack

- If special category data (sensitive information) is accidentally disclosed as a result of a cyber-attack immediate step will be to secure the IT systems in order to contain the breach and ensure it is not on going.
- The school business manager will contact the IT support contractor to consider how and when the breach was detected, and whether any other systems have been compromised.
- The IT support contractor must alert the Headteacher/SBM as soon as they become aware of the error.
- Notification will be sent to the individuals whose personal data has been affected by the incident will include a description of how and when the breach occurred and the data involved. Specific and clear advice will be given on what they can do to protect themselves, and include what action has already been taken to mitigate the risks. Individuals will also be provided with a way in which they can contact the school for further information or to ask questions on what has occurred.