

# Data Breach Policy



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\*Electronic approval on file

## Monitoring arrangements

This policy will be reviewed annually and in line with our DPO recommendations.

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# 1. Aims, Scope and Principles

This policy applies to all staff at Inclusion Education (Inclusion Hampshire CIO) and its provisions; Inclusion School, Inclusion College and EB8, collectively referred to as 'Inclusion Education'.

The UK General Data Protection Regulation (UK GDPR) aims to protect the rights of individuals about whom data is obtained, stored, processed or supplied and requires that organisations take appropriate security measures against unauthorised access, alteration, disclosure or destruction of personal data.

The UK GDPR places obligations on staff to report actual or suspected data breaches and our procedure for dealing with breaches is set out below. All members of staff are required to familiarise themselves with its content and comply with the provisions contained in it. Training will be provided to all staff to enable them to carry out their obligations within this policy.

Data Processors will be provided with a copy of this policy and will be required to notify Inclusion Education of any data breach without undue delay after becoming aware of the data breach. Failure to do so may result in a breach to the terms of the processing agreement.

Breach of this policy will be treated as a disciplinary offence which may result in disciplinary action under Inclusion Education's Disciplinary Policy and Procedure up to and including summary dismissal, depending on the seriousness of the breach.

This policy does not form part of any individual's terms and conditions of employment with Inclusion Education and is not intended to have contractual effect. Changes to data protection legislation will be monitored and further amendments may be required to this policy in order to remain compliant with legal obligations.

## 2. Definitions

### 2.1 Personal Data

Personal data is any information relating to an individual where the individual can be identified (directly or indirectly) from that data alone or in combination with other identifiers Inclusion Education possess or can reasonably access. This includes special category data and pseudonymised personal data but excludes anonymous data or data that has had the identity of an individual permanently removed.

Personal data can be factual (for example, a name, email address, location or date of birth) or an opinion about that person's actions or behaviour.

Personal data will be stored either electronically or as part of a structured manual filing system in such a way that it can be retrieved automatically by reference to the individual or criteria relating to that individual.

### 2.2 Special Category Data

Previously termed "Sensitive Personal Data", Special Category Data is similar by definition and refers to data concerning an individual's racial or ethnic origin, political or religious beliefs, trade union membership, physical and mental health, sexuality, biometric or genetic data and personal data relating to criminal offences and convictions.

### 2.3 Personal Data Breach

A personal data breach is a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of or access to personal data or special category data transmitted, stored or otherwise processed.

## 2.4 Data Subject

Person to whom the personal data relates.

## 3. Responsibility

The Head of Business Operations has overall responsibility for breach notification within Inclusion Education. They are responsible for ensuring breach notification processes are adhered to by all settings.

The Data Protection Lead for personal data breaches in each of the settings are:

- Inclusion Education: Head of Business Operations
- Central Services: Business Ops Admin
- Inclusion School Basingstoke: School Admin Manager;
- Inclusion School Aldershot; School Admin Manager
- Inclusion College Hook: College Admin Manager;
- Inclusion EB8 Basingstoke: Administrator;
- Project Iris: Lead

In the absence of the above person for your setting, please contact the Head of Business Operations for Inclusion Education.

The Data Protection Officer (DPO) is responsible for overseeing this policy and developing data-related policies and guidelines.

Please contact the DPO with any questions about the operation of this policy or the UK GDPR, or if you have any concerns that this policy is not being or has not been followed.

The DPO's contact details are set out below:

Data Protection Officer: Judicium Consulting Limited

Address: 5th Floor, 98 Theobalds Road, London, WC1X 8WB

Email: [dataservices@judicium.com](mailto:dataservices@judicium.com)

Web: [www.judiciumeducation.co.uk](http://www.judiciumeducation.co.uk)

Telephone: 0345 548 7000 (Option 1, then 1)

ICO – The ICO is the Information Commissioner's Office, the UK's independent regulator for data protection and information.

## 4. Security and Data Related Policies

Staff should refer to the following policies that are related to this Data Breach Policy:

- *Information Security Policy* which sets out Inclusion Education's guidelines and processes on keeping personal data secure against loss and misuse.
- *Data Protection Policy* which sets out Inclusion Education's obligations under UK GDPR about how they process personal data.
- *Cyber Security Policy* which sets out the Inclusion Education's obligations and guidelines for cyber security issues.

These policies are also designed to protect personal data and can be found on Inclusion Education's websites and the all-staff resources folder.

## **5. Data Breach Procedure**

### **5.1 What is a personal data breach?**

A personal data breach is a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data or special category data transmitted, stored or otherwise processed.

Examples of a data breach could include the following (but are not exhaustive):

- Loss or theft of data or equipment on which data is stored for example, loss of a laptop or a paper file (this includes accidental loss).
- Inappropriate access controls allowing unauthorised use.
- Equipment failure.
- Human error (for example, sending an email or SMS to the wrong recipient).
- Unforeseen circumstances such as a fire or flood.
- Hacking, phishing and other "blagging" attacks where information is obtained by deceiving whoever holds it.

### **5.2 When does it need to be reported?**

Inclusion Education must notify the ICO of a data breach where it is likely to result in a risk to the rights and freedoms of individuals. This means that the breach needs to be more than just losing personal data and if unaddressed, the breach is likely to have a significant detrimental effect on individuals.

Examples of where the breach may have a significant effect includes:

- Potential or actual discrimination.
- Potential or actual financial loss.
- Potential or actual loss of confidentiality.
- Risk to physical safety or reputation.
- Exposure to identity theft (for example, through the release of non-public identifiers such as passport details).
- The exposure of the private aspect of a person's life becoming known by others.

If the breach is likely to result in a high risk to the rights and freedoms of individuals, then the individuals must also be notified directly.

### **5.3 Reporting a Data Breach**

If you know or suspect a personal data breach has occurred or may occur which meets the criteria above, you should, as soon as possible:

- Complete a data breach report form, which can be found in the all-staff resources folder.
- Email the completed form to your setting's Data Protection Lead (DPL), or, in their absence, Inclusion Education's Head of Business Operations.

Where appropriate, you should liaise with your Line Manager about completion of the data report form. Breach reporting is encouraged throughout Inclusion Education and staff are expected to seek advice if they are unsure as to whether the breach should be reported and/or could result in a risk to the rights and freedom of individuals. They can seek advice from their Line Manager, DPL for their setting, or the DPO.

Once reported, you should not take any further action in relation to the breach. In particular you must not notify any affected individuals or regulators or investigate further. The named point of contact for your setting will acknowledge receipt of the data breach report form and take appropriate steps to deal with the report in collaboration with the DPO.

## 6. Managing and Recording the Breach

On being notified of a suspected personal data breach, the named point of contact for the setting will notify the DPO. Collectively they will take immediate steps to establish whether a personal data breach has in fact occurred. If so, they will take steps to:

- Where possible, contain the data breach.
- As far as possible, recover, rectify or delete the data that has been lost, damaged or disclosed.
- Assess and record the breach in the relevant organisation data breach register.
- Notify the ICO where required.
- Notify data subjects affected by the breach if required.
- Notify other appropriate parties to the breach.
- Take steps to prevent future breaches.

## 7. Notifying the ICO

The DPO will notify the ICO when a personal data breach has occurred which is likely to result in a risk to the rights and freedoms of individuals.

This will be done without undue delay and where possible, within 72 hours of becoming aware of the breach. The 72 hours deadline is applicable regardless of school holidays (i.e., it is not 72 working hours). If Inclusion Education are unsure of whether to report a breach, the assumption will be to report it.

Where the notification is not made within 72 hours of becoming aware of the breach, written reasons will be recorded as to why there was a delay in referring the matter to the ICO.

## 8. Notifying Data Subjects

Where the data breach is likely to result in a high risk to the rights and freedoms of data subjects, the relevant setting Point of Contact will notify the affected individuals without undue delay including the name and contact details of the DPO and the ICO, the likely consequences of the data breach and the measures Inclusion Education have (or intended) to take to address the breach.

When determining whether it is necessary to notify individuals directly of the breach, the relevant setting Point of Contact will co-operate with and seek guidance from the DPO, the ICO and any other relevant authorities (such as the police).

If it would involve disproportionate effort to notify the data subjects directly (for example, by not having contact details of the affected individual) then Inclusion Education will consider alternative means to make those affected aware (for example, by making a statement on the relevant website).

## 9. Notifying Other Authorities

Inclusion Education will need to consider whether other parties need to be notified of the breach. For example:

- Insurers;
- Parents;
- Third parties (for example, when they are also affected by the breach);
- Local authority;
- The police (for example, if the breach involved theft of equipment or data).

This list is non-exhaustive.

## 10. Assessing the Breach

Once initial reporting procedures have been carried out, the relevant setting will carry out all necessary investigations into the breach.

They will identify how the breach occurred and take immediate steps to stop or minimise further loss, destruction or unauthorised disclosure of personal data. They will identify ways to recover, correct or delete data (for example, notifying our insurers or the police if the breach involves stolen hardware or data).

Having dealt with containing the breach, Inclusion Education will consider the risks associated with the breach. These factors will help determine whether further steps need to be taken (for example notifying the ICO and/or data subjects as set out above). These factors include:

- What type of data is involved and how sensitive it is.
- The volume of data affected.
- Who is affected by the breach (i.e., the categories and number of people involved).
- The likely consequences of the breach on affected data subjects following containment and whether further issues are likely to materialise.
- Are there any protections in place to secure the data (for example, encryption, password

protection, pseudonymisation).

- What has happened to the data.
- What could the data tell a third party about the data subject.
- What are the likely consequences of the personal data breach on Inclusion Education.
- Any other wider consequences which may be applicable.

## **11. Containment and Recovery**

Inclusion Education with the support of the DPO will identify how the breach occurred and take immediate steps to stop or minimise further loss, destruction or unauthorised disclosure of personal data.

Inclusion Education with the support of our DPO will identify ways to recover, correct or delete data. This may include contacting the police, e.g., where the breach involves stolen hardware or data.

Depending on the nature of the breach, Inclusion Education with the support of our DPO, will notify Professional Indemnity Insurer and/or cyber insurer and/or crime insurer, as the insurer can provide access to data breach management experts.

## **12. Preventing Future Breaches**

Once the data breach has been dealt with, the relevant setting and wider organisation will consider its security processes with the aim of preventing further breaches. In order to do this, Inclusion Education will:

- Establish what security measures were in place when the breach occurred.
- Assess whether technical or organisational measures can be implemented to prevent the breach happening again.
- Consider whether there is adequate staff awareness of security issues and look to fill any gaps through training or tailored advice.
- Consider whether it is necessary to conduct a privacy or data protection impact assessment.
- Consider whether further audits or data protection steps need to be taken.
- To update the data breach register.
- To debrief governors/management following the investigation.

## **13. Reporting Data Protection Concerns**

Prevention is always better than dealing with data protection as an after-thought. Data security concerns may arise at any time, and Inclusion Education would encourage you to report any concerns (even if they do not meet the criteria of a data breach) that you may have to your setting DPL or the DPO. This can help capture risks as they emerge, protect Inclusion Education from data

breaches and keep our processes up to date and effective.

## **14. Training**

Inclusion Education will ensure that staff are trained and aware of the need to report data breaches to ensure that they know to detect a data breach and the procedures of reporting them. This policy will be shared with staff.

## **15. Monitoring**

Inclusion Education will monitor the effectiveness of this and all of our policies and procedures and conduct a full review and update as appropriate.

Our monitoring and review will include looking at how our policies and procedures are working in practice to reduce the risks posed to the relevant settings and wider organisation.