

Police (and law enforcement) Disclosure Guidelines

Information for school leaders, DSL's, school data protection administrators and HR



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1. Legal background

These guidelines are intended to cover situations where schools or the HR team receive requests from the police, or law enforcement agencies, for personal data about students, staff or other individuals whose information is held within SAST systems.

HR Team. On occasion, other agencies may also request data for law enforcement purposes, such as the DWP, HMRC, UKVI. Refusal to provide the information can lead to sanctions against SAST under The Immigration Act.

Personal data held by SAST must be managed in accordance with the UK GDPR and the Data Protection Act (2018) (DPA) - collectively 'data protection law'. In general, care should be taken to ensure that the processing of data disclosed to the police is 'lawful and fair' in accordance with the first principle of the UK GDPR, and that the processing is covered in our privacy notices.

However, the Data Protection Act 2018 (DPA) includes exemptions which allow personal data to be disclosed to the police **without the consent of the individual** who is the subject of the data, and regardless of the purpose for which the data were originally gathered. In particular, personal data may be released if;

- Failure to provide the data would prejudice the prevention or detection of crime, the apprehension or prosecution of offenders under **Schedule 2 Part 1 Paragraph 2 of the DPA 2018** – a '**2-1-2 request**'.

Before we release data to the police, we need to ensure that the information is being provided for a genuine and **properly authorised investigation**. If we are not satisfied that there are valid grounds for releasing the information, the DPA does not oblige us to do so: the exemptions in the DPA are permissive. If we refuse to release the information, the police may obtain a court order requiring us to provide it. This provides unequivocal validity to the request if the order is clear and specific.

SAST seeks to co-operate with the police in the prevention and detection of crime, and the maintenance of a safe environment for our schools and the wider community. Personal data which is necessary for a legitimate investigation will normally be released. Sections 2 and 3 set out the procedures that should be followed when responding to requests for data, to ensure there are adequate safeguards in place to protect schools and SAST against the claim that information has been released contrary to the DPA.

2. Responding to requests for information from the police

See **Section 3, Emergency Situations** for what to do if the urgent disclosure of data is necessary to protect the life or health – physical or mental - of individuals.

The following points apply to non-emergency police requests for personal data:

1. SAST Staff; Responding to Requests

It is important that SAST academies respond to requests in a consistent, timely and co-ordinated way, using the most up to date information. To facilitate this, staff who receive a request for personal data from the police must forward it as soon as possible to one of the following individuals, who will co-ordinate the school's response. Valid requests will be handled within the regulated timeframe of subject access requests (one calendar month, unless a lawful extension is applicable).

a. Requests for data about current or former students, or their parents

Pass to the headteacher, DSL and copy to the school's data protection (GDPRiS) administrator who must log the request on GDPRiS.

b. Requests for data about current or former staff or job applicants

Pass to the head of HR. HR's data protection administrator must log the request on GDPRiS.

c. All other requests for personal data

Pass to the SAST DPO.

These staff will ensure that the request is handled in accordance with the remainder of these procedures.

2. When personal information can be provided to police

Only disclose personal data in response to an adequate and properly authorised written request – a 2-1-2 form.

3. Police 2-1-2 forms

Police forces have standard forms known as **2-1-2 forms**, relating to the relevant part of the DPA which provides for the exemption, Schedule 2 Part 1 Paragraph 2) for requesting personal data, in accordance with guidance issued by the Association of Chief Police Officers (ACPO) 2013. The 2-1-2 should certify that the information is required for a current investigation concerning the prevention or detection of crime, or the apprehension or prosecution of offenders, and that the investigation would be prejudiced by a failure to disclose the information. This provides SAST with a clear legal basis for supplying the data under the DPA exemptions.

Be clear that you have been provided with a 2-1-2, and not an alternative form of data subject 'consent' or anything resembling a data subject access request. The information is being provided to the police as part of an investigation, and not the data subject, but **may eventually be disclosed to wider parties**, e.g. defence and prosecution, in court. Without this formal request, the police may not be able to use information you provide in court as it may not have been lawfully obtained, therefore risking its inadmissibility as evidence.

Staff must politely compel police officers who make requests for personal data, apart from in emergency situations, to complete a 2-1-2.

The 2-1-2 form should (see below for example):

- **Be in writing**, on a headed form, **signed by the applying officer** and **counter** signed by their superior. In the DPO's experience, these forms are not standardised between authorities or even stations within authorities.
- **Clearly identify the data subject; name, address, DOB.**
- **Certify that the information is necessary** for the investigation.

- Describe the nature of the investigation and cite any relevant statutory authority.
- Specify the type of information required. The categories and extent of the information requested should not be open-ended and must be proportionate to the purpose.
- Ensure a **specific date range** for the search is stated.

If a properly completed 2-1-2 is received, the data should normally be disclosed. However, remember that schools can, and should, refuse to provide the information if we have reason to doubt that the request is genuine.

4. Retention of 2-1-2 requests

Copies of the 2-1-2 used to request personal data, other correspondence with the law enforcement agency and a copy of any data released should be retained by schools for 6 years.

5. Queries

Queries or issues relating to written requests from law enforcement agencies should be directed to the DPO.

6. Out of school term requests

Should a request for information be necessary during a period of school holiday, agencies should email the headteacher using information from the school's website. Central teams work throughout the year and are contactable outside of term time via office@sast.org.uk or hr@sast.org.uk

7. Example 2-1-2

[212 example_Redacted.pdf](#)

OFFICIAL SENSITIVE (WHEN COMPLETE)

FORM 465



Request to external organisation for the disclosure of personal data to the Police
Under Schedule 2 Part 1 Paragraph 2 of the Data Protection Act 2018 and GDPR Article 6(1)(b)

To: Name of headteacher or DPO

Position (where known): Head Teacher

Organisation: School School name in full

Address: School address in full

This request for personal data and other information is made under the powers designated to me as a constable or as a member of police staff of Avon and Somerset Constabulary by the Policing and Crime Act 2017. In addition to designated police powers this also provides police staff of Avon and Somerset Constabulary with certain policing powers and privileges of a constable throughout England and Wales.

These powers include the investigation and detection of crime, apprehension and prosecution of offenders, protection of life and property and maintenance of order and control under the Policing and Crime Act 2017. Part 1 Chapter 1 paragraph 10 the Chief Constable can designate certain policing powers to police staff.

The Personal Data/Information requested relates to the following individual:

Name full
The full name of the data subject
Date of birth
Address

I have the following information to assist you in locating the personal data/information requested:

The information provided here must be clear, concise with as much additional context as possible to enable the school's searches to be contained to only what is necessary.

I require the following personal data/information

The information here must be specific and unequivocal, with a clear date range to your searches, or provision of information does not record what is requested.

I require the personal data/information to assist with my enquiries

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Before must be included - consider whether the 2-1-2 will require for the primary - e.g. an investigation to consider charges for the CPS

I confirm the personal data/information is required for the following purpose(s)

Select	Purpose	Legal Basis
☐	The prevention, investigation or detection of crime	Police Acts, Common law
☒	The prosecution or apprehension of offenders	Police Acts, Common law
☐	Protecting the vital interests of a person	Police Acts, Common law
☐	To confirm or corroborate information for intelligence purposes	Police Acts, Common law
☐	To put before a court to assist a justice system	Police Acts, Common law
☐	To prepare a file for the Coroner's Court	On request of the Coroner
☐	To further a money laundering or confidence investigation	Proceeds of Crime Act 2002
☐	To not expose the address to safeguard the health and safety of any emergency personnel attending	Police Acts, Health & Safety, Common law
☐	To identify if there are any children at the address to require any harm caused by police action	Children Act 2004
☐	To locate a missing person to ascertain their well being	Police Acts, Common law
☐	To progress enquiries into a road traffic incident	Police Acts, Common law
☐	Other (please specify)	Police Acts, Common law

The Data Protection Act 2018 and the personal data as data which is biographical in nature, has the applicant as its focus and/or affects the data subject's privacy in his or her personal, professional or business life. Under the Data Protection Act 2018, disclosure of personal data:

- For the prevention and detection of crime or the apprehension or prosecution of offenders is permitted under Schedule 2, Part 1, Paragraph 2

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FORM 465

- Required by or under any enactment, by any rule of law or by order of the court is permitted under Schedule 2, Part 1, Paragraph 1 (2) (including the Health and Safety Act)
- For the purpose of, or in connection with, any legal proceedings is permitted by Schedule 2, Part 1, Paragraph 1 (2)

Where no data protection exemption applies, consideration should be given to the first principle issue of fairness.

¹⁰ Where the rights and freedoms or the welfare of an individual is at stake such as in enquiries, a harm test should be applied. It is highly unlikely disclosure would be in the public interest in these circumstances.

Where the rights and freedoms or the welfare of an individual is at stake such as in enquiries, a harm test should be applied. It is highly unlikely disclosure would be in the public interest in these circumstances.

I confirm that the individual(s) whose personal data is sought should not be informed of this request as to do so would be likely to prejudice the matters described above.

From: Name of officer

Rank/Name/Name: PC

Station: CHESHAM MALLET

Date/Time: 20.05.2018 10:04

Telephone Number(s): 07

Email address: [redacted]

Signature: [redacted]

Counter Signature: [redacted]

Rank/Name/Name: Inspector [redacted]

Date/Time: 20.05.2018 10:04

I request that the personal data and other information should be provided to the police in the following manner:

E-mailed to [redacted]

OFFICIAL SENSITIVE (WHEN COMPLETE)

FORM 465

RESPONSE

This section to be completed by the recipient of request for personal data and information

Please reply to all requests by email or return this form if your organisation is to be kept in the loop. As part of your decision making process, please take into account the requirements upon your organisation under the request for personal data and information under the Policing and Crime Act 2017, your powers or jurisdiction to provide information to a relevant authority, in order to secure a crime and disorder investigation, the Local Government Act, Children Act 1989 and 2004, and other legislation relevant to your organisation.

Name: [redacted]

Organisation/Department: [redacted]

Date/Time: [redacted]

Signature: [redacted]

I confirm that the information requested above has been approved for disclosure and is substantiated.

☐ I confirm that the individual(s) whose personal data is sought should not be informed of this request as to do so would be likely to prejudice the matters described above. Please explain why you have decided not to disclose the information so that we know whether you need additional information or for us to consider presenting to the Court for a Disclosure Order.

If there is insufficient space please continue on additional sheets.

Click on top link to enter details.

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3. Emergency situations – imminent risk to life

An emergency situation is one where we have reason to believe that there is an **immediate or imminent** risk to life or injury to a student, member of staff - or member of the community.

The police and other emergency services may urgently require personal data from us and may not have time to complete a formal written request. In these circumstances, any staff member who has access to the data can legally disclose the information, but the safeguards below need to be met:

1. If possible, seek the authorisation from your headteacher or DSL before providing the data.
2. If the request is received by telephone, ask the caller to provide a landline number, and call them back through the organisation's publicly listed number before providing the data. This provides a basic, though not foolproof, way of checking that the call is genuine. Take a contact name and their identification number - all police officers have 'collar' numbers.
3. Ask the enquirer to follow up their request with a formal written request, so that we have this on file. Pass details to your headteacher, DSL and the school's data protection administrator – who must log the request and provision on the school's data protection platform, GDPRiS.
4. Do not be bullied into disclosing data or complying as a 'favour' if you have any doubt as to the validity of the request, or it falls below the expectations of a 2-1-2. Ask the submitting officer to submit the request as a formal 2-1-2, and refer the enquiry to your headteacher, DSL, and the school's data protection administrator.

4. Community Partnership Intelligence

Local Authority mapping exercises, such as those in relation to county line hotspots, are covered by confidentiality agreements prior to meetings. The safeguarding lead will follow up on these with conversations with affected schools.

[Community partnership intelligence | Dorset Police](#)

The law which enables information sharing that *safeguards* people associated with this police scheme is - DPA (2018) Article 6(1)(c) - **legal obligation**. The sharing of information in the above circumstances would be foreseeable to those individuals subject to it.

Community partnership intelligence

▲ Is it an emergency?

Does it feel like the situation could get heated or violent very soon? Is someone in immediate danger? Do you need support right away? If so, please call **999** now.

If you have a hearing or speech impairment, use our textphone service 18000 or text us on 999 if you've pre-registered with the [emergencySMS service](#) 

This form is for the sharing of non-urgent information by partner agencies. This includes information that relates to:

- anti-social behaviour
- child abuse
- child criminal exploitation
- child sexual exploitation
- community tension
- county lines
- cuckooing
- cyber crime
- drugs
- general crime
- hate crime
- knife crime
- serious Organised Crime
- sexual offending
- vulnerability
- gang activity
- modern slavery or trafficking
- other police force

Please do hold on to evidence as we may ask for it in future.

Proactive and unsolicited information sharing, including rumour or speculative unfounded information, about students or non-school individuals must not be shared with police, social workers or others. Staff who share information in this way may be subjected to HR disciplinary processes.

Other disclosures not covered by 2-1-2:

Court orders

Section 47 – Local Authorities

Public Law Outline (PLO)

Solicitor requests