

**DATA PROTECTION POLICY**

**1.   Introductory Statement**

The school’s Data Protection Policy sets out, in writing, the manner in which personal data on staff, students and other individuals (e.g. parents, members of Board of Management) are kept and how the data concerned is protected.

This policy was adopted by the Board of Management on \_\_\_\_\_\_\_\_\_\_\_\_\_\_, having consulted staff, the Parents’ Association Committee and the Student Council and followed the Department of Education and Science Guidelines.

**2.   Scope**

The policy applies to the keeping and processing of personal data, both in manual form and on computer, including personal data held on both school staff and students.

Data*: means information in a form which can be processed. It includes automated data (information on computer or information recorded with the intention of putting it on computer) and manual data (information that is kept as part of a relevant filing system, or with the intention that it should form part of a relevant filing system).*

Relevant filing system*: means any set of information that, while not computerised, is structured by reference to individuals, or by reference to criteria relating to individuals, so that specific information relating to a particular individual is readily accessible.*

Personal data*: means data relating to a living individual who is or can be identified from the data or from the data in conjunction with other information that is in, or is likely to come into, the possession of the data controller.*

Data Controller*: A data controller is the individual or legal entity which controls the contents and use of personal data. The school can be considered to be the data controller, with the Principal acting for the Board of Management in exercising the functions involved.*

The policy applies to the Board of Management, all school staff, parents/guardians, students and others insofar as the measures under the policy relate to them.

**3.   Rationale**

* Schools are obliged to comply with the *Data Protection Act, 1988* and the *Data Protection (Amendment) Act, 2003* (henceforth referred to as the *Data Protection Acts*)
* Under Section 9(g) of the [*Education Act, 1998*](http://acts2.oireachtas.ie/zza51y1998.1.html), the parents of a student, or a student who has reached the age of 18 years, must be given access to records kept by the school relating to the progress of the student in his or her education.
* Under Section 20 of the [*Education (Welfare) Act, 2000*](http://www.oireachtas.ie/documents/bills28/acts/2000/a2200.pdf), the school must maintain a register of all students attending the school.
* Under Section 21 of the [*Education (Welfare) Act, 2000*](http://www.oireachtas.ie/documents/bills28/acts/2000/a2200.pdf), the school must record the attendance or non-attendance of students registered at the school on each school day.
* Under Section 28 of the [*Education (Welfare) Act, 2000*](http://www.oireachtas.ie/documents/bills28/acts/2000/a2200.pdf), the data controller may supply personal data kept by him or her, or information extracted from such data, to the data controller of another prescribed body if he or she is satisfied that it will be used for a “relevant purpose” only.

**4.   Relationship to characteristic spirit of the school as contained in the Mission Statement**

This policy is to be read and understood in the context of the school’s Mission Statement which states:

*In Coláiste Pobail Acla we strive for excellence in our teaching and learning. We endeavour to foster the holistic development of our school community by providing an inclusive, spiritual and caring environment.*

**5.   Goals/Objectives**

The objectives of this policy include the following:

1. To ensure that the school complies with the Data Protection Acts.
2. To ensure compliance by the school with the eight rules of data protection as set down by the Data Protection Commissioner based on the Acts as follows :
   1. Obtain and process information fairly.
   2. Keep it only for one or more specified, explicit and lawful purposes.
   3. Use and disclose it only in ways compatible with these purposes.
   4. Keep it safe and secure.
   5. Keep it accurate, complete and up-to-date.
   6. Ensure that it is adequate, relevant and not excessive.
   7. Retain it for no longer than is necessary for the purpose or purposes for which it was obtained.
   8. Give a copy of his/her personal data to that individual on request.

The minimum age at which consent can be legitimately obtained for processing and disclosure of personal data under Rules (i) and (iii) above is not defined in the *Data Protection Acts*. However, guidance material published on the Data Protection Commissioner’s website states the following:

“As a general rule in the area of education, a student aged eighteen or older may give consent themselves. A student aged from twelve up to and including seventeen should give consent themselves and, in addition, consent should also be obtained from the student’s parent or guardian. In the case of students under the age of twelve consent of a parent or guardian will suffice.”

3 .To ensure that the data protection rights of students, staff and other members of the school community are safeguarded.

**6.   Key measures**

The policy content is divided into two sections as follows:

**A. Details of all personal data which will be held, the format in which it will be held and the purpose(s) for collecting the data in each case.**

**B. Details of the arrangements in place to ensure compliance with the eight rules of data protection.**

**A. Details of all personal data which will be held, the format in which it will be held and the purpose(s) for collecting the data in each case**

The personal data records held by the school may include:

***Staff records:*** These may include:

* Name, address and contact details, PPS number
* Record of appointments to promotion posts
* Details of approved absences (career breaks, parental leave, study leave etc.)
* Details of complaints and/or grievances including consultations or competency discussions, action/improvement/evaluation plans and record of progress.   
  **Note:** a record of grievances may be maintained which is distinct from and separate to individual personnel files.

*Format:* The format in which these records will be kept is manual record (personal file within filing system), computer record (database) or both.

*Purpose for keeping staff records may include:*to facilitate the payment of staff, to facilitate pension payments in the future, a record of promotions made etc.

***Student records:***These may include:

* Information which may be sought and recorded at enrolment, including:

1. name, address and contact details, PPS number
2. names and addresses of parents/guardians and their contact details
3. religious denomination
4. racial, ethnic or national origin
5. membership of the Traveller community, where relevant
6. any relevant special conditions (e.g. special educational needs, health issues etc.) which may apply

* Information on previous academic record
* Psychological assessments
* Attendance Records
* Academic record – subjects studied, class assignments, examination results as recorded on official school reports
* Records of significant achievements
* Records of disciplinary issues and/or sanctions imposed
* Other records e.g. records of any serious injuries/accidents etc.

*Format:*These records may be kept in manual form, computer record (database) or both.

*Purpose for keeping student records may include:*to enable each student to develop his/her full potential, to comply with legislative or administrative requirements, to ensure that eligible students can benefit from the relevant additional teaching or financial supports, to support the provision of religious instruction, to enable parent/guardians to be contacted in the case of emergency etc.

***Board of Management records:*** These may include:

* Name, address and contact details of each member of the Board of Management
* Records in relation to appointments to the Board
* Minutes of Board of Management meetings and correspondence to the Board.

*Format:* These records may be kept in manual form, computer record (database) or both.

*Purpose for keeping board of management records may include:*a record of board appointments, documenting decisions made by the board etc.

**B. Details of arrangements in place to ensure compliance with the** **eight rules of data protection**

The following are the procedures in place with regard to the eight data protection rules:

***1. Obtain and process information fairly***

* Personal information will be obtained and processed fairly in accordance with the *Data Protection Acts*, with consent being obtained from staff members, parents/guardians or students where required.

***2. Keep it only for one or more specified, explicit and lawful purposes***

* The persons whose data is collected will be given the lawful reasons why it is collected and kept.

***3. Use and disclose it only in ways compatible with these purposes***

* Data will be used only in ways consistent with the purpose/s for which it was obtained.
* Under Section 20 of the [*Education (Welfare) Act, 2000*](http://www.oireachtas.ie/documents/bills28/acts/2000/a2200.pdf), the Principal will maintain a  
  register with the names of all children attending the school. When a child is transferring from the school, the Principal will notify the Principal of the new school of any problems relating to school attendance that the child concerned had and of any other matters relating to the child’s educational progress that are considered appropriate. Under Section 28 of the Act, the school may supply personal data, or information extracted from such data, to other schools or another prescribed body if satisfied that it will be used in recording the student’s educational history, monitoring the student’s educational progress or developing the student’s full educational potential. The bodies which have been prescribed (and so can share information) under Section 28 are:
  + The Minister for Education and Science (which includes the Inspectorate and the National Educational Psychological Service (NEPS)
  + The National Council for Special Education (NCSE)
  + The National Educational Welfare Board (NEWB)
  + Each school recognised in accordance with section 10 of the Education Act, 1998
  + Each place designated by the Minister under section 10 of the Education Act, 1998 to be a centre for education.
  + Personal data may be disclosed to third parties, including the Department of Education and Science, the NEWB, Gardaí, in legal proceedings and to HSE personnel.

***4. Keep it safe and secure***

Appropriate security measures will be taken against unauthorised access to, or alteration, disclosure or destruction of, the data and against their accidental loss or destruction.

* Access to the information (including authority to add/amend/delete records) is restricted to authorised staff on a “need to know” basis.
* Computer systems are password protected.
* Information on computer screens and manual files is kept out of view of callers to the school/office.
* Back-up procedures are in operation for computer held data.
* All reasonable measures are taken to ensure that staff are made aware of the security measures and comply with them.
* All waste papers, printouts etc. containing personal information are shredded and disposed of carefully.
* Steps are taken to ensure that no unauthorised person can access data from computers which are no longer in use or subject to change of use.
* The Principal is the designated person responsible for overall security.
* Periodic reviews of the measures and practices in place will be undertaken.
* The premises will be secure when unoccupied.

***5. Keep it accurate, complete and up-to-date***

* Clerical and computer procedures are adequate to ensure high levels of data accuracy.
* Appropriate procedures are in place, including periodic review and audit, to ensure that each data item is kept up-to-date.

**Note:** While this rule applies to all computer held data and any new manual records created from July 2003, it will only apply to existing manual records from October 2007.

***6. Ensure that it is adequate, relevant and not excessive***

* The information held is adequate in relation to the purpose/s for which it is kept.
* The information held is relevant in relation to the purpose/s for which it is kept.
* The information held is not excessive in relation to the purpose/s for which it is kept.

**Note:** While this rule applies to all computer held data and any new manual records created from July 2003, it will only apply to existing manual records from October 2007.

***7. Retain it for no longer than is necessary for the purpose or purposes***

* There is a defined policy in place for the retention periods for all items of personal data kept.
* Management, clerical and computer procedures are in place to implement such a policy.

**Note:** While this rule applies to all computer held data and any new manual records created from July 2003, it will only apply to existing manual records from October 2007.

In general, personal data will not be kept for any longer than is necessary to fulfil the function for which it was first recorded. Retention times cannot be rigidly prescribed to cover every possible situation and there is a need to exercise individual judgement in this regard in relation to each category of records held. However, the following particular requirements will be met:

* School registers and roll books are required to be kept indefinitely within the school. Consideration is being given to amending the Data Protection Acts to allow schools to deposit completed school registers and roll books which are no longer required for administrative purposes with the Local Authority Archive Service. The Department will notify schools of any changes to the Acts in this regard.
* Pay, taxation and related school personnel service records will be retained indefinitely within the school.

* Where litigation may potentially arise in the future (e.g. in relation to accidents/personal injuries involving school personnel/students or accidents occurring on school property), the relevant records will be retained until the possibility of litigation ceases.

**Note:** The statute of limitations in relation to personal injuries is currently two years. The limitation period for other causes of action varies, but in most cases is not greater than six years. A limitation period does not begin to run until the person concerned acquires knowledge of the facts giving rise to the claim. In the case of minors, the limitation period does not begin to run until they reach their 18th birthday or later if the date of knowledge post- dates their 18th birthday. It would appear prudent not to destroy records likely to be relevant in litigation at least until the **six year limitation period** has expired.

Information on student files, as a general rule, will be retained for a period of six years after the student has completed the Senior Cycle and/or reached the age of 18.

***8. Give a copy of his/her personal data to that individual on request***

On making an access request any individual (subject to the restrictions in Notes A and B below) about whom personal data is kept, is entitled to:

* a copy of the data which is kept about him/her
* know the purpose/s for processing his/her data
* know the identity of those to whom the data is disclosed
* know the source of the data, unless it is contrary to public interest
* know the logic involved in automated decisions
* a copy of any data held in the form of opinions, except where such opinions were given in confidence.

To make an access request, an individual must:

* apply in writing
* give any details which might be needed to help identify him/her and locate all the information kept about him/her
* pay an access fee, the current prescribed amount is €6.35.

There are a number of exceptions to the general rule of Right of Access, including those specified in Notes A and B below.

**Handling access requests**

* The Data Controller, the Principal acting for the Board of Management, is responsible for handling access requests.
* Procedures are in place to provide applicants with access to personal data about themselves in accordance with the Data Protection Acts as detailed above.
* Proof of identity may be required, in certain circumstances, in order to access personal data.
* Where applicable, procedures are in place to record the outcome of any legal proceedings which may limit the right of one or both parents to access information about their child.   
  If spouses are separated and one of them has obtained an order for custody but both of them remain guardians, then both of them are entitled to be involved in important decisions which affect the child.
* Procedures are in place to ensure that all relevant manual files and computers are checked for the data in respect of which the access request is made.
* Procedures are in place to rectify or erase any inaccurate information as identified by the individual on whom the data is kept, within 40 days of the request being made.
* Information will be supplied promptly and within 40 days of receiving the request or, in respect of examinations data, within 60 days of receiving the request or 60 days of first publication of the results (whichever is the later).
* Individual will be informed within 40 days of the request if no information is held on them.
* The fee charged will be refunded to the individual if the request is not complied with or if it is necessary to rectify, supplement or erase the personal data concerned.

**Note A: Access requests by students**

* Students aged 18 and over are entitled to access their personal information in accordance with the Data Protection Acts.
* Students under 18 years of age can be given access to their personal information, depending on the age of the student and the nature of the record
  + if the information is ordinary, routine or non-controversial (e.g. a record of a test result) the student could readily be given access
  + if the record is of a sensitive nature, it would be prudent to seek parental/guardian consent
  + if a student has some disability or medical condition that would impair his or her ability to understand the information, or if disclosure would be likely to be harmful to the individual concerned, parental/guardian consent should be sought.

**Note B: Exceptions to note:**

* Data Protection regulations prohibit the supply of:

1. health data to a patient in response to a request for access if that would cause serious harm to his or her physical or mental health. The regulations also provide that such data is to be communicated only by, or after consultation with, an appropriate "health professional", normally the patient's own doctor
2. personal data obtained in the course of carrying on social work if that would cause serious harm to the health or emotional condition of the data subject concerned. The regulations apply to social work carried on by Ministers, local authorities, the HSE or any other such bodies receiving financial assistance from public funds.

**7.   Links to Other Policies and to Curriculum Delivery**

School policies need to be consistent with one another, within the framework of the overall School Plan. Relevant school policies already in place, being developed or reviewed, will be examined with reference to the Data Protection Policy and any implications which it has for them will be addressed.

The following policies may be among those considered:

* Child Protection Policy
* Guidance Plan
* Anti-Bullying Policy
* Code of Behaviour.

**Links to curriculum delivery**

* CSPE, TYO

**8.   Implementation Arrangements, Roles and Responsibilities**

The Principal will be assigned the role of co-ordinating implementation of the Policy and for ensuring that staff who handle or have access to personal data are familiarised with their data protection responsibilities.

School administrative staff will have a key role in implementing the Policy and will be provided with a copy of the policy and other relevant information. Teaching staff will be provided with a copy of the Policy.

**9.   Ratification & Communication**

The entire staff must be familiar with the Policy and ready to put it into practice in accordance with the specified implementation arrangements.  It is important that all concerned are made aware of any changes implied in recording information on students, staff and others in the school community.  
  
Parents/guardians and students will be informed of the Data Protection Policy from the time of enrolment of the student e.g. by means of a statement of the key elements of the policy.

**10.   Implementation Date**

The policy will take effect from September 2009. 

**11.     Monitoring the implementation of the policy**

The implementation of the policy will be monitored to ensure that the actions/measures set down under the policy are being implemented.

**12.     Reviewing and evaluating the policy**

The policy will be reviewed and evaluated biannually and as necessary. Ongoing review and evaluation will take cognisance of changing information or guidelines (e.g. from the Data Protection Commissioner, Department of Education and Science or the NEWB), legislation and feedback from parents/guardians, students, school staff and others. The policy will be revised as necessary in the light of such review and evaluation and within the framework of school planning.

Adopted by the Board of Management

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\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date

**Appendix 1**

**Data Protection Statement for inclusion on relevant forms when personal information is being requested**

The information collected on this form will be held by the Coláiste Pobail Acla in manual and in electronic format. The information will be processed in accordance with the *Data Protection Act, 1988* and the *Data Protection (Amendment) Act, 2003.*

The purpose of holding this information is *for administrative purposes, to facilitate the school in meeting the student’s educational needs.*

Disclosure of any of this information to statutory bodies such as the Department of Education and Science or its agencies will take place only in accordance with legislation or regulatory requirements. Explicit consent will be sought from Parents/Guardians or students aged 18 or over if the school wishes to disclose this information to a third party for any other reason.

Parents/Guardians of students and students aged 18 or over have a right to access the personal data held on them by the school and to correct it if necessary.

I consent to the use of the information supplied as described.

**Signed Parent/Guardian:          \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Signed Student:                       \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**