

Data Protection Officer

Why do we need a Data Protection Officer?

Under the General Data Protection Regulations (GDPR), Schools are required to designate a Data Protection Officer (DPO). Acting relatively independently, the DPO will foster a data protection culture within School, help to implement the essential elements of the GDPR and act as intermediary between data subjects, school staff and the Information Commissioner's Office (ICO).

What are the main duties of the DPO?

The DPO's minimum tasks are defined as:

- To inform and advise the school and staff about their obligations under data protection law and to monitor internal compliance with data protection laws by:
 - identifying and checking compliance of processing activities
 - issuing recommendations to school staff
 - training staff and raising awareness of policies
- Providing advice on data protection impact assessments, such as
 - whether to carry one out and the methodology to follow
 - advice on safeguards that can be applied to mitigate identified risks
 - monitor outcomes and their compliance with data protection law
- To be the main point of contact on data protection issues for individuals whose data is processed, school staff and the Information Commissioner's Office (ICO); contact details should be publicised.

What skills, knowledge and experience should the DPO have?

The GDPR indicates that the experience and qualifications a DPO should possess will differ from organisation to organisation and depend upon the type of processing an organisation carries out and the types of personal information it holds. Some examples of the typical skills and expertise a DPO for schools should possess are:

- The ability to fulfil the duties described above
- Knowledge of national and European data protection law and practices, including GDPR.
- Knowledge of the education/school environment, its processing activities and the data protection issues that typically arise
- Basic understanding of information technologies and information security issues.
- High level of integrity and professional ethics; able to remain impartial to enable compliance with the GDPR
- Ability to promote a data protection culture within School
- Where a processing activity is particularly complex, or involves a large amount of sensitive information is, the DPO may need a higher level of expertise and support.

What does the GDPR say about the position of the DPO and about employer duties?

The DPO must be given sufficient autonomy and resources to carry out their duties effectively. To do this the school must ensure the DPO:

- Reports to the highest management level and has active support from and links with Senior Management Team, e.g. regular attendance at SMT meetings
- Is contacted for advice, and involved in a timely manner, in all issues which relate to the protection of personal information
- Can operate independently and is not dismissed or penalised for performing their tasks
- Is given the opportunity to provide their opinion and it is given due consideration; in cases of disagreement the reasons for not following the DPO's advice should be documented
- Is consulted promptly if a data breach or incident occurs
- Has sufficient time and resources to fulfil their duties; these may include financial resources, appropriate facilities and equipment, staff, access to details on information held and processing activities, plus access to other services such as HR and ICT
- Has the opportunity to increase their expertise and to stay up to date with developments through training, professional groups and workshops
- Is able to maintain secrecy or confidentiality concerning the performance of their tasks, although they can contact/seek advice from the ICO
- Position and function is known amongst all staff within school
- Contact details are published to allow individuals, staff and the ICO to reach them in an easy way such as a dedicated telephone number, e-mail address, or a web form.

Important - It should be noted that the School remains responsible for compliance with Data Protection law; DPOs are **not** personally responsible in case of non-compliance.

Who should be DPO?

The table overleaf provides several possibilities that schools may want to consider.

When should a DPO be appointed?

May 2018 or you could appoint at a later date if a temporary DPO can be put in place.

Contact

If you have any questions please contact the Assistant Records Manager (Schools) via recordsmanagement@solihull.gov.uk or call 0121 704 6341.

Potential Solutions to appointing a Data Protection Officer

Solution	Details	Benefits	Disadvantage
Recruit a DPO	<ul style="list-style-type: none"> • Create a post for a term time DPO that will support the school • The post will require sufficient seniority, autonomy, specialist knowledge and resources to support the school. 	<ul style="list-style-type: none"> • Dedicated resource • Specialist knowledge. 	<ul style="list-style-type: none"> • Extra cost to schools • Advice may contradict established custom / practice of the local authority and other schools.
Identify an existing member of staff to act as a DPO	<ul style="list-style-type: none"> • The DPO cannot be someone whose other role may give rise to a conflict of interest. However, they do need the authority to be able to influence decisions and effect change • They can be supported by the Council's Information Governance Team. 	<ul style="list-style-type: none"> • No recruitment needed • Can build upon a staff member's current knowledge and expertise relating to the school. 	<ul style="list-style-type: none"> • May lead to conflict of interests due to existing role • May find it difficult to find time for the extra responsibilities; this can't simply be 'tagged on' • Job evaluation, a review of their job description and salary may be required.
Commission the service from an outside provider	<ul style="list-style-type: none"> • Outsource the expertise to a team or an individual • Ensure clear allocation of expected tasks is included in contract. 	<ul style="list-style-type: none"> • Not as 'permanent' a commitment, able to change if prefer an alternative solution. 	<ul style="list-style-type: none"> • Take care to find a provider with right knowledge, skills and availability • Take care to find value for money.

A *group of schools* could also share a DPO, taking into account their size and structure, and the benefits or disadvantages the above solutions bring with them. They must be easily accessible to each school/data subjects/the ICO and appropriate resources must be provided.

**Conflicting positions may include senior management positions but also other more junior roles if they determine purpose and means of processing.*