Nexus Education Schools Trust

Data Breach Policy

Date: September 2023

Review Date: September 2025

Data Breach Policy

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Appendices

1. Introduction

1.1 Nexus Education Schools Trust ("NEST") and its member schools collect, hold, process and share personal data, a valuable asset that needs to be suitably protected

1.2 Every care is taken to protect personal data from incidents (either accidentally or deliberately) to avoid a data protection breach that could compromise security.

1.3 Compromise of information, confidentiality, integrity, or availability may result in harm to individual(s), reputational damage, detrimental effect on service provision, legislative non-compliance, and/or financial costs.

2. Purpose and Scope

2.1 NEST is obliged under Data Protection legislation[1] to have in place an institutional framework designed to ensure the security of all personal data during its lifecycle, including clear lines of responsibility.

2.2 This policy sets out the procedure to be followed to ensure a consistent and effective approach is in place for managing data breach and information security incidents across NEST.

2.3 This policy relates to all personal and special categories (sensitive) data held by NEST regardless of format.

2.4 This policy applies to all staff and pupils at NEST. This includes temporary, casual or agency staff and contractors, consultants, suppliers and data processors working for, or on behalf of the NEST.

2.5 The objective of this policy is to contain any breaches, to minimise the risk associated with the breach and consider what action is necessary to secure personal data and prevent further breaches.

3. Definitions/Types of Breach

3.1 For the purpose of this policy, data security breaches include both confirmed and suspected incidents.

3.2 An incident in the context of this policy is an event or action which may compromise the confidentiality, integrity or availability of systems or data, either accidentally or deliberately, and has caused or has the potential to cause damage to NEST's information assets and / or reputation.

3.3 An incident includes but is not restricted to, the following:

   3.3.1 loss or theft of confidential or sensitive data or equipment on which such data is stored (e.g. loss of laptop, USB stick, iPad/tablet device, or paper record);

   3.3.2 equipment theft or failure;

   3.3.3 system failure;

   3.3.4 unauthorised use of, access to or modification of data or information systems;

   3.3.5 attempts (failed or successful) to gain unauthorised access to information or IT system(s);

   3.3.6 unauthorised disclosure of sensitive / confidential data;

   3.3.7 website defacement;

   3.3.8 hacking attack;

   3.3.9 unforeseen circumstances such as a fire or flood;

   3.3.10 human error;

   3.3.11 'blagging' offences where information is obtained by deceiving the organisation who holds it.

4. Reporting an Incident

4.1 Any individual who accesses, uses or manages NEST's information is responsible for reporting data breach and information security incidents immediately to the NEST DPO office@nestschools.org

4.2 If the breach occurs or is discovered outside normal working hours, it must be reported as soon as is practicable.

4.3 The report must include full and accurate details of the incident, when the breach occurred (dates and times), who is reporting it, if the data relates to people, the nature of the information, and how

many individuals are involved. An Incident Report Form should be completed as part of the reporting process (refer to Appendix 1).

4.4 All staff should be aware that any breach of Data Protection legislation may result in NEST's Disciplinary Procedures being instigated.

5. Containment and Recovery

5.1 The Data Protection Officer (DPO) will firstly determine if the breach is still occurring. If so, the appropriate steps will be taken immediately to minimise the effect of the breach.

5.2 An initial assessment will be made by the DPO to establish the severity of the breach and establish whether there is anything that can be done to recover any losses and limit the damage the breach could cause.

5.3 The DPO will establish who may need to be notified as part of the initial containment and will inform any relevant third parties who can help mitigate the loss, where appropriate.

5.4 The DPO in liaison with NEST will determine the suitable course of action to be taken to ensure a resolution to the incident.

6. Investigation and Risk Assessment

6.1 An investigation will be undertaken by the DPO immediately and wherever possible, within 24 hours of the breach being discovered / reported.

6.2 The DPO will investigate the breach and assess the risks associated with it, for example, the potential adverse consequences for individuals, how serious or substantial those are and how likely they are to occur.

6.3 The investigation will need to take into account the following:

6.3.1 the type of data involved;

6.3.2 its sensitivity;

6.3.3 the protections are in place (e.g. encryptions);

6.3.4 what has happened to the data (e.g. has it been lost or stolen;

6.4.5 whether the data could be put to any illegal or inappropriate use;

6.4.6 data subject(s) affected by the breach, number of individuals involved and the potential effects on those data subject(s);

6.4.7 whether there are wider consequences to the breach.

7. Notification

7.1 The DPO will establish whether the Information Commissioner's Office will need to be notified of the breach, and if so, notify them within 72 hours of becoming aware of the breach, where feasible.

7.2 Every incident will be assessed on a case by case basis; however, the following will need to be considered:

7.2.1 whether the breach is likely to result in a high risk of adversely affecting individuals' rights and freedoms under Data Protection legislation[2];

7.2.2 whether notification would assist the individual(s) affected (e.g. could they act on the information to mitigate risks?);

7.2.3   whether notification would help prevent the unauthorised or unlawful use of personal data;

7.2.4   whether there are any legal / contractual notification requirements;

7.2.5   the dangers of over notifying. Not every incident warrants notification and over notification may cause disproportionate enquiries and work.

7.3 Individuals whose personal data has been affected by the incident, and where it has been considered likely to result in a high risk of adversely affecting that individual's rights and freedoms, will be informed without undue delay. Notification will include a description of how and when the breach occurred and the data involved. Specific and clear advice will be given on what they can do to protect themselves, and include what action has already been taken to mitigate the risks. Individuals will also be provided with a way in which they can contact NEST for further information or to ask questions on what has occurred.

7.4 The DPO must consider notifying third parties such as the police, insurers, banks or credit card companies, and trade unions. This would be appropriate where illegal activity is known or is believed to have occurred, or where there is a risk that illegal activity might occur in the future.

7.5 A record will be kept by the DPO and NEST of any personal data breach, regardless of whether notification was required.

8. Evaluation and Response

8.1 Once the initial incident is contained, the DPO will carry out a full review of the causes of the breach; the effectiveness of the response(s) and whether any changes to systems, policies and procedures should be undertaken.

8.2 Existing controls will be reviewed to determine their adequacy, and whether any corrective action should be taken to minimise the risk of similar incidents occurring.

8.3 The review will consider:

8.3.1   where and how personal data is held and where and how it is stored;

8.3.2   where the biggest risks lie including identifying potential weak points within existing security measures;

8.3.3   whether methods of transmission are secure; sharing minimum amount of data necessary;

8.3.4   staff awareness;

8.3.5   implementing a data breach plan and identifying a group of individuals responsible for reacting to reported breaches of security.

8.4 If deemed necessary, a report recommending any changes to systems, policies and procedures will be considered by the Trust Board.

9. Policy Review

9.1 This policy will be updated as necessary to reflect best practice and to ensure compliance with any changes or amendments to relevant legislation.

Data Breach Report Form

Please act promptly to report any data breaches. If you discover a data breach, please notify your GDPR champion immediately, complete Section 1 of this form and email it to the NEST DPO – office@nestschools.org Section 2 will be completed by the School and NEST together.

Section 1: Notification of Data Security Breach	To be completed by person reporting incident in liaison with GDPR champion
Date incident was discovered:	
Date(s) of incident:	
Place of incident:	
Name of person reporting incident:	
Contact details of person reporting incident (email, telephone number):	
Brief description of incident or details of the information lost:	
Number of Data Subjects affected, if known:	
Has any personal data been placed at risk? If so, please provide details:	
Brief description of any action taken at the time of discovery:	
For use by the Data Protection Officer	
Received by:	
On (date):	
Forwarded for action to:	
On (date):	

Section 2: Assessment of Severity	To be completed by DPO in consultation with GDPR champion/Headteacher of area affected by the breach
Details of the IT systems, equipment, devices, records involved in the security breach:	
Details of information loss:	
What is the nature of the information lost?	
How much data has been lost? If laptop lost/stolen, how recently was the laptop backed up onto central IT systems?	
Is the information unique? Will its loss have adverse operational, research, financial, legal liability or reputational consequences for NEST or third parties?	
How many data subjects are affected?	
Is the data bound by any contractual security arrangements?	
What is the nature of the sensitivity of the data? Please provide details of any types of information that fall into any of the following categories:	

HIGH RISK personal data
 	
• **Special categories personal data** (as defined in the Data Protection Legislation) relating to a living, identifiable individual's
  a) racial or ethnic origin;
  b) political opinions or religious beliefs;
  c) trade union membership;
  d) genetics;
  e) biometrics (where used for ID purposes)
  f) health;
  g) sex life or sexual orientation	

• Information that could be used to commit identify fraud, such as; personal bank account and other financial information, national identifiers, such as National Insurance Number and copies of passports and visas.	
• Personal information relating to vulnerable adults and children.	
• Detailed profiles of individuals including information about work performance, salaries or personal life that would cause significant damage or distress to that person if disclosed.	
• Spreadsheets of marks or assessment grades obtained by pupils, information about individual cases of safeguarding, behaviour or sensitive negotiations that could adversely affect individuals.	
• Security information that would compromise the safety of individuals if disclosed.	
Data Protection Officer and NEST GDPR Lead to consider whether it should be escalated to the Trust's Board.	

Section 3: Action taken	To be completed by Data Protection Officer
Incident number:	Eg. Year/001
Report received by:	
On (date):	
Action taken by responsible officer(s):	
Was incident reported to Police?	Yes/No If yes, notified on (date): Case number:
Follow up action required/recommended:	
Reported to Data Protection Officer and GDPR lead on (date):	
Reported to other internal stakeholders (details, dates):	

For use by Data Protection Officer	
Notification to ICO	Yes/No If yes, notified on (date): Details:
Notification to Data Subjects	Yes/No If yes, notified on (date): Details:
Notification to other external, regulator/stakeholder	Yes/No If yes, notified on (date): Details: