



# *ORMISTON BUSHFIELD ACADEMY*

*Opportunity, Belief, Aspiration*

## **ACCESS TO STUDENTS' RECORDS POLICY**

### **Introduction**

This policy is based on the Data Protection Act (1998) The Education (Pupil Information) (England) Regulations 2000 and The Education (Pupil Information) (England) (Amendment) Regulations 2001. For the purposes of this policy, student records are deemed to mean any record of information which:

- Is processed by or on behalf of the Governing Body of or a teacher at the Academy
- Relates to any person who is or who has been a student at the Academy.
- Originated from or was supplied by or on behalf of any of the persons specified.

The Education (Schools) Regulations require us to keep a "curricular record" for each student which is updated at least annually. The minimum this entails is set by the Education (Individual Pupils' Achievement) (Information) Regulations. Information kept on each student in this record also included:

- (a.) Name of the parent(s) to whom access to the student's record is granted
- (b.) Student's full name, address, sex, date of birth, schools attended, position in family, doctor's name and emergency contact address.
- (c.) All formal reports, internal test results, examples of work where appropriate and, where significant, attendance records.
- (d.) National Curriculum basic information (see below under transfer of records).
- (e.) Tests and other evaluation material.
- (f.) Public examination results.
- (g.) Other information deemed by the Academy to be significant, including information supplied by third parties such as the County Psychological Service, Social Services and Health Authorities.
- (h.) References for employers, the Careers Service, institutes of further and higher education and other similar reports.
- (i.) Copies of letters to parents and internal school notes concerning students.

The student's annual reports are added to the file along with other material of the above sort that becomes available about the students; in this sense this is better than annual revision. These copies of reports are, by law, part of the students' educational record.

Staff may keep their own notes, but no other information, except as above, should be stored anywhere else.

It is the responsibility of the specified person to maintain these records and keep them up to day.

Rights of access apply to 'any material which originates from, or has been supplied by, a teacher at the Academy, or an employee of the LA'. Any material based on a teacher's subjective assessment should be sufficiently well founded to stand up to scrutiny.

### **Exempted material**

- Notes kept by a teacher wholly for his/her own use
- Records made before September 1989
- Information, e.g. social services or medical reports received from persons other than employees of the LA or governing body (including an educational psychologist contracted by the governing body), or the person requesting disclosure.
- Information concerning another student
- Information which the governors believe might cause serious physical, mental or emotional harm to the student or any other person.
- Information relating to actual, alleged or suspected child abuse.
- References, e.g. to a potential employer, UCAS or colleges.
- Ethnic data
- School reports to juvenile courts
- Information relating to the special education needs of students.

The Academy Trust will issue to parents and students a Fair Processing notice. This notice explains what information is recorded on students, by whom and what it is used for, and will be issued on enrolment, apart from name, address and parent/s' name/s.

An example of a Fair Processing notice is given for guidance in appendix 1.

### **Student requests to access records**

The Data Protection Act gives all students, regardless of age, the right of access to their records. (Subject Access Rights). Students are also entitled to be given a description of the personal data which makes up the record, together with details of the purposes for which the data are processed, the sources of the data and the individuals or organisations to which the data may be disclosed. The process will be:

- The student must make the request in writing.
- The Academy will respond to a subject access request within 15 working days.
- The student may inspect the record free of charge but if copies are requested the Academy has the right to charge appropriately. The Governing Body will determine the charge.
- In order to fulfil its responsibilities under the Data Protection Act, the Academy may seek proof of the requester's identity and any further information required to locate the personal data, particularly if the requester is no longer a student on roll.
- If a student is not able to understand or exercise their own rights under the Data Protection Act, parents can make a subject access request on their behalf.
- In exceptional cases information may be withheld. This would only normally be done where the information may cause harm to the

student's physical or mental health or that of a third party or if information forms part of a court report and its disclosure would hinder the prevention or detection of a crime or prosecution.

- For the purposes of this process, the Data Protection Act assumes that any child of 12 years or above is able to understand the records but there will be individual exceptions.

### **Parental request to access student records.**

The Education (Pupil Information) (England) Regulations give parents the independent right to access their child's educational records.

- Parents are required to make a request in writing to view their child's records.
- The Academy will respond to this request within 15 working days.
- A parent may inspect the records free of charge but if copies are made the Academy has the right to charge an appropriate amount, set by the Governing Body.
- The information to which parents are entitled and the exemptions are the same as for students although there is no parental right of access to information which does not form part of the official record. Child Protection records are not available for access on request.
- While any complaints regarding the disclosure of records process will initially be resolved informally, if the difficulty persists, the complaint will be dealt with by the Governing Body.
- A student does not have the right to prevent their parents from obtaining a copy of their school records.
- The Academy has the right to verify that the person requesting the information is who they say they are and that they have the right to a particular child's data. A request must be made by the parent concerned and cannot be made on behalf of the other parent unless authorised by that person.

Since the word 'parent' is widely used but unclearly defined in the Education Acts, the following categories of persons are accorded access to a child's record and this is based primarily on the Children's Act 1990.

- (a.) Natural parents (except those whose legal custody has been removed by a Court).
- (b.) Other persons or official representatives of bodies to which custody, care or control or guardianship has been granted by the Court.
- (c.) Social Services Department where the child is in the care of the local authority.
- (d.) Social Services Department registered foster parents for the child.
- (e.) Other persons having actual care and control of the child on a permanent basis.

When a child is in the care of the local authority there may be several 'parents' with a right of access to the child's records (e.g. natural or adoptive parents, foster parents). As an indication of general guidance, where the child is in voluntary care natural parents retain their parental rights and duties, but they are shared with the other 'parents'. Where the child is committed to the care of the local authority by a court or where the Social Services Committee have resolved to take parental rights and duties, the natural parents' rights are limited at the discretion of the Social Services Department.

Where a natural parent whose custody has been removed by a Court wishes to have access to the child's records the request will be referred to the custodial parent for decision. When non-custodial parents seek information from schools to support Court proceedings the school will assist the Court by providing information only to the official Welfare Service.

### **Requests from Outside Agencies.**

The Academy may receive requests from the Police for information about a student at the school. If police request confirmation on the following the Academy will comply. The Academy will also inform the parent/s of the request.

- Registration at the Academy.
- Full name and date of birth.
- Address
- Next of kin as informed to the Academy.
- Attendance on identified dates.

Should the Police request further access to student records the Academy will take legal advice in the context of the seriousness of the situation, public interest and the confidentiality of the data.

### **Transfer of Educational Records**

When children transfer to another school we must send the new school:

- The complete statutory transfer form
- All educational records relating to the child

(If they transfer to an institution of HE or FE then the transfer form should not be used and the record should only be transferred if a written request is made by the receiving establishment).

The common transfer form can be sent in paper or electronic form. This information must be sent within 15 days of the child ceasing to be registered at the academy. Where, however, the record cannot be transferred automatically because the destination of the child is unknown, it must be sent within 15 school days of any request from the new school.

The duty does not apply when:

- The student has been registered at the school for less than four weeks (then we pass on any records received from the previous school).
- We cannot find the name of the new school despite our best efforts.
- Assessment information is not yet to hand (it should be sent on later).