



# School Data Protection Policy

Adopted on: 5<sup>th</sup> November 2019

Next Review: Dec 2020

## **Statement of Purpose:**

**DEENWAY INTERNATIONAL SCHOOL** collects and uses personal information about staff, pupils, parents and other individuals who come into contact with the school. This information is gathered in order to enable it to provide education and other associated functions.

In addition, there may be a legal requirement to collect and use information to ensure that the school complies with its statutory obligations.

The DIS Data Protection Policy is read together with the, Kenya Data Protection Bill (**the “Bill”**) tabled on 3<sup>rd</sup> July 2018, introduced to establish a comprehensive data protection regime in Kenya. The principle object of the Bill is to protect personal data collected, used or stored by both private and public entities.

The Bill recognizes that data protection forms part and parcel of the expectation of the right to privacy. It provides for the legal framework for protection of a person’s privacy in instances where **personal information** is collected, stored, used or processed by another person.

The Bill give effect to **Article 31(c)** and **Article 31(d)** of the **Constitution of Kenya 2010**, which guarantees the right of every person not to have “information relating to their family or private affairs unnecessarily required or revealed” and the right not to have “the privacy of their communications infringed”.

In keeping with Article 24 (1) of the Constitution, the Bill provides that the right to privacy will be limited for the following purposes: protection of national security and public interest, prosecution of a crime, protection of the rights of others and for compliance with an obligation imposed by law.

Apart from the Constitution, the current laws regulating the collection and use of personal data in Kenya include; the **Access to Information Act (No. 31 of 2016)**, the **Kenya Information and Communications Act (No. 2 of 1998)** and the **Consumer Protection Act (No. 46 of 2012)**.

The Bill follows the path taken by the European Union in enacting the **General Data Protection Regulation (“the GDPR”)** in May 2018 and makes Kenya the second country in East Africa after Rwanda to have a legislation dedicated to data protection. The GDPR has been hailed as the first step in checking the excesses of powerful technology firms that collect vast amounts of personal data from their users for commercial or competitive advantage.

Deenway International School details are available on the School’s website and in our schools admission’s policy. The School issues a Fair Processing Notice to all pupils / parents, this summarises the information held on pupils, why it is held and the other parties to whom it may be passed

### **Purpose**

This policy is intended to ensure that personal information is dealt with correctly and securely and in accordance with the Ministry of Education, Science and Technology – State Department of Education and Kenya Data Protection bill 2018, and the Kenya communications (amendment) Act 2009 and other related legislation. It will apply to information regardless of the way it is collected, used, recorded, stored and destroyed, and irrespective of whether it is held in paper files or electronically.

All staff involved with the collection, processing and disclosure of personal data will be aware of their duties and responsibilities by adhering to these guidelines.

### **What is Personal Information?**

Personal information or data is defined as data which relates to a living individual who can be identified from that data, or other information held.

## **Data Protection Principles**

The Data Protection Act bill 2018 establishes eight enforceable principles that must be adhered to at all times:

- Personal data shall be processed fairly and lawfully;
- Personal data shall be obtained only for one or more specified and lawful Purposes.
- Data shall be adequate, relevant and not excessive
- Personal data shall be accurate and where necessary, kept up to date;
- Personal data processed for any purpose shall not be kept for longer than is necessary for that purpose or those purposes
- Personal data shall be processed in accordance with the rights of data Subjects under the Data Protection Act 1998 /amended bill 2018
- Personal data shall be kept secure i.e. protected by an appropriate degree of security
- Personal data shall not be transferred to a country or territory outside the European Economic Area, unless that country or territory ensures an adequate level of data protection.

## **General Statement**

The school is committed to maintaining the above principles at all times. Therefore the school will:

- Inform individuals why the information is being collected when it is collected
- Inform individuals when their information is shared, and why and with whom it was shared
- Check the quality and the accuracy of the information it holds
- Ensure that information is not retained for longer than is necessary
- Ensure that when obsolete information is destroyed that it is done so appropriately and securely
- Ensure that clear and robust safeguards are in place to protect personal information from loss, theft and unauthorised disclosure, irrespective of the format in which it is recorded
- Share information with others only when it is legally appropriate to do so
- Set out procedures to ensure compliance with the duty to respond to requests for access to personal information, known as Subject Access Requests
- Ensure our staff are aware of and understand our policies and procedures

## **Complaints**

Complaints will be dealt with in accordance with the **school's complaints policy**. Complaints relating to information handling may be referred to the Principal or the statutory regulator.

## **Review**

This policy will be reviewed as it is deemed appropriate, but no less frequently than every 2 years. The policy review will be undertaken by the Principal, or nominated representative by the Board of Governors – Deenway International School.

## **Contacts**

If you have any enquires in relation to this policy, please contact **The Principal – Deenway International School – Mombasa Kenya** email: [principal@deenwayschools.co.ke](mailto:principal@deenwayschools.co.ke) phone contact: +254 (0) 722 537 008 - who will also act as the contact point for any subject access requests.

## **Appendix 1**

### **DEENWAY INTERNATIONAL SCHOOL**

Procedures for responding to subject access requests made under the Data Protection Act 2018

#### **Rights of access to information**

There are two distinct rights of access to information held by schools about pupils.

Under the Data Protection Act 2018 any individual has the right to make a request to access the personal information held about them.

The right of those entitled to have access to curricular and educational records as defined within the Ministry of Education Kenya and the Kenya National Examination Council.

These procedures relate to subject access requests made under the Data Protection Act 2018.

#### **Actioning a subject access request:**

1. Requests for information must be made in writing; which includes email, and be addressed to Principal Deenway International School Mombasa Kenya email: [principal@deenwayschools.co.ke](mailto:principal@deenwayschools.co.ke) . If the initial request does not clearly identify the information required, then further enquiries will be made.
2. The identity of the requestor must be established before the disclosure of any information, and checks should also be carried out regarding proof of relationship to the child. Evidence of identity can be established by requesting production of:
  - Passport
  - National Identity Card
  - Driving licence
  - Utility bills with the current address
  - Birth / Marriage certificate
3. Any individual has the right of access to information held about them. However with children, this is dependent upon their capacity to understand (normally age 12 or above) and the nature of the request. The Headteacher should discuss the request with the child and take their views into account when making a decision. A child with competency to understand can refuse to consent to the request for their records. Where the child is not deemed to be competent an individual with parental responsibility or guardian shall make the decision on behalf of the child.

4. The school may make a charge for the provision of information, dependent upon the following:

- Should the information requested contain the educational record then the amount charged will be dependant upon the number of pages provided.
- Should the information requested be personal information that does not include any information contained within educational records schools can charge a reasonable fee.
- If the information requested is only the educational record viewing will be free, but a charge not exceeding the cost of copying the information can be made by the Headteacher.

5. The response time for subject access requests, once officially received, is 40 days (**not working or school days but calendar days, irrespective of school holiday periods**). However the 40 days will not commence until after receipt of fees or clarification of information sought.

6. The Data Protection Act 2018 allows exemptions as to the provision of some information; **therefore all information will be reviewed prior to disclosure.**

7. Third party information is that which has been provided by another, such as the **Police, Local Authority, Health Care professional or another school**. Before disclosing third party information consent should normally be obtained.

8. Any information which may cause serious harm to the physical or mental health or emotional condition of the pupil or another should not be disclosed, nor should information that would reveal that the child is at risk of abuse, or information relating to court proceedings (please refer to the Deenway International School - Child Protection Policy)

9. If there are concerns over the disclosure of information then additional advice should be sought.

10. Where redaction (information blacked out / removed) has taken place then a full copy of the information provided should be retained in order to establish, if a complaint is made, what was redacted and why.

11. Information disclosed should be clear, thus any codes or technical terms will need to be clarified and explained. If information contained within the disclosure is difficult to read or illegible, then it should be retyped.

12. Information can be provided at the school with a member of staff on hand to help and explain matters if requested, or provided at face to face handover. The views of the applicant should be taken into account when considering the method of delivery. If postal systems have to be used then registered/recorded mail must be used.

**Complaints**

Complaints about the above procedures should be made to the Chairperson of the Board of Governors who will decide whether it is appropriate for the complaint to be dealt with in accordance with the school's complaint procedure.

Complaints which are not appropriate to be dealt with through the school's complaint procedure can be dealt with by the National statutory procedures or any international related legal frameworks. Contact details of both will be provided with the disclosure information.

**Contacts**

If you have any queries or concerns regarding these policies / procedures then please contact Mr, Principal Deenway International School – Mombasa Kenya email: [principal@deenwayschools.co.ke](mailto:principal@deenwayschools.co.ke)