

GUIDANCE NOTES

Secondary Schools

REQUIREMENTS WITH RESPECT TO FAIR PROCESSING UNDER THE DATA PROTECTION ACT AND THE PASSING OF INFORMATION TO CONNEXIONS

Schools, LEAs, the DfES and the Qualification Curriculum Agency are all “data controllers” under the Data Protection Act 1998 in that they process “personal data” (i.e. data that identifies people individually). This guidance deals specifically with personal data about pupils.

Data controllers have to provide data subjects with details of the data that they hold on them, the purpose for which they hold that data and any third parties to whom it may be passed on. This is referred to as a “fair processing notice”

The Information Commissioner’s guidance is that as soon as children are able to understand their rights under the Data Protection Act, they should exercise these rights on their own account. The Commissioner’s view is that children will generally have a sufficient level of understanding by the age of 12, although clearly there will be exceptions. To avoid schools having to assess the level of understanding of every pupil aged 12 or over, it is reasonable for the fair processing notice to be provided to all parents whilst encouraging them to share the notice with the pupil where appropriate.

Schools are required to issue a fair processing notice/letter to the parents of all current pupils as soon as possible – This can be combined with another communication with parents (e.g. a newsletter) provided this does not cause a delay.

A suggested model notice/letter covering processing carried out by the LEA, DfES and QCA as well as by the school is attached

Schools should issue the same notice/letter to the parents of all new pupils as part of the enrolment process.

You may include this notice with other communications to parents (e.g. the school prospectus) and display it on a school website.

A model fair processing notice/letter that can be used to send to all parents is attached. The notice/letter can also be copied from the E-Courier.

Passing Information to Connexions

In addition to the obligation for schools to provide certain information to other schools, to LEAs to the DfES and to the QCA, there is a legal requirement under the Learning and Skills Act 2000 to pass information on request to the Connexions Service. A similar requirement exists for the provision of information

for the Connexions Card available to pupils aged 16 and over. The information which schools are required to provide consists of:

- a) The names and address of pupils and their parents – which must be provided to the Connexions Service and the Connexions Card in any event.
- b) Other information relevant to the provision of Connexions Services or to the Connexions Card – in this case parents (or pupils themselves if aged 16 or over) have the right to instruct the school not to provide information.

Note that the provision in b. is an **opt out**, not an opt in. Until and unless the parent or pupil gives instructions, the school remains under a statutory duty to provide information to the Connexions Service or the Connexions Card on request.

For the Connexions Card, DfES and Capita, which jointly manage the Card will deal with fair processing issues for pupils approaching or above 16 as they become eligible for the Card.

The attached notice/letter advises parents of the passing on of information to Connexions and their (or their child's) right to instruct the school not to provide information beyond name and address. Note that the right to **opt out** from the passing of information to Connexions passes from parent to pupil at age 16.

To give parents or pupils who wish to opt out an adequate opportunity to do so, information should not be passed to Connexions until **two weeks** after the notice is sent to them. Parents or pupils are entitled to opt out subsequently even if they do not do so within the initial two week period. In that event no further information should be passed to Connexions after the opt out has been received. Schools should inform the Connexions partnership every time an **opt out** has been claimed.

A school may have already provided pupil information beyond name and address to the Connexions Service without notifying parents or pupils. The school may then receive a parental or pupil **opt out** after the fair processing notice is issued. In such cases the school should, as a matter of good practice, advise the parent or pupil of the situation. At the same time the school should inform Connexions that the **opt out** has been claimed and that information already passed on should be processed with that in mind.