

### Overview

The General Data Protection Regulation (GDPR) comes into force 25<sup>th</sup> May 2018.

GDPR has extensive rules on how every organisations protects personal data.

Personal data relating to **children** has specific rules that every school or club needs to be aware of:

- to comply with the law, and
- ensure that children in its care are protected as data subjects.

This report provides a summary of how GDPR impacts schools and clubs, with guidance notes from the UK Information Commission Office (ICO).

### First Step

#### Don't Panic!

GDPR does not impact schools and clubs in the same way it impacts businesses.

- The GDPR rules relating to schools and clubs are not onerous,
- they take a common sense approach to ensure schools and clubs can function normally,
- they apply relatively simple practices for the benefit of children and parents,
- they reduce potential for abuse of the rights of children and parents,
- they help protect schools and clubs from undue and unwanted risks.



## GDPR

### General Data Protection Regulation



© MARK ANDERSON WWW.ANDERTOONS.COM



"Before I write my name on the board, I'll need to know how you're planning to use that data."

### What is Personal Data, under GDPR?

Personal data is any information collected and used within any organisation that can be used to identify a natural person or persons.

**Names, addresses, phone numbers, email, IP addresses, photos, biometric and genetic data are all deemed to be personal data.**

**Even employee/volunteer records are personal data.**

### What is not personal data, under GDPR?

- x Business contact data is not personal data.
- x Internal statistics and reports are generally not personal data (unless personal data is included).

### How does GDPR impact Schools & Clubs?

- GDPR does not restrict schools and clubs from publishing information on web sites or local press.
- But schools and clubs have to act fairly when publishing and take seriously any concerns raised.



### What is a child, under GDPR?

- The UK version of GDPR defines a child as anyone under the age of 16.
- The EU allows member states to define ages from under 13 to under 16.

Jersey and Guernsey have not yet defined an age for its GDPR legislation. However, the C.I. rules are likely to fall within the EU 13-16 range, therefore we recommend applying the higher age, i.e.

- Jersey/Guernsey: a child is any natural person under the age of 16.

**Note:** In some cases age is not an arbitrary measure of maturity. Due care should be applied by parents, schools and clubs in special cases.

### What GDPR measures need special attention?

- Fairness & Transparency,
- Awareness & Objections,
- Photos & Videos.

#### Fairness & Transparency

Information should be collected in a fair and open manner. This means that children and their parents or guardians (people) should be told about:

- how the information about them will be used; and
- who will be allowed to see it.

Schools/clubs should make sure that people are aware as early as possible whether:

- reports/results will be made public; and
- how this will be done.

#### Awareness

This 'awareness' information should be repeated at regular intervals, for example at:

- the start of each school year; or
- the start of each term period.

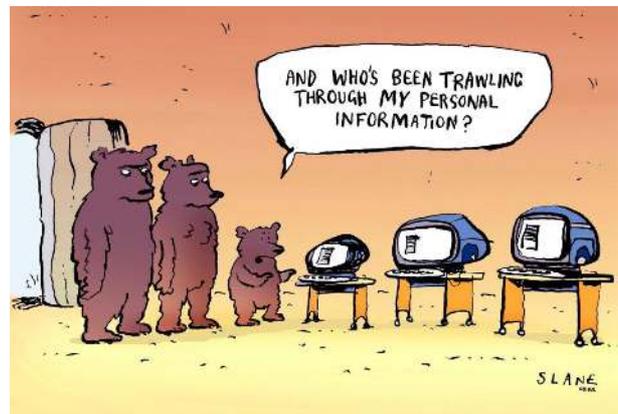
Regularly providing this information is particularly important in schools/clubs with a high turnover of pupils/members.

Schools/clubs should not assume that all people will know about this.

Schools/clubs should also explain how the information will be published. For example:

- alphabetically; or
- in grade (performance) order?

Please note that some people might object if results are published in grade order.



### Objections

In general, schools/clubs do not need peoples' consent to publish results.

But publication may sometimes cause distress or harm.

Schools/clubs should always:

- consider any objections before deciding to publish; and
- have a justifiable reason to reject someone's objection.

### Children & Parents

The GDPR does not specify an age when a child can independently request that their results are not published.

When a child makes a request, schools/clubs should take into account whether:

- the child wants their parent or guardian to be involved; and
- the child properly understands what is involved.



*"They had their names removed using the right to be forgotten"*

The ability of children to understand and exercise their rights is likely to develop as they get older. As a general guide, a child of 12 or older is expected to be mature enough to understand the request they are making.

However, please note that a child may be mature enough at an earlier age or may lack sufficient maturity until a later age - so requests should be considered on a case-by-case basis.

### Timing

Sometimes there will be rules in place about the timing of the release of results. It is good practice for schools/clubs to make sure they have the latest information and guidance on the release of results.



## Schools & Clubs General Data Protection Regulation

COMPLIANCE · SENIOR MANAGEMENT SUPPORT · TRAINING · TECHNOLOGY · DUE DILIGENCE · GOVERNMENT SERVICES

### Photographs & Videos

#### Recommended Good Practice

The GDPR is unlikely to apply in many cases where photographs are taken in schools, clubs and other educational institutions.

- Fear of breaching the provisions of the GDPR should not be wrongly used to stop people taking photographs or videos which provide many with much pleasure.

Where the GDPR does apply, a common sense approach suggests that if the photographer asks for permission to take a photograph, this will usually be enough to ensure compliance.

- Photos taken for official school/club use may be covered by the GDPR and pupils/children should be advised why they are being taken.
- Photos taken purely for personal use are exempt from the GDPR.

### Photo/Video Use Examples

#### Personal use:

- A parent takes a photograph of their child and some friends taking part in a Sports Day to be put in the family photo album. These images are for personal use and the GDPR does not apply.
- Grandparents are invited to the school nativity play and wish to video it. These images are for personal use and the GDPR does not apply.

#### Official school/club use:

- Photographs of pupils or children are taken for building passes or membership ID cards. These images are likely to be stored electronically with other personal data and the terms of the GDPR will apply.
- A small group of pupils are photographed during a science lesson and the photo is to be used in the school prospectus. This will be personal data but will not breach the GDPR as long as the children and/or their guardians are aware this is happening and the context in which the photo will be used.

#### COMSURE

No 1 Bond Street Chambers, St Helier, Jersey, Channel Islands, JE2 3NP

T: +44 (0) 1534 626841 M: +44 (0) 7797 747 490 F: +44 (0) 1534 626842 [info@comsuregroup.com](mailto:info@comsuregroup.com) [www.comsuregroup.com](http://www.comsuregroup.com)

## Schools & Clubs General Data Protection Regulation

COMPLIANCE · SENIOR MANAGEMENT SUPPORT · TRAINING · TECHNOLOGY · DUE DILIGENCE · GOVERNMENT SERVICES

### Media use:

- A photograph is taken by a local newspaper of a school/club awards ceremony. As long as the school/club has agreed to this, and the children and/or their guardians are aware that photographs of those attending the ceremony may appear in the newspaper, this will not breach the GDPR.

### Other Considerations

Additional guidance is available if you need further information on giving pupils access to examination records see the [Subject access code of practice](#) (available on the ICO website).

### More ICO Guidance Information

Additional guidance is available on the ICO guidance pages at [www.ico.org.uk](http://www.ico.org.uk).

The guidance will be reviewed and considered from time to time in line with new decisions of the Information Commissioner, Tribunals and courts.

The ICO provides guidance to the general recommended approach, although individual cases will always be decided on the basis of their particular circumstances.

### C.I. Guidance Information

The Office of the Information Commissioner (OIC) is the official Data Protection Authority (DPA) for Jersey.

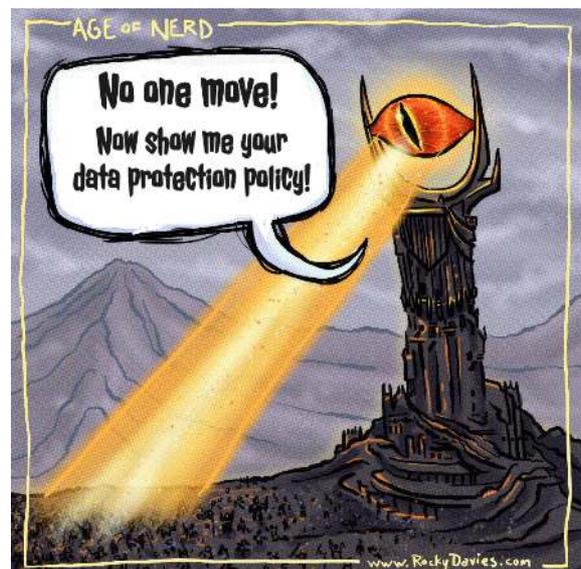
Email: [enquiries@dataci.org](mailto:enquiries@dataci.org)

Phone: +44(0)1534 716 530

The Office of the Data Protection Commissioner (ODPC) is the official Data Protection Authority (DPA) for Guernsey.

Email: [enquiries@dataci.org](mailto:enquiries@dataci.org)

Phone: +44(0)1481 742 074



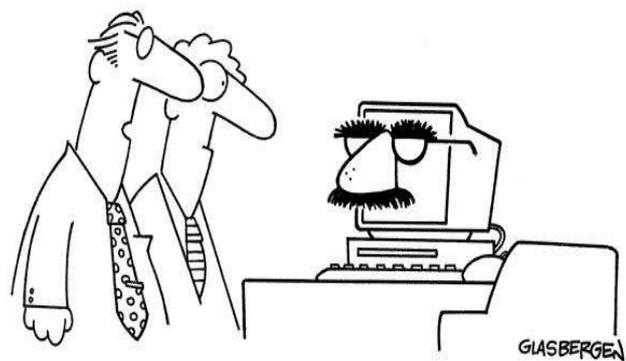
### Tools & Solutions

There are several software tools that are designed to protect data for organisations, and there are some tools specifically designed for use by schools.

#### Data Encryption

Encryption of data is an important measure that is recognised within the GDPR as providing exemption for any organisation.

- ✓ The premise being that if personal data is encrypted it becomes unrecognisable and can no longer be used to identify natural persons.
- ✓ In addition, many of the vulnerabilities of IT systems (i.e. cyber attack, hack, virus, data theft, data loss, etc.) can no longer cause damage as any data that passes to unauthorised persons is no longer recognisable.



"I'm sure there are better ways to disguise sensitive information, but we don't have a big budget."

In our opinion all organisations should consider data encryption as a core data protect, security and privacy measure.

- Data encryption is not a silver bullet; but it is an extremely good start.

When combined with relatively simple organisation and administration methods (including secure back-up & disaster recovery), together with industry standard system protection (i.e. firewall & anti-virus), encryption helps ensure best practice and a robust organisational data protection system.

### Disclaimer

- This document has been prepared for informational purposes only.
- The content of this document does not constitute legal advice and should not be relied upon as such.
- Consult your legal counsel when in any doubt about understanding your rights and obligations in order to comply with the law and regulations.