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| **Date:** | January 2021 |
| **Date approved by Management Committee:** | January 31st 2021 |
| **Signature of Chair of Management Committee:** | Sue Cain |
| **To be reviewed:** | Annually |

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**Data Porting Policy**

This policy aims to explain the legal requirements for compliance with the EU General Data Protection Regulation (GDPR) and to describe the procedures to be followed when dealing with requests for data porting (transference) covered by the Regulation**.** It should be read in conjunction with the school’s Data Erasure Policy, Data Protection Policy and Confidentiality Policy.

**Scope**

This Procedure covers:

* All staff, sites and systems by which Bishopton operates as a ‘data controller’ or a ‘data processor’.
* All staff and sites on which Bishopton engages a ‘data processor’.
* All computerised records systems including web-based systems.
* Only where the basis for processing is consent, or processed to fulfil a contract or steps preparatory to a contract.
* Only personal data that has been provided to us by the data subject

NB: It does not cover paper records; only data processed by ‘automated means’.

**References**

* EU General Data Protection Regulation (2016)

**Roles & Responsibilities**

Data Controller

Under the EU GDPR, Bishopton is a Data Controller. That is, the organisation that determines the purposes for which, and the manner in which, any personal data about living individuals are processed. Data Controllers control personal data processed by a Data Processor.

Data Processor

Under the EU GDPR, Data Processors are agents or parties (persons or organisations) to whom Bishopton has given data processing responsibilities. Bishopton may also be a Data Processor when processing personal data on behalf of a Data Controller organisation.

Data Subject

According to the EU GDPR regulation, the data subject is a living individual who is the subject of the personal data.

Data Protection Officer

Under the EU GDPR regulation, the Data Protection Officer is a person who has discrete responsibilities for supporting the users and systems that process personal data in an organisation.

Department Heads and Managers

All relevant staff are responsible for ensuring that information is portable as required by the EU GDPR, and that requests to port personal data are processed without hindrance.

All staff should be aware of this procedure and adhere to its principles. They should all be aware of how to access this procedure and where to seek further advice.

**Recognising a Data Porting Request**

A Data Porting Request

A Data Porting Request is any request made by an individual or an individual’s representative to transfer, in a structured or commonly used machine-readable format, personal information (in scope) held by Bishopton or any of its Data Processors.

Format of the Request

The GDPR does not identify how a request must be provided to the data controller. However, in the interests of the rights and freedoms of the data subject, it would be good practice to allow a data subject to request data porting via any means. The requester should identify that they are making the request under the GDPR and not another legal right.

A request, therefore, can be made via any of, but not exclusively, the following methods:

* Email
* In person
* Fax
* Post
* College website
* Social media (Requests made via social media must be treated like any other request when received. However, Bishopton will not port or transfer personal information via social media channels.

**Rights of Portability**

Who has the right to request the porting of personal data?

Under the EU GDPR, any living person, who is the subject of personal information held and processed by Bishopton has a right to request the porting of their personal information (that is in scope). This is a legal right, subject to exemptions.

What can a Data Subject request to be ported?

Data portability rights allow the data subject to request to have data ported that is in scope (see ‘Scope’ above).

What does a Data Subject NOT have the right to access?

An individual does not have the right to erase information recorded *about someone else*, unless they are an authorised representative, or have parental responsibility.

What are we NOT required to respond to?

Bishopton is not required to respond to porting requests made with insufficient details to enable the location of information to be identified, and to satisfy itself as to the identity of the individual making the request. If a request does not have enough information, we must respond and ask the requester to be more specific. Ignoring the request is not an option.

Bishopton is not obliged to release information to *any person*, whether they are a data subject or their representative, if the items of identification presented are not valid or appear not to be valid (i.e., forged or do not adequately identify an individual/party).

**Exemptions**

Bishopton is not obliged to port information that will, or is likely to cause serious physical or mental harm to any other person.

Bishopton is not obliged to port information that would disclose information about another individual who is not the Data Subject.

Bishopton is not obliged to port information that is not in scope.

**Processing a Request for Data Porting**

* The request must be processed without hindrance.
* Identity of the requesting party must be validated prior to processing.
* No fee is chargeable.
* Data must be in a format easily used by the receiving party/controller.
* Communication with all parties involved in the transference must be open, supportive and in the best interests of the Data Subject.
* Processing does not require the intervention of the Data Protection Officer, although support is available to staff, if required.

**Monitoring and Evaluation**

This policy and procedure for Data Erasure will be subject to ongoing monitoring and evaluation to ensure efficacy and compliance with GDPR.

**UNICEF - UNCRC**

The UN Convention of the Rights of the Child sets out human rights of every person under 18 and applies to every child without discrimination, whatever their ethnicity, gender, religion, language, abilities or any other status, whatever they think or say, whatever their family background (Article 2).

Articles directly relating to this policy are:

Article 2 (Non-discrimination)

Article 3 (best interests of the child)

Article 5 (Parental guidance and a child’s evolving capacities)

Article 8 (Protection and preservation of identity)

Article 12 (Respect the views of the child)

Article 16 (Right to privacy)

Article 17 (Access to information from the media)

Article 28 (Right to education)

Article 29 (Goals of education)

Article 41 (Respect for higher national standards)

**Appendix 1**

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| **GDPR: DATA PORTING RECORD** | | | |
| Under GDPR, it is a legal duty to record data porting requests and actions. Please use this form to record all data porting requests and actions. | | | |
| Name of Requester: |  | ID (passport, Driving Licence number: |  |
| Date request received: | |  | |
| Do exceptions to compliance apply? | | YES | NO |
| If YES, please provide details: | |  | |
| Data Subject/Requestor ID validated by: | |  | |
| If NO, detail categories of data erased: (DO NOT enter data itself, only category identifiers, Name, DoB, or contact details etc.) | |  | |
| Recipient Organisation/3rd party: | |  | |
| Format in which data was ported: | |  | |
| Date request completed: | |  | |
| Date confirmation sent to requestor: | |  | |