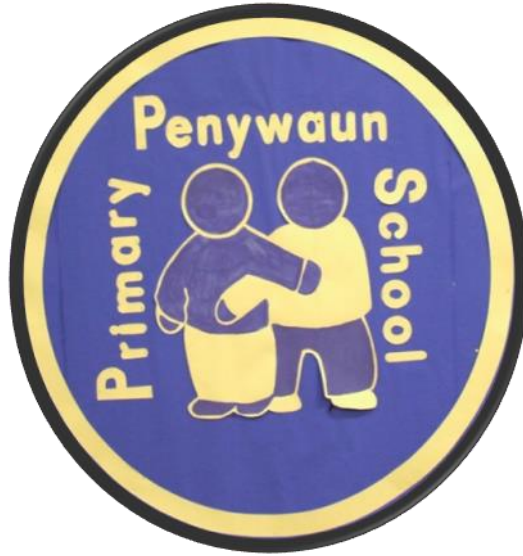


Penywaun Primary School



Guidance for handling requests for information from Official Authorities

The Police (including British Transport Police), Government Agencies (such as the Home Office/Immigration/Child Trafficking departments) and other Local Authorities may need to access information from school records as part of their investigations.

They are able to make such requests under the Data Protection Act (DPA) 2018 with most requests being made under Schedule 2, Part 1, Paragraph 2 of the DPA;

- The prevention or detection of crime.
- The apprehension or prosecution of offenders.

The type of requests these organisations could make are varied, the following list is an example of those but not limited to;

- Copies of CCTV
- Information relating to Pupils and staff
- Proof of life/missing person requests
- Child trafficking requests
- Information required by a Court of Law (criminal/care/family court proceedings)
- Child abuse investigation (present or historical)

IMPORTANT - For child abuse investigations there is a national protocol in place for the sharing of information between the Police, local authorities and schools.

The protocol can be found from the following web link: <https://www.judiciary.uk/wp-content/uploads/JCO/Documents/Guidance/protocol-good-practice-model-2013.pdf>

These requests are managed by Legal Services. If you have any questions about a formal request for a child's education record and are unsure as to which type of request this would fall under (from the list above) please contact Childcare.Admin@rctcbc.gov.uk with a copy of the request and they will be able to advise you.

This guidance contains answers to frequently asked questions about the exemption and explains what you need to consider when you receive a request to disclose personal information under these circumstances

It is important to note there is **no restriction** on who can make a request under this exemption. The exemption is based on the **purpose** for which the information is being requested, not the type of organisation requesting it. Although, the organisation requesting the information is likely to be a key factor in deciding whether it's appropriate to release the information under the exemption.

What do I do if I receive a request to view records?

Any request must be in writing - unless the information is required urgently and is of important nature (e.g. apprehension of an offender where there is a risk posed to the public) and needs to:

- clearly set out the information they wish to access
- the reasons why and
- detail the powers under which the request is made.

You must keep a record of all requests on the school's information request log. It is good practice to keep a copy of the request, any communications with the Officer(s) and a copy of what information is disclosed. This may be needed if there is any further contact from the Officer.

For child abuse investigations (where the Officer is looking to obtain education records) there is a national form called Annex C. Legal Services will contact the relevant School/Headteacher with the details of the request. If you receive a request directly please contact Legal Services at Childcare.Admin@rctcbc.gov.uk and Stephen.J.Maddocks@rctcbc.gov.uk

Who should prepare the information for disclosure?

Due to the nature of these requests, the Head Teacher should decide who is the most appropriate person to respond to the request. These requests can be of a sensitive nature and restricting involvement may be necessary if there are criminal investigations and the risk of jeopardising the case.

For example, if there is an investigation into a member of staff, The Head Teacher should deal with this directly. For more general requests such as CCTV, the Head Teacher may deem it appropriate for these to be dealt with by the Data Protection Lead.

What information can be disclosed?

The request should detail what specific information is required and when (for example, if there are time constraints detailed in a court order).

It should also provide an overview of the investigation, to help you determine what they may need to access.

Clarification should be sought from the requesting Officer if the request is too vague.

In relation to child abuse investigations managed by Legal Services, they only require a copy of records that the Schools has produced. They **do not** require copies of records from Childrens Services as they would have obtained these directly from them

What can't be shared?

For child abuse cases (managed by Legal Services) information relating to any court proceedings should not be included in the files to be examined by the Police.

Legal **only** require records created by the School.

However, if you are unsure about disclosure for **any** request, advice should be sought from Legal Services, especially if it's a case where the Council's Solicitors maybe involved.

How long do I have to prepare the information?

The request should include reasonable timescales for the requesting Officer to be given access to relevant material, but the presumption will be that the School will deal with any request as expeditiously as possible so as to not to jeopardise the criminal investigation.

How do I disclose the information?

All information **MUST** be provided securely, either handed to the requesting Officer in person or sent via secure email, using HWB email accounts.

For child abuse cases (managed by Legal Services) copies of records should be sent electronically to the requesting Legal Services Officer/mailbox.

Can a Police Officer make notes and take information away with them?

Yes, a Police Officer can take notes and they may ask to have copies of information. You must keep a copy of what you provide Police Officers, and this must be kept in the request folder.

Keeping a record of requests

A record of all requests should be held on the school's information request log.

The information relating to the request will be retained by the school for 7 years from the point of disclosure (point of closure). The point of closure date may be revised if there is further contact, for example, contact from the Police or Crown Prosecution Service in relation to the information provided.

Appendix A Disclosure to Police - Schedule 2 Part 1 form



Request to external organisation for the disclosure of personal data to the Police

Under Schedule 2 Part 1 Paragraph 2 of the Data Protection Act 2018 and GDPR Article 6(1)(d)



To:

Position (where known):

Organisation:

Address:

I am making enquiries which are concerned with:

- The prevention or detection of crime*
- The prosecution or apprehension of offenders*
- Protecting the vital interests of a person*
- I confirm that the personal data requested below is needed for the purposes indicated above and a failure to provide that information will be likely to prejudice those matters.
- I confirm that the individual(s) whose personal data is sought should not be informed of this request as to do so would be likely to prejudice the matters described above.

*Check mark as is appropriate

Information required:

Police Reference:

From:

Rank/Number/Name:

Station:

Date/Time:

Telephone Number(s):

Email address:

Signature*:

OFFICIAL SENSITIVE (WHEN COMPLETE)

Mae Heddlu De Cymru yn croesawu derbyn gohebiaeth yn Gymraeg a Saesneg.
Byddwn yn ateb gohebiaeth a dderbynir yn Gymraeg yn Gymraeg ac ni fydd
gohebu yn Gymraeg yn arwain at oedi.

South Wales Police welcomes receiving correspondence in Welsh and English.
Any correspondence received in Welsh will be answered in Welsh and corresponding
in Welsh will not lead to a delay in responding.

Prif Gwnstabl **Matt Jukes QPM, MA(Oxon)MSc.** Chief Constable

OFFICIAL SENSITIVE (WHEN COMPLETE)

Counter Signature:*

Rank/Number/Name: [Click or tap here to enter details of person providing counter signature.](#)
as required by recipient

Please see Guidance Notes on following page

OFFICIAL SENSITIVE (WHEN COMPLETE)

Explanatory Note

This form replaces the Section 29(3) Form which has become redundant by virtue of new data protection legislation. It is used by the police as a means of making a formal request to other organisations for personal data where disclosure is necessary for the purposes of the prevention or detection of crime or the apprehension or prosecution of offenders. It places no compulsion on the recipient to disclose the information, but should provide necessary reassurance that a disclosure for these purposes is appropriate and in compliance with the Data Protection Act 2018 and the General Data Protection Regulation (GDPR).

Crime and Taxation - The GDPR regulates the processing of personal data where it is done so for non-Law Enforcement purposes. Article 23 of the GDPR permitted the UK Parliament to create, via legislation, exemptions from particular elements within the GDPR which would otherwise compromise the public interest.

Consequently Parliament used the Data Protection Act 2018 to set out exemptions from the GDPR which apply in some circumstances. They mean that some of the data protection principles and subject rights within the GDPR do not apply at all or are restricted when personal data is used or disclosed for particular purposes.

The most relevant exemption for Law Enforcement is that within the Data Protection Act 2018 at Schedule 2 Part 1 Paragraph 2 (Crime & taxation: general). This applies where personal data is disclosed by an organisation subject to the GDPR to the police for the purposes of *the prevention or detection of crime or the apprehension or prosecution of offenders*.

It restricts the application of the GDPR data protection principles and subject rights (as listed in the Data Protection Act 2018 at Schedule 2 Part 1 Paragraph 1) to the extent that the application of those provisions would be likely to prejudice *the prevention or detection of crime or the apprehension or prosecution of offenders*.

In effect the exemption means that an organisation can provide personal data to the police where necessary for the prevention or detection of crime or the apprehension or prosecution of offenders without fear of breaching the GDPR or Data Protection Act 2018.

Vital Interests – GDPR Article 6(1)(d) provides a lawful basis for organisations to disclose personal data to the police where the disclosure *is necessary in order to protect the vital interests of the data subject or of another natural person*.

Further guidance on the use of this form may be obtained from the force Data Protection Officer.

Completion Guidance

Police officers or staff completing this form should type and tab between the fields on the form. The information required field should provide the recipient with sufficient information to allow them to locate the information sought. Where a signature and/or counter signature are required the form will need to be printed off and signed manually. Some organisations may require a counter signature to be added to the form. Normally this should be the supervisor or line manager of the person completing the form, but may be a higher rank if reasonably required by the recipient.

Version Control

Version No	Date approved	Valid from	Valid to	Changes Made
1.0	01.09.2021	01.09.2021		Document created.