



## Lovelace Primary School Data Protection Policy

**Date agreed:**

**Cycle of Review / Date of next review:** bi-annually

**Signature of Headteacher:**

**Signature on behalf of Governing Body (Chair / or chair of committee):**

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## **Lovelace Primary School Data Protection Policy**

### **Statement of intent**

Lovelace Primary School is required to keep and process certain information about its staff members and pupils in accordance with its legal obligations under the General Data Protection Regulation (GDPR).

The school may, from time to time, be required to share personal information about its staff or pupils with other organisations, mainly the LA, other schools and educational bodies, and potentially children's services.

This policy is in place to ensure all staff and governors are aware of their responsibilities and outlines how the school complies with the following core principles of the GDPR.

Organisational methods for keeping data secure are imperative, and Lovelace Primary School believes that it is good practice to keep clear practical policies, backed up by written procedures.

This policy complies with the requirements set out in the GDPR, which came into effect on 25 May 2018. The government have confirmed that the UK's decision to leave the EU will not affect the commencement of the GDPR.



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### 1. Legal framework

1.1. This policy has due regard to legislation, including, but not limited to the following:

- The General Data Protection Regulation (GDPR)
- The Freedom of Information Act 2000
- The Education (Pupil Information) (England) Regulations 2005 (as amended in 2016)
- The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004
- The School Standards and Framework Act 1998

1.2. This policy will also have regard to the following guidance:

- Information Commissioner's Office (2017) 'Overview of the General Data Protection Regulation (GDPR)'
- Information Commissioner's Office (2017) 'Preparing for the General Data Protection Regulation (GDPR) 12 steps to take now'

1.3. This policy will be implemented in conjunction with the following other school policies:

**Acceptable Use Agreement**  
**Safe Working Practice Agreement**  
**Freedom of Information Policy**  
**CCTV Policy**

### 2. Applicable data

- 2.1. For the purpose of this policy, **personal data** refers to information that relates to an identifiable, living individual, including information such as an online identifier, e.g. an IP address. The GDPR applies to both automated personal data and to manual filing systems, where personal data is accessible according to specific criteria, as well as to chronologically ordered data and pseudonymised data, e.g. key-coded.
- 2.2. **Sensitive personal data** is referred to in the GDPR as 'special categories of personal data', which are broadly the same as those in the Data Protection Act (DPA) 1998. These specifically include the processing of genetic data, biometric data (which Lovelace Primary does not currently use) and data concerning health matters.

### 3. Principles

3.1. In accordance with the requirements outlined in the GDPR, personal data will be:

- Processed lawfully, fairly and in a transparent manner in relation to individuals.
- Collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes.
- Adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed.
- Accurate and, where necessary, kept up-to-date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay.
- Kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods, insofar as the personal data will be



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processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes, subject to implementation of the appropriate technical and organisational measures required by the GDPR in order to safeguard the rights and freedoms of individuals.

- Processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

3.2. The GDPR also requires that “the controller shall be responsible for, and able to demonstrate, compliance with the principles”.

### 4. Accountability

4.1. Lovelace Primary School will implement appropriate technical and organisational measures to demonstrate that data is processed in line with the principles set out in the GDPR.

4.2. The school will provide comprehensive, clear and transparent privacy policies.

4.3. Records of activities relating to higher risk processing will be maintained, such as the processing of special categories data or that in relation to criminal convictions and offences.

4.4. Internal records of processing activities will include the following:

- Name and details of the organisation
- Purpose(s) of the processing
- Description of the categories of individuals and personal data
- Retention schedules
- Categories of recipients of personal data
- Description of technical and organisational security measures
- Details of transfers to third countries, including documentation of the transfer mechanism safeguards in place

4.5. The school will implement measures that meet the principles of data protection by design and data protection by default, such as:

- Data minimisation.
- Pseudonymisation.
- Transparency.
- Allowing individuals to monitor processing.
- Continuously creating and improving security features.

4.6. Data protection impact assessments will be used, where appropriate.

### 5. Data protection officer (DPO)

5.1. A DPO will be appointed in order to:

- Inform and advise the school and its employees about their obligations to comply with the GDPR and other data protection laws.
- Monitor the school's compliance with the GDPR and other laws, including managing internal data protection activities, advising on data protection impact assessments, conducting internal audits, and providing the required training to staff members.

5.2. An existing employee or external provider will be appointed to the role of DPO provided that their duties are compatible with the duties of the DPO and do not lead to a conflict of interests.

5.3. The individual appointed as DPO will have professional experience and knowledge of data protection law, particularly that in relation to schools.

5.4. The DPO will report to the highest level of management at the school, which is the Head Teacher.



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- 5.5. The DPO will operate independently and will not be dismissed or penalised for performing their task.
- 5.6. Sufficient resources will be provided to the DPO to enable them to meet their GDPR obligations.

### 6. Lawful processing

- 6.1. The legal basis for processing data will be identified and documented prior to data being processed.
- 6.2. Under the GDPR, data will be lawfully processed under the following conditions:
  - The consent of the data subject has been obtained.
  - Processing is necessary for:
    - Compliance with a legal obligation.
    - The performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.
    - For the performance of a contract with the data subject or to take steps to enter into a contract.
    - Protecting the vital interests of a data subject or another person.
    - For the purposes of legitimate interests pursued by the controller or a third party, except where such interests are overridden by the interests, rights or freedoms of the data subject. (This condition is not available to processing undertaken by the school in the performance of its tasks.)
- 6.3. Sensitive data will only be processed under the following conditions:
  - Explicit consent of the data subject, unless reliance on consent is prohibited by EU or Member State law.
  - Processing carried out by a not-for-profit body with a political, philosophical, religious or trade union aim provided the processing relates only to members or former members (or those who have regular contact with it in connection with those purposes) and provided there is no disclosure to a third party without consent.
  - Processing relates to personal data manifestly made public by the data subject.
  - Processing is necessary for:
    - Carrying out obligations under employment, social security or social protection law, or a collective agreement.
    - Protecting the vital interests of a data subject or another individual where the data subject is physically or legally incapable of giving consent.
    - The establishment, exercise or defence of legal claims or where courts are acting in their judicial capacity.
    - Reasons of substantial public interest on the basis of Union or Member State law which is proportionate to the aim pursued and which contains appropriate safeguards.
    - The purposes of preventative or occupational medicine, for assessing the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or management of health or social care systems and services on the basis of Union or Member State law or a contract with a health professional.
    - Reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of healthcare and of medicinal products or medical devices.
    - Archiving purposes in the public interest, or scientific and historical research purposes or statistical purposes in accordance with Article 89(1).



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### **7. Consent**

- 7.1. Consent must be a positive indication. It cannot be inferred from silence, inactivity or pre-ticked boxes.
- 7.2. Consent will only be accepted where it is freely given, specific, informed and an unambiguous indication of the individual's wishes.
- 7.3. Where consent is given, a record will be kept documenting how and when consent was given.
- 7.4. The school ensures that consent mechanisms meet the standards of the GDPR. Where the standard of consent cannot be met, an alternative legal basis for processing the data must be found, or the processing must cease.
- 7.5. Consent accepted under the DPA will be reviewed to ensure it meets the standards of the GDPR; however, acceptable consent obtained under the DPA will not be reobtained.
- 7.6. Consent can be withdrawn by the individual at any time.
- 7.7. Where a child is under the age of 16 [or younger if the law provides it (up to the age of 13)], the consent of parents will be sought prior to the processing of their data, except where the processing is related to preventative or counselling services offered directly to a child.

### **8. The right to be informed**

- 8.1. The privacy notice supplied to individuals in regards to the processing of their personal data will be written in clear, plain language which is concise, transparent, easily accessible and free of charge.
- 8.2. If services are offered directly to a child, the school will ensure that the privacy notice is written in a clear, plain manner that the child will understand.
- 8.3. In relation to data obtained both directly from the data subject and not obtained directly from the data subject, the following information will be supplied within the privacy notice:
  - The identity and contact details of the controller (and where applicable, the controller's representative) and the DPO.
  - The purpose of, and the legal basis for, processing the data.
  - The legitimate interests of the controller or third party.
  - Any recipient or categories of recipients of the personal data.
  - Details of transfers to third countries and the safeguards in place.
  - The retention period of criteria used to determine the retention period.
  - The existence of the data subject's rights, including the right to:
    - Withdraw consent at any time.
    - Lodge a complaint with a supervisory authority.
      - The existence of automated decision making, including profiling, how decisions are made, the significance of the process and the consequences.
- 8.4. Where data is obtained directly from the data subject, information regarding whether the provision of personal data is part of a statutory or contractual requirement, as well as any possible consequences of failing to provide the personal data, will be provided.
- 8.5. Where data is not obtained directly from the data subject, information regarding the categories of personal data that the school holds, the source that the personal data originates from and whether it came from publicly accessible sources, will be provided.
- 8.6. For data obtained directly from the data subject, this information will be supplied at the time the data is obtained.
- 8.7. In relation to data that is not obtained directly from the data subject, this information will be supplied:



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- Within one month of having obtained the data.
- If disclosure to another recipient is envisaged, at the latest, before the data are disclosed.
- If the data are used to communicate with the individual, at the latest, when the first communication takes place.

### **9. The right of access**

- 9.1. Individuals have the right to obtain confirmation that their data is being processed.
- 9.2. Individuals have the right to submit a subject access request (SAR) to gain access to their personal data in order to verify the lawfulness of the processing.
- 9.3. The school will verify the identity of the person making the request before any information is supplied.
- 9.4. A copy of the information will be supplied to the individual free of charge; however, the school may impose a 'reasonable fee' to comply with requests for further copies of the same information.
- 9.5. Where a SAR has been made electronically, the information will be provided in a commonly used electronic format.
- 9.6. Where a request is manifestly unfounded, excessive or repetitive, a reasonable fee will be charged.
- 9.7. All fees will be based on the administrative cost of providing the information.
- 9.8. All requests will be responded to without delay and at the latest, within one month of receipt.
- 9.9. In the event of numerous or complex requests, the period of compliance will be extended by a further two months. The individual will be informed of this extension, and will receive an explanation of why the extension is necessary, within one month of the receipt of the request.
- 9.10. Where a request is manifestly unfounded or excessive, the school holds the right to refuse to respond to the request. The individual will be informed of this decision and the reasoning behind it, as well as their right to complain to the supervisory authority and to a judicial remedy, within one month of the refusal.
- 9.11. In the event that a large quantity of information is being processed about an individual, the school will ask the individual to specify the information the request is in relation to.

### **10. The right to rectification**

- 10.1. Individuals are entitled to have any inaccurate or incomplete personal data rectified.
- 10.2. Where the personal data in question has been disclosed to third parties, the school will inform them of the rectification where possible.
- 10.3. Where appropriate, the school will inform the individual about the third parties that the data has been disclosed to.
- 10.4. Requests for rectification will be responded to within one month; this will be extended by two months where the request for rectification is complex.
- 10.5. Where no action is being taken in response to a request for rectification, the school will explain the reason for this to the individual, and will inform them of their right to complain to the supervisory authority and to a judicial remedy.

### **11. The right to erasure**

- 11.1. Individuals hold the right to request the deletion or removal of personal data where there is no compelling reason for its continued processing.



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- 11.2. Individuals have the right to erasure in the following circumstances:
- Where the personal data is no longer necessary in relation to the purpose for which it was originally collected/processed
  - When the individual withdraws their consent
  - When the individual objects to the processing and there is no overriding legitimate interest for continuing the processing
  - The personal data was unlawfully processed
  - The personal data is required to be erased in order to comply with a legal obligation
  - The personal data is processed in relation to the offer of information society services to a child
- 11.3. The school has the right to refuse a request for erasure where the personal data is being processed for the following reasons:
- To exercise the right of freedom of expression and information
  - To comply with a legal obligation for the performance of a public interest task or exercise of official authority
  - For public health purposes in the public interest
  - For archiving purposes in the public interest, scientific research, historical research or statistical purposes
  - The exercise or defence of legal claims
- 11.4. As a child may not fully understand the risks involved in the processing of data when consent is obtained, special attention will be given to existing situations where a child has given consent to processing and they later request erasure of the data, regardless of age at the time of the request.
- 11.5. Where personal data has been disclosed to third parties, they will be informed about the erasure of the personal data, unless it is impossible or involves disproportionate effort to do so.
- 11.6. Where personal data has been made public within an online environment, the school will inform other organisations who process the personal data to erase links to and copies of the personal data in question.

### **12. The right to restrict processing**

- 12.1. Individuals have the right to block or suppress the school's processing of personal data.
- 12.2. In the event that processing is restricted, the school will store the personal data, but not further process it, guaranteeing that just enough information about the individual has been retained to ensure that the restriction is respected in future.
- 12.3. The school will restrict the processing of personal data in the following circumstances:
- Where an individual contests the accuracy of the personal data, processing will be restricted until the school has verified the accuracy of the data
  - Where an individual has objected to the processing and the school is considering whether their legitimate grounds override those of the individual
  - Where processing is unlawful and the individual opposes erasure and requests restriction instead
  - Where the school no longer needs the personal data but the individual requires the data to establish, exercise or defend a legal claim
- 12.4. If the personal data in question has been disclosed to third parties, the school will inform them about the restriction on the processing of the personal data, unless it is impossible or involves disproportionate effort to do so.





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- 12.5. The school will inform individuals when a restriction on processing has been lifted.

### **13. The right to data portability**

- 13.1. Individuals have the right to obtain and reuse their personal data for their own purposes across different services.
- 13.2. Personal data can be easily moved, copied or transferred from one IT environment to another in a safe and secure manner, without hindrance to usability.
- 13.3. The right to data portability only applies in the following cases:
- To personal data that an individual has provided to a controller
  - Where the processing is based on the individual's consent or for the performance of a contract
  - When processing is carried out by automated means
- 13.4. Personal data will be provided in a structured, commonly used and machine-readable form.
- 13.5. The school will provide the information free of charge.
- 13.6. Where feasible, data will be transmitted directly to another organisation at the request of the individual.
- 13.7. The school is not required to adopt or maintain processing systems which are technically compatible with other organisations.
- 13.8. In the event that the personal data concerns more than one individual, the school will consider whether providing the information would prejudice the rights of any other individual.
- 13.9. The school will respond to any requests for portability within one month.
- 13.10. Where the request is complex, or a number of requests have been received, the timeframe can be extended by two months, ensuring that the individual is informed of the extension and the reasoning behind it within one month of the receipt of the request.
- 13.11. Where no action is being taken in response to a request, the school will, without delay and at the latest within one month, explain to the individual the reason for this and will inform them of their right to complain to the supervisory authority and to a judicial remedy.

### **14. The right to object**

- 14.1. The school will inform individuals of their right to object at the first point of communication, and this information will be outlined in the privacy notice and explicitly brought to the attention of the data subject, ensuring that it is presented clearly and separately from any other information.
- 14.2. Individuals have the right to object to the following:
- Processing based on legitimate interests or the performance of a task in the public interest
  - Direct marketing
  - Processing for purposes of scientific or historical research and statistics.
- 14.3. Where personal data is processed for the performance of a legal task or legitimate interests:
- An individual's grounds for objecting must relate to his or her particular situation.
  - The school will stop processing the individual's personal data unless the processing is for the establishment, exercise or defence of legal claims, or, where the school can demonstrate compelling legitimate grounds for the processing, which override the interests, rights and freedoms of the individual.
- 14.4. Where personal data is processed for direct marketing purposes:



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- The school will stop processing personal data for direct marketing purposes as soon as an objection is received.
  - The school cannot refuse an individual's objection regarding data that is being processed for direct marketing purposes.
- 14.5. Where personal data is processed for research purposes:
- The individual must have grounds relating to their particular situation in order to exercise their right to object.
  - Where the processing of personal data is necessary for the performance of a public interest task, the school is not required to comply with an objection to the processing of the data.
- 14.6. Where the processing activity is outlined above, but is carried out online, the school will offer a method for individuals to object online.

### **15. Automated decision making and profiling**

- 15.1. Individuals have the right not to be subject to a decision when:
- It is based on automated processing, e.g. profiling.
  - It produces a legal effect or a similarly significant effect on the individual.
- 15.2. The school will take steps to ensure that individuals are able to obtain human intervention, express their point of view, and obtain an explanation of the decision and challenge it.
- 15.3. When automatically processing personal data for profiling purposes, the school will ensure that the appropriate safeguards are in place, including:
- Ensuring processing is fair and transparent by providing meaningful information about the logic involved, as well as the significance and the predicted impact.
  - Using appropriate mathematical or statistical procedures.
  - Implementing appropriate technical and organisational measures to enable inaccuracies to be corrected and minimise the risk of errors.
  - Securing personal data in a way that is proportionate to the risk to the interests and rights of the individual and prevents discriminatory effects.
- 15.4. Automated decisions must not concern a child or be based on the processing of sensitive data, unless:
- The school has the explicit consent of the individual.
  - The processing is necessary for reasons of substantial public interest on the basis of Union/Member State law.

### **16. Privacy by design and privacy impact assessments**

- 16.1. The school will act in accordance with the GDPR by adopting a privacy by design approach and implementing technical and organisational measures which demonstrate how the school has considered and integrated data protection into processing activities.
- 16.2. Data protection impact assessments (DPIAs) will be used to identify the most effective method of complying with the school's data protection obligations and meeting individuals' expectations of privacy.
- 16.3. DPIAs will allow the school to identify and resolve problems at an early stage, thus reducing associated costs and preventing damage from being caused to the school's reputation which might otherwise occur.
- 16.4. A DPIA will be carried out when using new technologies or when the processing is likely to result in a high risk to the rights and freedoms of individuals.
- 16.5. A DPIA will be used for more than one project, where necessary.
- 16.6. High risk processing includes, but is not limited to, the following:
- Systematic and extensive processing activities, such as profiling



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- Large scale processing of special categories of data or personal data which is in relation to criminal convictions or offences
  - The use of CCTV.
- 16.7. The school will ensure that all DPIAs include the following information:
- A description of the processing operations and the purposes
  - An assessment of the necessity and proportionality of the processing in relation to the purpose
  - An outline of the risks to individuals
  - The measures implemented in order to address risk
- 16.8. Where a DPIA indicates high risk data processing, the school will consult the ICO to seek its opinion as to whether the processing operation complies with the GDPR.

### **17. Data breaches**

- 17.1. The term 'personal data breach' refers to a breach of security which has led to the destruction, loss, alteration, unauthorised disclosure of, or access to, personal data.
- 17.2. The headteacher will ensure that all staff members are made aware of, and understand, what constitutes a data breach as part of their CPD training.
- 17.3. Where a breach is likely to result in a risk to the rights and freedoms of individuals, the relevant supervisory authority will be informed.
- 17.4. All notifiable breaches will be reported to the relevant supervisory authority within 72 hours of the school becoming aware of it.
- 17.5. The risk of the breach having a detrimental effect on the individual, and the need to notify the relevant supervisory authority, will be assessed on a case-by-case basis.
- 17.6. In the event that a breach is likely to result in a high risk to the rights and freedoms of an individual, the school will notify those concerned directly.
- 17.7. A 'high risk' breach means that the threshold for notifying the individual is higher than that for notifying the relevant supervisory authority.
- 17.8. In the event that a breach is sufficiently serious, the public will be notified without undue delay.
- 17.9. Effective and robust breach detection, investigation and internal reporting procedures are in place at the school, which facilitate decision-making in relation to whether the relevant supervisory authority or the public need to be notified.
- 17.10. Within a breach notification, the following information will be outlined:
- The nature of the personal data breach, including the categories and approximate number of individuals and records concerned
  - The name and contact details of the DPO
  - An explanation of the likely consequences of the personal data breach
  - A description of the proposed measures to be taken to deal with the personal data breach
  - Where appropriate, a description of the measures taken to mitigate any possible adverse effects
- 17.11. Failure to report a breach when required to do so may result in a fine, as well as a fine for the breach itself.

### **18. Data security**

- 18.1. Confidential paper records will be kept in a locked filing cabinet, drawer or safe, with restricted access.
- 18.2. Confidential paper records will not be left unattended or in clear view anywhere with general access.



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- 18.3. Digital data is coded, encrypted or password-protected, both on a local hard drive and on a network drive that is regularly backed up off-site.
- 18.4. Where data is saved on removable storage or a portable device, the device will be kept in a locked filing cabinet, drawer or safe when not in use.
- 18.5. Memory sticks will not be used to hold personal information unless they are password-protected and fully encrypted.
- 18.6. All electronic devices are password-protected to protect the information on the device in case of theft.
- 18.7. Where possible, the school enables electronic devices to allow the remote blocking or deletion of data in case of theft.
- 18.8. All necessary members of staff are provided with their own secure login and password, and every computer regularly prompts users to change their password.
- 18.9. Emails containing sensitive or confidential information are password-protected if there are unsecure servers between the sender and the recipient.
- 18.10. Circular emails to parents are sent blind carbon copy (bcc), so email addresses are not disclosed to other recipients.
- 18.11. Where personal information that could be considered private or confidential is taken off the premises, either in electronic or paper format, staff will take extra care to follow the same procedures for security, e.g. keeping devices under lock and key. The person taking the information from the school premises accepts full responsibility for the security of the data.
- 18.12. Before sharing data, all staff members will ensure:
  - They are allowed to share it.
  - That adequate security is in place to protect it.
  - Who will receive the data has been outlined in a privacy notice.
- 18.13. Under no circumstances are visitors allowed access to confidential or personal information. Visitors to areas of the school containing sensitive information are supervised at all times.
- 18.14. The physical security of the school's buildings and storage systems, and access to them, is reviewed on a termly basis. If an increased risk in vandalism/burglary/theft is identified, extra measures to secure data storage will be put in place.
- 18.15. Lovelace Primary School takes its duties under the GDPR seriously and any unauthorised disclosure may result in disciplinary action.
- 18.16. The school business manager (SBM) and School Emergency Management Team are responsible for continuity and recovery measures are in place to ensure the security of protected data.

### **19. Publication of information**

19.1 Lovelace Primary School publishes a publication scheme on its website outlining classes of information that will be made routinely available, including:

- Policies and procedures
- Minutes of meetings
- Annual reports
- Financial information

19.2 Classes of information specified in the publication scheme are made available quickly and easily on request.

19.3 Lovelace Primary School will not publish any personal information, including photos, on its website without the permission of the affected individual.

19.4 When uploading information to the school website, staff are considerate of any metadata or deletions which could be accessed in documents and images on the site.



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### **1. CCTV and photography**

- 1.1. The school understands that recording images of identifiable individuals constitutes as processing personal information, so it is done in line with data protection principles.
- 1.2. The school notifies all pupils, staff and visitors of the purpose for collecting CCTV images via notice boards, letters and email.
- 1.3. Cameras are only placed where they do not intrude on anyone's privacy and are necessary to fulfil their purpose.
- 1.4. All CCTV footage will be kept for one month (after which time it is overwritten) for security purposes; the Site Manager is responsible for keeping the records secure and allowing access.
- 1.5. The school will always indicate its intentions for taking photographs of pupils and will retrieve permission before publishing them.
- 1.6. If the school wishes to use images/video footage of pupils in a publication, such as the school website, prospectus, or recordings of school plays, written permission will be sought for the particular usage from the parent of the pupil.
- 1.7. Precautions, as outlined in the Photography and Videos at School Guidance (see Appendix 1), are taken when publishing photographs of pupils, in print, video or on the school website.
- 1.8. Images captured by individuals for recreational/personal purposes, and videos made by parents for family use, are exempt from the GDPR.

### **2. Data retention**

- 2.1. Data will not be kept for longer than is necessary.
- 2.2. Unrequired data will be deleted as soon as practicable.
- 2.3. Some educational records relating to former pupils or employees of the school may be kept for an extended period for legal reasons, but also to enable the provision of references or academic transcripts.
- 2.4. Paper documents will be shredded or pulped, and electronic memories scrubbed clean or destroyed, once the data should no longer be retained.

### **3. DBS data**

- 3.1. All data provided by the DBS will be handled in line with data protection legislation; this includes electronic communication.
- 3.2. Data provided by the DBS will never be duplicated.
- 3.3. Any third parties who access DBS information will be made aware of the data protection legislation, as well as their responsibilities as a data handler.

### **4. Policy review**

- 4.1. This policy is reviewed every two years by the SBM and the headteacher.

The next scheduled review date for this policy is July 2023.



## Lovelace Primary School Data Protection Policy

### Appendix 1 - Photography Guidance

At Lovelace Primary School we use images and videos for a variety of purposes, including, display boards, educational purposes, and the school website. We understand that parents may also wish to take videos or photos of their children participating in school events for personal use.

Whilst we recognise the benefits of photography and videos to our school community, we also understand that these can have significant risks for those involved. Under the legal obligations of the GDPR and the Data Protection Act (DPA) 2018, the school has specific responsibilities in terms of how photos and videos are taken, stored and retained.

The school has implemented this guidance on the safe use of cameras and videos by staff and parents to reflect the protective ethos of the school with regard to pupils' safety.

In order to ensure that, as far as possible, the use of photography and video is used safely at all times, the guidance provided below should be followed. This guidance is applicable to all forms of visual media, including film, print, video, DVD and websites.

#### 1. Legal framework

1.1. This policy has due regard to all relevant legislation including, but not limited to, the following:

- The Data Protection Act 2018
- The General Data Protection Regulation
- The Freedom of Information Act 2000
- The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004

1.2. This guidance has been created with regard to the following guidance:

- ICO (2018) 'Guide to the General Data Protection Regulation (GDPR)'

1.3. This guidance also has due regard to the school's policies including, but not limited to, the following:

- **Data Protection Policy**
- **Records Management Policy**

#### 2. Definitions

2.1. For the purposes of this policy:

**"Camera"** is used to refer to mobile phones, tablets, webcams, portable gaming devices and any other equipment or devices which may be used to take photographs.

**"Personal use"** of photography and videos is defined as the use of cameras to take images and recordings of children by relatives, friends or known individuals, e.g. a parent taking a group photo of their child and their friends at a school event. These photos and videos are only for personal use by the individual taking the photo and are not intended to be passed on to unknown sources. The principles of the GDPR and the DPA 2018 do not apply to images and videos taken for personal use.

**"Official school use"** is defined as photography and videos which are used for school purposes, e.g. for building passes and identity cards. These images are likely to be stored electronically alongside other personal data. The principles of the GDPR and the DPA 2018 apply to images and videos taken for official school use.

**"Media use"** is defined as photography and videos which are intended for a wide audience, e.g. photographs of children taken for a local newspaper. The principles of the GDPR and the DPA 2018 apply to images and videos taken for media use.

Staff may also take photos and videos of pupils for **"educational purposes"**. These are not intended for official school use, but may be used for a variety of reasons, such as school displays, special events, assessment and workbooks. The principles of the GDPR and the DPA 2018 apply to images and videos taken for educational purposes.

#### 3. Responsibilities

3.1. The headteacher is responsible for:

- Submitting consent forms to parents, and pupils where appropriate, at the beginning of the academic year with regards to photographs and videos being taken whilst at school.
- Ensuring that all photos and videos are stored and disposed of correctly, in line with the GDPR and the DPA 2018.
- Deciding whether parents are permitted to take photographs and videos during school events.
- Communicating this policy to all the relevant staff members and the wider school community, such as parents.

3.2. The DSL is responsible for:





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- Liaising with social workers to gain consent for the use of photographs and videos of LAC pupils.
  - Liaising with the DPO to ensure there are no data protection breaches.
  - Informing the headteacher of any known changes to a pupil's security, e.g. child protection concerns, which would mean that participating in photography and video recordings would put them at significant risk.
- 3.3. Parents, and pupils where appropriate, are responsible for:
- Completing the Consent Form on an annual basis.
  - Informing the school in writing if they wish to make any changes to their consent.
  - Acting in accordance with this policy.
- 3.4. In accordance with the school's requirements to have a DPO, the DPO is responsible for:
- Informing and advising the school and its employees about their obligations to comply with the GDPR and the DPA 2018 in relation to photographs and videos at school.
  - Monitoring the school's compliance with the GDPR and the DPA 2018 in regards to processing photographs and videos.
  - Advising on data protection impact assessments in relation to photographs and videos at school
  - Providing the required training to staff members in relation to how the GDPR and the DPA 2018 impacts photographs and videos at school.
- 3.5. Overall responsibility for the appropriate use of photography at school and in connection with school events rests with the headteacher and the DSL.
4. Consent
- 4.1. All photographs and video content are classified as personal data under the GDPR and the DPA 2018; images or video content may be used for publicity or other purposes only once informed consent has been provided, and it has not been withdrawn.
- 4.2. Parents are responsible for providing consent on their child's behalf, except where the processing is related to preventative or counselling services offered directly to children.
- 4.3. Parents and pupils are required to be aware that their child/they may be photographed at school and they have the right to withdraw consent for:
- Photographs or video taken by members of staff for school-based publicity and promotional purposes (school newsletters/prospectus) or for anonymous use on the school website.
  - Photographs or video taken by parents and other family members of children at the school during school concerts, performances, sports events and other similar events organised by the school.
  - Photographs or video taken by members of the press who are on the school premises by invitation in order to celebrate individual, group or school success.
- 4.4. The school understands that consent must be a positive indication. It cannot be inferred from silence, inactivity or pre-ticked boxes.
- 4.5. Consent will only be accepted where it is freely given, specific, informed and an unambiguous indication of the individual's wishes.
- 4.6. Where consent is given, a record will be kept documenting how and when consent was given and last updated.
- 4.7. The school ensures that consent mechanisms meet the standards of the GDPR and the DPA 2018. Where the standard of consent cannot be met, an alternative legal basis for processing the data will be found, or the processing will cease.
- 4.8. Parents and pupils, as applicable, will be asked to complete the Consent Form on an annual basis, which will determine whether or not they allow their child/themselves to participate in photographs and videos.
- 4.9. The Consent Form will be valid for the full academic year, unless the pupil's circumstances change in any way, e.g. if their parents separate, or consent is withdrawn. Additional consent forms will be required if the pupil's circumstances change.
- 4.10. If there is a disagreement over consent, or if a parent/pupil does not respond to a consent request, it will be treated as if consent has not been given and photographs and videos will not be taken or published of the pupil without consent.
- All parents and pupils are entitled to withdraw or change their consent at any time during the school year.
  - Parents or pupils withdrawing their consent must notify the school in writing.



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4.11. If any parent or pupil withdraws or changes their consent, or the DSL reports any changes to a pupil's security risk, or there are any other changes to consent, the list will also be updated and re-circulated.

4.12. For any LAC pupils, or pupils who are adopted, the DSL will liaise with the pupil's social worker, carers or adoptive parents to establish where consent should be sought. Consideration will be given as to whether identification of an LAC pupil, or pupils who are adopted, would risk their security in any way.

4.13. Consideration will also be given to any pupils for whom child protection concerns have been raised. Should the DSL believe that taking photographs and videos of any pupils would put their security at further risk, greater care will be taken towards protecting their identity.

4.14. A list of all the names of pupils for whom consent was not given will be created by the IT Technician and will be circulated to all staff members. This list will be updated annually, when new consent forms are provided.

### 5. General procedures

5.1. Photographs and videos of pupils will be carefully planned before any activity.

5.2. Where photographs and videos will involve LAC pupils, adopted pupils, or pupils for whom there are security concerns, the headteacher will liaise with the DSL to determine the steps involved.

5.3. When organising photography and videos of pupils, the headteacher, as well as any other staff members involved, will consider the following:

- Can general shots of classrooms or group activities, rather than individual shots of pupils, be used to fulfil the same purpose?
- Could the camera angle be amended in any way to avoid pupils being identified?
- Will pupils be suitably dressed to be photographed and videoed?
- Will pupils of different ethnic backgrounds and abilities be included within the photographs or videos to support diversity?
- Would it be appropriate to edit the photos or videos in any way (e.g. to remove logos which may identify pupils)?
- Are the photographs and videos of the pupils completely necessary, or could alternative methods be used for the same purpose? E.g. could an article be illustrated by pupils' work rather than images or videos of the pupils themselves?

5.4. The list of all pupils of whom photographs and videos must not be taken will be checked prior to the activity. Only pupils for whom consent has been given will be able to participate.

5.5. The staff members involved, alongside the headteacher and IT Technician, will liaise with the DSL if any LAC pupil, adopted pupil, or a pupil for whom there are security concerns is involved.

5.6. A school-owned digital camera (Ipad) will be used to take photographs and videos of pupils. Exceptions to this are outlined in section 8 of this policy.

5.7. Staff will ensure that all pupils are suitably dressed before taking any photographs or videos.

5.8. Where possible, staff will avoid identifying pupils. If names are required, only first names will be used.

5.9. The school will not use images or footage of any pupil who is subject to a court order.

5.10. The school will not use photographs of:

- Children who have left the school, without the consent of their parents or, where appropriate, the children themselves.
- Staff members who have left the school, without their consent.

5.11. Photos and videos that may cause any distress, upset or embarrassment will not be used.

5.12. Any concern relating to inappropriate or intrusive photography or publication of content is to be reported to the DPO.

### 6. Additional safeguarding procedures

6.1. The school understands that certain circumstances may put a pupil's security at greater risk and, thus, may mean extra precautions are required to protect their identity.

6.2. The DSL will, in known cases of a pupil who is an LAC or who has been adopted, liaise with the pupil's social worker, carers or adoptive parents to assess the needs and risks associated with the pupil.

6.3. Any measures required will be determined between the DSL, social worker, carers, Designated Teacher for Children Looked After and adoptive parents with a view to minimising any impact on the pupil's day-to-day life. The measures implemented will be one of the following:

- Photos and videos can be taken as per usual school procedures





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- Photos and videos can be taken within school for educational purposes and official school use, e.g. on registers, but cannot be published online or in external media
  - No photos or videos can be taken at any time for any purposes
- 6.4. Any outcomes will be communicated to all relevant staff members and the list outlining which pupils are not to be involved in any videos or photographs will be updated accordingly.
7. General use of digital cameras
- 7.1. Members of staff may be provided with a camera to record and maintain pictorial evidence of the lessons, behaviour, activities and events related to their pupils.
- 7.2. Photos may only be taken for educational purposes and in “school or educational provision settings” as mentioned above.
- 7.3. The use of personal cameras, mobile phone cameras or other recording equipment is prohibited on school premises at all times.
- 7.4. Members of staff are not allowed to bring in personal cameras without prior permission. If personal cameras are allowed to be brought in due to a specialist requirement or defective equipment, the memory card should be shown to be empty and images downloaded to the school's server.
- 7.5. Members of staff are not allowed to take school cameras or memory cards home.
- 7.6. Cameras are not permitted to be taken into the toilet/or swimming pool/changing area. If necessary (e.g. photographs of pupils washing their hands), then prior permission needs to be sought from the headteacher. Staff members are required to be supervised while carrying out this activity.
- 7.7. Staff or other adults are not permitted to take photographs of pupils in vulnerable circumstances, such as when they are upset or inappropriately dressed.
- 7.8. Members of staff and the school community are required to report inappropriate use of digital cameras and images to the headteacher. If it is found that any incidents raise child protection concerns, immediate action will be taken in consultation with the DSL.
- 7.9. The school is not responsible for lost, stolen or damaged camera equipment. This remains the responsibility and obligation of the borrower/member of staff.
8. Other school-owned devices
- 8.1. Staff are encouraged to take photos and videos of pupils using the school's digital cameras; however, they may use other school-owned devices, such as mobile phones and tablets, where consent has been sought from the headteacher prior to the activity.
- 8.2. Where school-owned devices other than digital cameras are used, images and videos will be provided to the school at the earliest opportunity and then removed from the devices.
- 8.3. Staff will not use their personal mobile phones, or any other personal device, to take images and videos of pupils.
- 8.4. Photographs and videos taken by staff members on school visits may be used for educational purposes, e.g. on displays or to illustrate the work of the school, where consent has been obtained.
- 8.5. Digital photographs and videos held on the school's drive are accessible to staff only. Photographs and videos are stored in labelled files, annotated with the date, and are only identifiable by year group/class number – no names are associated with images and videos. Files are password protected and only staff members have access to these passwords – these are updated annually to minimise the risk of access by unauthorised individuals.
9. Storage and retention
- 9.1. As per the GDPR and the DPA 2018, images obtained by the school will not be kept for longer than necessary; retention periods for the different types of personal data are outlined in the school's Record Management Policy.
- 9.2. Hard copies of historic photos and video recordings held by the school will be annotated with the date on which they were taken and will be stored in the school archive. They will not be used other than for their original purpose, unless permission is sought from the headteacher and parents of the pupils involved and the DPO has been consulted. (Prior to 1998, there was no DPA so photos taken before this time were not protected. Use of such photos will be determined on a case by case basis).
- 9.3. Paper documents will be shredded or pulped and electronic memories scrubbed clean or destroyed once the retention period has ended.
- 9.4. The IT Technician will review stored images and videos on an annual basis to ensure that all unwanted material has been deleted.
- 9.5. Where a parent or pupil has withdrawn their consent, any related imagery and videos involving their child/the pupil will be removed from the school drive immediately.



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9.6. When a parent withdraws consent, it will not affect the use of any images or videos for which consent had already been obtained. Withdrawal of consent will only affect further processing.

9.7. Where a pupil's security risk has changed, the DSL will inform the headteacher immediately. If required, any related imagery and videos involving the pupil will be removed from the school drive immediately. Hard copies will be removed by returning them to the parent/pupil or by shredding, as appropriate.

9.8. Official school photos are held on SIMS alongside other personal information and are retained for the length of the pupil's attendance at the school, or longer if necessary, e.g. due to a police investigation.

9.9. Images taken on the camera must be downloaded as soon as possible on to a school computer/laptop, ideally once a week.

9.10. Members of staff are responsible for ensuring that images are safely stored, ~~particularly on memory sticks and hard drives~~. They must take reasonable measures to ensure that they do not come into the possession of unauthorised persons.

9.11. No digital image will be altered or enhanced in any way by any member of staff, unless given prior permission by the headteacher to do so.

9.12. The school may require images to be deleted or edited as appropriate and may choose to use images taken by members of staff or volunteers for other purposes, provided the processing conditions and consent requirements of this policy are met.

9.13. Staff members are responsible for ensuring that edited images do not mislead or misrepresent. They must not edit images which result in their subject being vulnerable to embarrassment, teasing, bullying or abuse.

10. Appropriate use of images under the GDPR and the DPA 2018

10.1. Photographs are used in school for many reasons and the different uses for the same image should be considered separately, as each photograph and use will potentially have different conditions for processing.

10.2. As a public body, the school **must** consider whether the processing is taking place in the performance of its duties as a public authority. Where this is the case, the legal basis for processing will be recorded as 'public task' not 'legitimate interests' – public authorities cannot use legitimate interests as a lawful basis if the processing is in the performance of their tasks as a public authority.

10.3. To judge whether legitimate interest can be used as the basis for processing data, the school will carry out three different tests, these are:

- A purpose test – establishing the reasons for using the data, what will be achieved and whether the benefits are justifiable.
- A necessity test – establishing whether the processing of pupils' data will be useful and whether there is a less intrusive way of reaching a means to an end.
- A balance test – establishing the impact it will have on the data subject by processing the data for said reason.

10.4. These three tests make up a 'legitimate interest assessment' (LIA) – the school will carry out an LIA prior to obtaining the data and it will be recorded in a physical copy in compliance with the GDPR and the DPA 2018.

Photographs used in identity management

10.5. These are likely to be essential for performing the public task of the school, but they will be deleted once the child is no longer in attendance – as they are no longer needed for the purpose for which they were held.

Photographs used for marketing purposes

10.6. Photographs will not be used for marketing purposes unless the school has specific informed consent for the images and the images are only used in line with the consent provided.

Photographs in the school environment relating to education

10.7. These photographs may be essential for performing the public task of the school, but once the pupil has left the school this argument is insufficient. If the school wishes to display the image beyond the pupil's time at the school, we will obtain the pupil's permission. If permission is not granted, the image will be removed.

10.8. When gaining consent, including when initially taking the photograph or when the purpose of the image has changed, the pupil, or where appropriate their parents, will be informed of the retention period pertaining to the use of the image. If the image is still on display after the retention period stated in the privacy notice used to gain consent, the school will be in breach of data protection obligations and may be subject to a fine.



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### 11. Privacy notices

11.1. The school uses privacy notices with declarations attached to inform pupils and their families about how their personal data may be collected and as one method of gaining consent.

### 12. Sharing of images

12.1. All images taken by members of staff or volunteers at school or on school activities remain the property of the school.

12.2. Images must not be shared with anyone outside the school or held for private use.

12.3. No digital image will be uploaded onto any internet/intranet system without the express permission of the child's parent/carer.

12.4. Images may under no circumstances be emailed or shared via private e-mail accounts unless a parent has asked for a photo of their child to be sent to them.

12.5. Unless specific prior consent has been obtained, members of staff and volunteers must not post school images on personal pages of social networking sites or other websites.

### 13. Use of a professional photographer

13.1. If the school decides to use a professional photographer for official school photos and school events, the **headteacher** will:

- Provide a clear brief for the photographer about what is considered appropriate, in terms of both content and behaviour.
- Issue the photographer with identification, which must be worn at all times.
- Let pupils and parents know that a photographer will be in attendance at an event and ensure they have previously provided consent to both the taking and publication of videos and/or photographs.
- Not allow unsupervised access to pupils or one-to-one photo sessions at events.
- Communicate to the photographer that the material may only be used for the school's own purposes and that permission has not been given to use the photographs for any other purpose.
- Ensure that the photographer will comply with the requirements set out in the GDPR and the DPA 2018.
- Ensure that if another individual, such as a parent or governor, is nominated to be the photographer, they are clear that the images and/or videos are not used for anything other than the purpose indicated by the school.

### 14. Permissible photography and videos during school events

14.1. If the headteacher permits parents to take photographs or videos during a school event, parents will:

- Remain seated while taking photographs or videos during concerts, performances and other events.
- Minimise the use of flash photography during performances.
- In the case of all school events, make the focus of any photographs and/or videos their own children.
- Avoid disturbing others in the audience or distracting pupils when taking photographs or recording videos.
- Ensure that any images and recordings taken at school events are exclusively for personal use and are not uploaded to the internet, posted on social networking sites or openly shared in other ways.
- Refrain from taking further photographs and/or videos if and when requested to do so by staff.

### 15. Monitoring and review

This appendix will be reviewed together with the Data Protection Policy on a bi-annual basis.