St. John's C.E. Primary School

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Policy for: Data Breach

Author	**SMBC Information Governance Team**
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V1	IG Team	IG Team	15.06.2018	1.09.2019	No Changes
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V5	IG Team	IG Team	28.10.2022	01.09.2024	Terms changed from ‘SIGI’ to ‘data breach’. Minor formatting

Contents

1. Introduction and overview

1.1 What is a data breach?

A **data breach** occurs where there is:

- an actual or potential loss of information or
- an unauthorised disclosure of information,

and where the incident could affect an individual's privacy, lead to identity fraud or have some other significant impact on individuals or the School.

These incidents could occur by a range of means including the information being lost, stolen, accessed, disclosed or altered without appropriate authority. It should be noted that this is not an exhaustive list.

A **data breach** involving personal information is likely to constitute a breach of the UK General Data Protection Regulation ('GDPR') and the Data Protection Act 2018 ('DPA'). Further guidance on what constitutes a personal breach under GDPR can be found on the ICO website.

1.2 What causes a data breach?

The Information Commissioner's Office (ICO) states that a **data breach** can happen for a number of reasons including:

- Loss or theft of data or equipment on which data is stored;
- Inappropriate access controls allowing unauthorised use;
- Equipment failure;
- Human error;
- Unforeseen circumstances such as fire or flood;
- Hacking attack; or
- 'Blagging' offences where information is obtained by deceiving the organisation that holds it.

Other reasons for a breach occurring could include:

- Poor disposal of confidential waste;
- Unauthorised disclosure of confidential information to a third party (in any format including verbal);
- Finding confidential information/records in a public area; or
- Sharing of computer ID's and passwords.
- Not updating records when we are notified of a change

2. How to manage an incident

2.1 How can a data breach be managed?

When an incident occurs, there are four important elements to the incident management plan:

- Containment and recovery;
- Assessment of on-going risk;
- Notification;
- and Evaluation and response

The UK GDPR and DPA places a duty on all organisations in the UK to report certain types of data breach to the Information Commissioner's Office ('the ICO'). In some cases, organisations will also have to report certain types of data breach to the individuals affected.

A notifiable breach has to be reported to the ICO within 72 hours of the School becoming aware of it. It is, therefore, important that staff recognise when an incident has occurred and report it appropriately so that immediate action can be taken to contain it.

All incidents must be reported to the Information Governance Team within 24 hours.

2.2 Containment and recovery

The person discovering a **data breach** should take the following steps immediately:

- Report it to the Business Manager or Headteacher;
- Report it to the Information Governance Team, via IGSchoolSupport@stockport.gov.uk or by telephone on 0161 474 4299, who will log the incident and advise on the next steps/any immediate action required to contain the incident;
- Take advice from your HR provider or advise that the Line Manager takes advice from HR regarding any immediate action which may need to be taken regarding employees; and
- Contact your IT provider if any IT equipment is involved in the incident.

At this point an Investigating Officer (usually the Business Manager or Headteacher) must start a full investigation without delay. The Data Breach Reporting Form ('Appendix 1') should be completed and sent to the Information Governance Team within 24 hours.

The Investigating Officer should ensure that they obtain all the pertinent facts regarding the incident, take possession of any documentation and record any key facts/decisions from this point forward. As a minimum this should include:

- Date and time of the incident;

- Who was involved;
- Exactly what information has been disclosed;
- How the breach occurred;
- Whether the data has been recovered;
- Whether the data subjects involved have been informed;
- What immediate corrective action has been taken; and
- Further actions planned: who is responsible for ensuring they are carried out and when will they be completed.

2.3 Assessing Risk

The Investigating Officer must accurately define any risk caused by the breach and this will need to be assessed to maximise the school's ability to control and mitigate the risk. The Severity Table in Appendix 2 gives broad guidelines on assessing the severity of incidents and this can be used by the Investigating Officer to assist with the completion of the RAG rating matrix within the Data Breach Reporting Form.

The investigation also needs to consider what impact the incident could have on individuals by considering:

- Is it special category data, defined under the UK GDPR as personal data concerning **racial or ethnic origin**;**political opinions**; **religious or philosophical beliefs**; **trade union membership**; **genetic data**; **biometric data** (where used for identification purposes); **health**; **sex life**; or **sexual orientation**.
- Is it generally perceived as sensitive data because of what might happen if it is misused e.g. bank account details, criminal data?
- Are there any protections in place such as encrypted laptop, USB sticks, secure emails etc.?
- How many people are affected by the incident?
- Whose data is involved? E.g. Parents, pupils, staff or suppliers?
- How serious might the effect of the incident be on those people? Factors to consider include; physical risk; financial risk; identity fraud risk; damage to personal reputation; negative impact on their privacy; damage to organisational reputation; disclosure of sensitive personal information.
- What is the likelihood of the identified risk occurring? E.g. if IT equipment is stolen, would someone need very specialist equipment and knowledge to access the information?
- What are the possible consequences for the school's reputation?
- Could there be a risk to public health?

2.4 Notification

UK Data Protection law mandates that all organisations in the UK must report certain types of data breaches to the ICO. Where a breach is likely to result in

a high risk to the rights and freedoms of individuals, you must also notify those concerned directly without undue delay. Depending on the incident there may be other legal, contractual or sector-specific requirements to notify various parties. Notifications may assist in security improvements and implementation, as well as risk mitigation.

An immediate assessment must be made as to whether the data subject (i.e. the individual(s) whose data was involved in the incident) should be notified. This should consider:

- Is the breach likely to result in a high risk to the rights and freedoms of the data subject? Examples of high risk processing can include; Systematic and extensive automated profiling; Large-scale processing of special categories of data; Large-scale, systematic monitoring of a publicly accessible area.
- Will notification help the individual mitigate any risk?
- Is notification likely to result in undue stress, outweighing the benefit of notifying them?
- If the individuals being notified are capable of understanding the notification? For example, does the person have the capacity to understand? If not, you may need to notify a third party with the legal right to make decisions on their behalf (e.g. a Power of Attorney). Consideration will also need to be given as to who needs to be notified when the individual concerned is a child.
- Are the numbers involved so large that notification would involve disproportionate effort? (This should weigh up the difficulties which would occur in the process of notifying against the potential benefit that the notification might bring to the individual.)

As a general rule, it is recommended that the data subject should be notified unless you can clearly justify why it is not in the data subject's interest. Any communication to an affected data subject should contain:

- the name and contact details of the school's DPO;
- describe the likely consequences of the personal data breach;
- describe the measures taken or proposed to be taken to address the personal data breach, including, where appropriate, measures to mitigate its possible adverse effects.

A template letter is provided at Appendix 3.

Data Subjects will **not** need to be notified in the following circumstances:

- Where the school has implemented appropriate technical and organisational protection measures and that those measures were applied to the personal data affected by the personal data breach i.e. data was encrypted.

- Where the school has taken subsequent measures which ensure that the high risk to the rights and freedoms of the data subject is no longer likely to occur.
- Where notification would require disproportionate effort. In such circumstances there would still be an expectation for there to be a public communication or similar measure to notify data subjects

If the Investigating Officer is concerned that an employee may be involved in fraudulent activity, the school's Senior Leadership and Data Protection Officer should be contacted for advice.

3. Information Governance Team investigation and evaluation

Upon receipt of the completed Data Breach Reporting Form, the Information Governance Team will assess the incident and the investigation to date and advise on and co-ordinate any further actions required.

The role of the IG Team investigator is to:

- review and evaluate the circumstances of the incident and the action taken so far.
- consider whether or not any further action needs to be taken to avoid further breaches or similar incidents occurring.
- identify any corporate issues arising from the breach
- agree an action plan, responsible officers and relevant timescales for implementation of follow-up of the incident.

The IG Team investigator will also review whether or not any risk of the breach occurring had been identified prior to the incident and whether or not it was avoidable. If so:

- did the incident occur despite existing measures being in place?
- were current policies and procedures followed? If not, why not?
- in what way did the current measures prove inadequate?
- had staff received appropriate training and communication in relation to information governance?
- if current procedures and policies were inadequate, how can they be improved e.g. by revision and rewriting, training etc.?
- If not:
- how likely is the incident to recur?
- could changes to current policies and procedures have prevented or lessened the impact of the incident?
- should current policies and procedures be rewritten?
- Consideration also needs to be given to whether or not the incident involved deliberate or reckless behaviour by an employee:

- For a deliberate act, disciplinary measures or prosecution should be considered, taking advice from Legal and HR.
- For reckless behaviour, disciplinary measures and retraining, as appropriate should be considered, taking advice from HR.

The IG Team investigation will also consider if the employee concerned in the incident was aware of current policies and procedures.

Finally, the Information Governance team will conduct a further risk assessment on the incident (Section 2 of the Data Breach Reporting Form in Appendix 1). Where the RAG status is amber or red as a result of this assessment, the incident will be referred to the DPO. There may also be instances in which the Information Governance team refer incidents with a green RAG status to the DPO e.g. if an incident gives an indication of wider corporate issues.

4. ICO Notification

ICO Notification will be determined by the Data Protection Officer. Where the ICO is to be notified, the ICO breach reporting form will be completed by a member of the Information Governance Services Team alongside the appropriate investigating officer.

The notification to the ICO should include as much information pertinent to the incident as is known at the time the incident is notified. Further details can be added to the notification as they become known and as the internal data breach process develops.

The ICO will respond to the breach notification and may conduct further investigations. The findings of the ICO investigation may require further changes to policies or procedures, or impose sanctions. Any interactions with the ICO regarding School breaches should be brought to the attention of the IG team and the investigating officer.

5. Staff Notification and Training

Where policy or procedure changes are introduced, all relevant staff should be informed of the changes and required to record their acknowledgement of reading and understanding the changes.

There may also be a requirement to repeat, extend or revise training. All involved staff should be required to undertake any new or repeated training resulting from the incident.

6. Monitoring

The IG Team will monitor the implementation and progress of action plans for all incidents on a regular basis to ensure that follow-up action is taken to avoid repeat incidents occurring.

If further information is required relating to this policy please speak to your Line Manager in the first instance or to the Information Governance Team.

Appendix 1 Data Breach Reporting Form

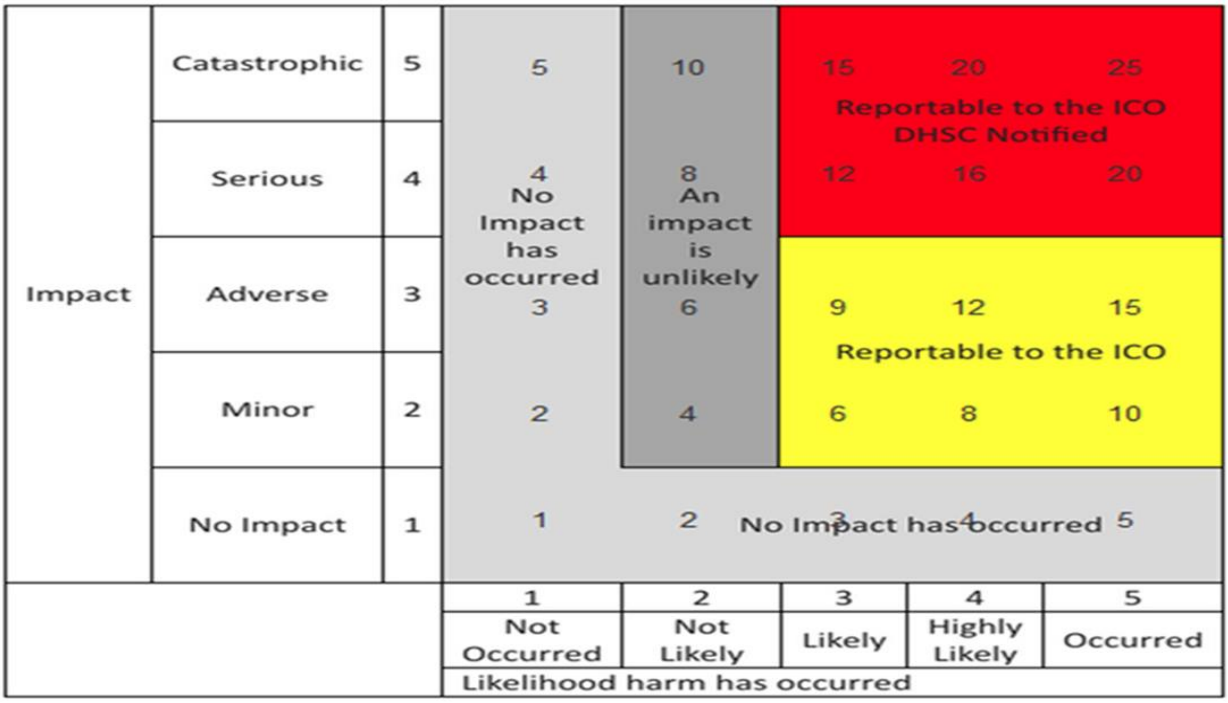
Stage 1 – To be completed by the Investigating Manager

Data Breach Reporting Form	
School name	
Date of incident	
Investigating Officer	
Information Asset Owner	

Do not provide the personal details ***of those involved in the breach or those affected by the breach. Eg. Use 'service user', instead of the name of the subject.***

What has happened – describe the incident in as much detail as possible with NO Acronyms. Tell us as much as you can about what happened, what went wrong and how it happened. Indicate who was involved **without** using people's names e.g. pupil, teacher etc.			
How did you find out about the breach?			
When did you discover the breach?			
Date: Time:			
When did the breach happen?			
Date: Time:			
Categories of personal data in the breach	Y	(Indicate all that apply)	Y
Basic personal identifiers e.g. Name, contact		Identification data e.g. username	

Finance e.g. Credit card, bank details		Official docs e.g. Driving licence	
Location data		Criminal convictions, offenses	
Data revealing racial or ethnic origin		Religious or philosophical beliefs	
Political opinion		Trade Union Membership	
Sex life data		Gender reassignment data	
Health data		Genetic or biometric data	
Not known		Other – specify	
Number of personal data records concerned?			
Categories of data subject affected?	Y	(Indicate all that apply)	Y
Pupils		Parents/Guardians	
Governors		Employees	
Not known		Other – specify	
What are the potential consequences? Please describe the possible impact on the data subject, as a result of the breach. Please state if there has been any actual harm to the data subject(s).			
Risk Analysis Grading			



Key:

Likelihood

Number	Likelihood	Description
1.	Not occurred	There is absolute certainty that there can be no adverse effect. This may involve a reputable audit trial or forensic evidence.
2.	Not likely or any incident involving vulnerable groups even if no adverse effect occurred.	In cases where there is no evidence that can prove that no adverse effect has occurred this must be selected.
3.	Likely	It is likely that there will be an occurrence of an adverse effect arising from the breach.
4.	Highly likely	There is almost certainty that at some point in the future an adverse effect will happen.
5.	Occurred	There is a reported occurrence of an adverse effect arising from the breach.

Impact

Number.	Effect	Description

1.	No impact	There is absolute certainty that no adverse effect can arise from the breach – no impact
2.	Minor - Potentially some minor adverse effect or any incident involving vulnerable groups even if no adverse effect occurred	A minor adverse effect must be selected where there is no absolute certainty.
3.	Adverse - Potentially some adverse effect	An adverse effect may be release of confidential information to into the public domain leading to embarrassment or it prevents someone from doing their job.
4.	Serious - Potentially pain and suffering/financial loss	There has been reported suffering and decline in health arising form the breach or there has been some financial detriment occurred. Loss of bank details leading to loss of funds. There is a loss of employment.
5.	Catastrophic - Death/catastrophic event	A person dies or suffers a catastrophic occurrence

Scoring – to be completed by Investigating Officer

	Score	**Comments**
Likelihood		
Impact		
Total		*Please detail text from risk analysis grid here e.g. reportable to the ICO*

Describe the measures you have in place to prevent this type of breach occurring in the first place e.g. staff training, changes to processes/procedures, changes to system controls etc.
Has this type of incident happened before? If so, provide a brief summary of when, who was involved, outcome.

What actions have been taken now to minimise risk of reoccurrence?
Any other actions taken? e.g. where the incident involves the loss of IT equipment have IT been informed? Or if the incident involves social care service user or patient information, have the Council's Caldicott Guardians been informed?
Have you told the data subjects about the breach?
Further action planned – Provide details of all further actions yet to take place

If you require further advice in relation to this incident please contact:

Information Governance Team
Will Gregory, Information Governance Manager (IG) T. 474 2388; E. will.gregory@stockport.gov.uk
Liz Sykes, Information Governance Manager (IG) T. 474 5157; E. liz.sykes@stockport.gov.uk
Naomi Vhora, CSS Senior Officer (IG) T. 218 1230; E. naomi.vhora@stockport.gov.uk

E-mail the completed form to:

School Support inbox - IGSchoolSupport@stockport.gov.uk

Appendix 2

Severity Table

NB: This table only gives broad guidelines on the severity of incidents. Each case may differ depending on other variables e.g. the number of people affected, the type of information concerned etc. The severity of each incident should therefore be considered on an individual basis.

Incident Type	**Breach of** (Confidentiality, Integrity, Availability & Accountability)	**Severity**
Unauthorised access to Network/ Systems/ Applications/ Email	Integrity/ Confidentiality/ Availability & Accountability	Moderate to Major depending on the level of information accessed
Sending information		
Information sent to the wrong recipient (internally), disclosing information that is neither confidential not personal	Integrity	Minor
Information sent to various recipients (including external recipients) disclosing non confidential or non-personal information	Integrity	Moderate
Information sent to an unauthorised recipient(s) containing confidential and sensitive personal information (whether Internal or External)	Integrity/Confidentiality	Major
Loss of equipment		
Loss or theft of equipment containing no confidential and/or personal information	Availability	Minor/ Moderate
Loss and theft of equipment containing confidential and/or personal information but with encryption software installed on the equipment	Availability/ Confidentiality	Moderate
Loss and theft of equipment containing confidential and/or sensitive personal information where equipment has no encryption software installed	Availability/ Confidentiality	Major
Inappropriate material found on PC	Accountability	Minor to Major depending on the type of material found on the PC
Illegal material found on PC	Accountability	Major
Inappropriate/unauthorised use of the network/software leading to a disruption of services	Availability	Major
Inappropriate use of the internet or email as defined within the AUP Policy	Accountability/ Availability	Minor to Major depending on the circumstances
Passwords written down leading to unauthorised access	Integrity/ Confidentiality/	Moderate/ Major depending on the type of information

	Availability & Accountability	and system and impact of the incident
Offensive emails being sent	Accountability	Moderate to Major depending on content of the email
Spam or 'phishing' emails	Availability	Minor to Moderate depending on the impact and number of users affected.
Information sent externally or internally by fax, post or hand (containing no confidential or personal information) is lost	Availability	Moderate
Information sent externally or internally by fax, post or hand (containing confidential or sensitive personal information) is lost	Integrity/ Confidentiality/ Availability & Accountability	Major
Unintentional corruption of data	Availability	Moderate/Major depending on the amount of data and type of data corrupted
Intentional corruption of data	Availability and Accountability	Major
Password sharing	Accountability/ Integrity/ Confidentiality	Moderate to Major depending the type of data in question
Downloading or copying of unlicensed software	Accountability	Major
Information/ data deleted or amended from a database in error	Accountability/Integrity & Availability	Moderate
Information/ data deleted or amended from a database maliciously	Accountability/ Integrity & Availability	Major
Confidential information disposed of inappropriately	Accountability	Major
Website Hacked	Availability/ Integrity	Moderate to Major depending on the criticality of the system
Misuse of Telephony Service	Accountability	Minor to Major on the level of misuse

Appendix 3

Template Data Subject Notification Letter

Dear XXXXX,

I am contacting you about an information breach that has been discovered at [School name], that may have exposed your/your child's personal data to unauthorized external parties.

The circumstances of the incident are as follow:

Explain when the breach happened, what the breach entails, what personal/ special

categories of personal information have been affected (be specific) and how the breach has been brought to the School's attention

I can confirm that [School name] take the security of the Personal Data we control very seriously and steps have been taken to minimize the risk of this incident reoccurring and to mitigate any implications this incident may have on you/your childs and your/their privacy.

The following steps have been taken to ensure this error has been contained and will not be repeated;

Detail the steps taken, or intended to be taken, to ensure that this breach is contained and what action will be/has been taken to ensure that the breach is not repeated. Explain how the error occurred (if known).

Also detail any steps which have been taken to assist the Data Subject in retaining control of their personal data.

Please also detail any additional internal security measures which are available to the Data Subject (renewed passwords, security questions, notes on account detailing additional security may be required) and ask if the Data Subject would like to engage with any of these services.

Should you wish to raise a formal complaint regarding this matter you may do so by contacting the School's Data Protection Officer: dpa.officer@stockport.gov.uk

I would like to take this opportunity to apologies on behalf of [School name] for this incident and any inconvenience or undue concern it may have caused you.
If you would like to discuss this matter prior to taking further action please do not hesitate to contact me on enter appropriate contact details.

Yours sincerely