



# Breach & Non Compliance Guide

Designated Person: Chief Executive Officer

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**Chief Executive Officer:** Mrs S Kent  
**Chief Finance Officer:** Miss S Graham  
**Chair of Trust Board:** Mr M McDonagh



## **Data Protection Breach & Non Compliance Guide**

### **Breach Management Guidance**

All staff, governors and trustees must be aware of what to do in the event of a DPA / UK GDPR breach. The 'Data Breach Flowchart' outlines the process.

Most breaches, aside from cyber criminal attacks, occur as a result of human error. They are not malicious in origin and if quickly reported are often manageable.

Everyone needs to understand that if a breach occurs it must be swiftly reported so that risks to the data subjects are minimized and well managed.

### **What Is A Breach?**

A personal data breach means a breach of security leading to the destruction, loss, alteration, unauthorised disclosure of, or access to, personal data. This means that a breach is more than just losing personal data. Examples of breaches are:-

- Information being posted to an incorrect address which results in an unintended recipient reading that information
- Loss of mobile or portable data device, unencrypted mobile phone, USB memory stick or similar
- Sending an email with personal data to the wrong person
- Dropping or leaving documents containing personal data in a public place
- Personal data being left unattended at a printer enabling unauthorised persons to read that information
- Not securing documents containing personal data (at home or work) when left unattended
- Anything that enables an unauthorised individual access to school buildings or computer systems
- Discussing personal data with someone not entitled to it, either by phone or in person. How can you be sure they are entitled to that information?
- Deliberately accessing, or attempting to access or use personal data beyond the requirements of an individual's job role e.g. for personal, commercial or political use. This action may constitute a criminal offence under the Computer Misuse Act as well as the Data Protection Act.
- Opening a malicious email attachment or clicking on a link from an external or unfamiliar source, which leads to school's equipment (and subsequently its records) being subjected to a virus or malicious attack, which results in unauthorised access to, loss, destruction or damage to personal data.



### **What Staff & Governors Should Do?**

Being open about the possible breach and explaining what has been lost or potentially accessed is an important element of working with the ICO and to mitigate the impact. Covering up a breach is never acceptable and may be a criminal, civil or disciplinary matter.

Report the breach to the Data Controller, Data Protection Compliance Manager and DPO as soon as possible, this is essential.

### **How Is The Breach Managed?**

Upon discovery of a breach the breach notification form will be completed and the breach registered with our DPO.

Advice will be sought from the Data Protection Officer as required. A plan to effectively manage the breach, who to inform and how to proceed will be put in place.

When deciding whether to notify a data subject of a data breach the DPO will assess what the likelihood is that the breach will have an adverse effect on the rights and freedoms of a data subject.

Actions and changes to procedures, additional training or other measures may be required to be implemented and reviewed.

A data breach that has the opportunity to affect the rights and freedoms of a data subject must be reported to the ICO within 72 hours of the discovery of the breach.

It may not be possible to investigate the breach fully within the 72 hour timeframe. Information about further investigations will be shared with the ICO with support from the DPO.

### **What Happens To The People Whose Data Has Been Breached?**

For every breach the school will consider notification to the data subject or subjects as part of the process. If the breach is likely to pose a high risk to a data subject's rights and freedoms they will be notified as soon as possible and kept informed of actions and outcomes.

The breach and process will be described in clear and plain language.

If the breach affects a high volume of data subjects and personal data records, the most effective form of notification will be used.



Advice may be taken from the ICO about how to manage communication with data subjects if appropriate.

### **Evidence Collection**

It may be necessary to collect information about how an information security breach or unauthorised release of data occurred. This evidence gathering process may be used as an internal process (which can include disciplinary proceedings), it may be a source of information for the ICO, it could also be used within criminal or civil proceedings.

This process will be conducted by a suitable member of school staff, which may be the Data Management Compliance Officer or Data Protection Officer, but will be determined depending on the nature of the breach.

Guidance may be required from external legal providers and police may be involved to determine the best way to secure evidence.

A record of what evidence has been gathered, stored and secured must be available as a separate log. Files and hardware must be securely stored, possibly in a designated offsite facility.

### **What Happens Next?**

The impact of a serious breach will need to be assessed. It may be necessary to make changes to some processes and procedures.

Additional training may be required. IT protocols may need to be reviewed.

The school will work with the Data Protection Officer to ensure that any changes are made to protect and secure information and to learn from any breaches. [www.stfcmat.com](http://www.stfcmat.com)