



Responding to a Request from the Police

It is not uncommon for the police, or other prosecuting authorities, to request that schools share information with them as part of investigations to prosecute or in some cases actually prevent commission of crimes. When a school is asked for information it holds on their records it is being asked to disclose personal data and this data may be sensitive in nature. It may relate to a parent, carer or other family member of the pupil at school. It may relate to the pupil themselves.

Ensuring that the request is given appropriate consideration, and a suitable response is the obligation of the school acting as Data Controller.

Schedule 2, Part 1, paragraph 2 of the Data Protection Act 2018 replaces the old section 29(3) of the Data Protection Act 1998. In essence this provides an exemption for a Data Controller to provide personal, and even sensitive, data without breaching the principles of GDPR or falling foul of the sanctions in the Data Protection Act 2018. The principle behind this, is that good data protection regulations should not prevent detection of crime or be used to stop the apprehension or prosecution of offenders. There is also protection for organisations if there is a risk to the "vital interests" of a data subject or another party. This means that information can be shared if failing to do so would lead to risk of a serious injury or even death of an individual.

However, before deciding whether or not to disclose data, certain key elements of information are needed. Police forces nationally are aware of the need to provide sufficient information to enable Data Controllers to make informed decisions. Different forces take a slightly different approach, but broadly speaking the following information is always required:

- Who is the person making the request?
- What is their rank or role within the organisation they represent?
- The request must be signed and dated, electronically or hard copy

It should contain details of the information sought which should include:

- Name, date of birth and address of the data subject(s) *(if known)*
- Summary of the information sought
- An explanation why the requester believes the school has access to such information
- Details of the issue that the information will address *(if it is highly confidential or particularly sensitive the requester needs to explain why they cannot provide details)*
- Any timeframes or particular urgency.
- Notification if they intend to share this with the data subject

As a responder it is then necessary for the Data Controller to balance the request against the obligations set out in the GDPR and Data Protection Act 2018. PLEASE NOTE: Requests should be as specific as possible, and should relate to the narrowest pool of people, ideally one person, to prevent risk of personal data disclosure on an unauthorised or an unlawful basis. The Data Controller may need to consider on what basis was information provided to them as controller in the first place. Questions to ask:

- What might be the impact of releasing this information?
- Is there a risk of causing harm to the third parties?
- Would disclosing this information potentially lead to identification of a third party who is separate to the present enquiry?

In many cases, the answer is simple and straightforward. Schools as public authorities have a moral (and in some cases) legal obligation to assist and support law enforcement agencies. However, if there is any uncertainty about the nature, origin or reasons for a request then advice should be sought from the DPO. To emphasise, if this is a matter of life and limb always err on the side of caution. As police forces and other law enforcement agencies begin to acclimatise to the GDPR requirements it is likely we will see changes to processes, forms and procedures.

The Data Controller is legally responsible for taking care of personal and sensitive information about data subjects in their control. Providing information to the police is important but must be done with due consideration.