

New Islington Free School

Data Breach Policy

November 2019

Next Review November 2020

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1. Introduction and Overview

1.1 What is a Serious Information Governance Incident?

A Serious Information Governance Incident ('SIGI') occurs where there is:

- an actual or potential loss of information or
- an unauthorised disclosure of information,

where the incident could affect an individual's privacy, lead to identity fraud or have some other significant impact on individuals or the School.

These incidents could occur by a range of means including the information being lost, stolen, accessed, disclosed or altered without appropriate authority. It should be noted that this is not an exhaustive list.

A Serious Information Governance Incident involving personal information is likely to constitute a breach of the Data Protection Act 1998 and will in future be likely to constitute a breach of the General Data Protection Regulation ('GDPR') and the Data Protection Act 2018.

Further guidance on what constitutes a personal breach under GDPR can be found on the ICO website at:

[ICO Guidance](#)

Detailed guidance has also been provided by the European Commission Article 29 Working Party and can be accessed at:

[Article 29 Working Party Guidance](#)

1.2 What causes a SIGI?

The Information Commissioner's Office (ICO) states that a SIGI/data security breach can happen for a number of reasons:

- Loss or theft of data or equipment on which data is stored;
- Inappropriate access controls allowing unauthorised use;
- Equipment failure;
- Human error;
- Unforeseen circumstances such as fire or flood;
- Hacking attack; or
- 'Blagging' offences where information is obtained by deceiving the organisation that holds it.

Other reasons for a breach occurring could include:

- Poor disposal of confidential waste;

- Unauthorised disclosure of confidential information to a third party (in any format including verbal);
- Finding confidential information/records in a public area; or
- Sharing of computer ID's and passwords.
- Not updating records when we are notified of a change

1.3 How can a SIGI be managed?

When an incident occurs, there are four important elements to the incident management plan:

- Containment and recovery;
- Assessment of on-going risk;
- Notification; and
- Evaluation and response

The GDPR will introduce a duty on all organisations in the UK to report certain types of data breach to the Information Commissioner's Office ('the ICO'). In some cases, organisations will also have to report certain types of data breach to the individuals affected.

A notifiable breach has to be reported to the ICO within 72 hours of the School becoming aware of it. It is, therefore, important that staff recognise when an incident has occurred and report it appropriately so that immediate action can be taken to contain it. All incidents must be reported to the Information Governance Team within 24 hours.

2. How to manage an incident – Stage 1

2.1 Containment and recovery

The person discovering a Serious Information Governance Incident should report it immediately as follows:

- to the Business Manager or Headteacher;
- to the Information Governance Team, via IGSchoolSupport@stockport.gov.uk or by telephone on 0161 474 4299, who will log the incident and advise on the next steps/any immediate action required to contain the incident;
- Take advice from your HR provider or advise that the Line Manager takes advice from HR regarding any immediate action which may need to be taken regarding employees; and
- Contact your IT provider if any IT equipment is involved in the incident.

At this point an Investigating Officer (usually the Business Manager or Headteacher) must start a full investigation without delay. The Serious Information Governance Incident Reporting Form ('Appendix 1') should be completed and sent to the Information Governance Team within 24 hours.

The investigating officer should ensure that they obtain all the pertinent facts regarding the incident, take possession of any documentation and record any key facts/decisions from this point forward. As a minimum this should include:

- Date and time of the incident;
- Who was involved;
- Exactly what information has been disclosed;
- How the breach occurred;
- Whether the data has been recovered;
- Whether the data subjects involved have been informed;
- What immediate corrective action has been taken; and
- Further actions planned: who is responsible for ensuring they are carried out and when will they be completed.

2.2 Risks from Incident

The Investigating Officer must accurately define any risk and this will need to be assessed to maximise the Schools ability to control and mitigate the risk. The Severity Table in Appendix 2 gives broad guidelines on assessing the severity of incidents and this can be used by the Investigating Officer to assist with the completion of the RAG rating matrix within the SIGI Reporting Form.

The report will need to identify what types of data are involved in the incident. Personal data is any information which identifies living individual and tells you something about them. It does not have to include their name if other information identifies them. This could include:

- Health or Social Care data;
- Financial data (e.g. bank details);
- Personal identification data (e.g. address, N.I. Number); or
- School year group together with initials etc.

The report also needs to consider what impact the incident could have on individuals:

- It is a 'special category of personal data' as defined Under Article 9 of the General Data Protection Regulation, i.e. data relating to:
 - racial or ethnic origin;
 - political opinions;

- religious or philosophical beliefs;
 - trade union membership;
 - health;
 - genetic data or biometric data for the purpose of uniquely identifying a natural person
 - sexual life or sexual orientation.
- Is it generally perceived as sensitive data because of what might happen if it is misused e.g. bank account details, information that could cause embarrassment to the individual?
 - Are there any protections in place such as encrypted laptop, USB sticks, secure emails etc.?
 - How many people are affected by the incident?
 - How serious might the effect of the incident be on those people?
Factors to consider include:
 - physical risk;
 - financial risk;
 - identity fraud risk;
 - damage to personal reputation;
 - negative impact on their privacy;
 - damage to organisational reputation;
 - disclosure of sensitive personal information.
 - What is the likelihood of the identified risk occurring? E.g. if IT equipment is stolen, would someone need very specialist equipment and knowledge to access the information?
 - Whose data is involved? E.g. Parents, pupils, staff or suppliers?
 - What are the possible consequences for the Schools reputation?
 - Could there be a risk to public health?

2.3 Notification

As described in Section 1.3 above, the GDPR introduced a duty on all organisations in the UK to report certain types of data breach to the ICO.

Where a breach is likely to result in a high risk to the rights and freedoms of individuals, you must notify those concerned directly without undue delay.

Depending on the incident there may be other legal, contractual or sector-specific requirements to notify various parties.

Notifications may assist in security improvements and implementation, as well as risk mitigation.

An immediate assessment must be made as to whether the data subject (i.e. the individual(s) whose data was involved in the incident) should be notified. This should consider:

- Is the breach likely to result in a high risk to the rights and freedoms of the data subject? Examples of high risk processing can include:
 - Systematic and extensive automated profiling
 - Large-scale processing of special categories of data;
 - Large-scale, systematic monitoring of a publicly accessible area e.g. ;
 - Other activities that are 'likely to result in a high risk for the rights and freedoms of individuals'
- How notification can help the individual?
- Whether notification would result in undue stress, outweighing the benefit of notifying them?
- Are the individuals who would be notified capable of understanding the notification? For example, does the person have the capacity to understand? If not, you may need to notify a third party with the legal right to make decisions on their behalf (e.g. a Power of Attorney). Consideration will also need to be given as to who needs to be notified when the individual concerned is a child.
- Are the numbers involved so large that notification would involve disproportionate effort? In order to establish if notification would involve disproportionate effort you would need to take into account the difficulties which would occur in the process of notifying against the potential benefit that the notification might bring to the individual.
- As a general rule, it is recommended that the data subject is advised unless you can clearly justify why it is not the data subject's interest. A template letter is provided at Appendix 3. As a minimum any communication to an affected data subject should contain:
 - the name and contact details of the Schools DPO;
 - describe the likely consequences of the personal data breach;

- describe the measures taken or proposed to be taken to address the personal data breach, including, where appropriate, measures to mitigate its possible adverse effects.

Data Subjects will not need to be notified in the following circumstances:

- Where the School has implemented appropriate technical and organisational protection measures (in particular those that render the personal data unintelligible to people not authorised to access it) and that those measures were applied to the personal data affected by the personal data breach. An example of this would be that the data was encrypted.
- Where the School has taken subsequent measures which ensure that the high risk to the rights and freedoms of the data subject is no longer likely to materialise.
- Where notification would require disproportionate effort. In such circumstances there would still be an expectation for there to be a public communication or similar measure to notify data subjects

If the Investigating Officer is concerned that an employee may be involved in fraudulent activity, the Schools Senior Leadership and Data Protection Officer should be contacted for advice.

3. Information Governance Team investigation and evaluation – Stage 2

Upon receipt of the completed SIGI Reporting Form, the Information Governance Team will assess the incident and the investigation to date, and advise on and co-ordinate any further actions required.

The role of the IG Team investigator is to:

- review the circumstances of the incident and the action taken so far.
- evaluate the circumstances in which the incident took place
- consider whether or not any further action needs to be taken to avoid further breaches or similar incidents occurring.
- identify any corporate issues arising from the breach
- agree an action plan, responsible officers and relevant timescales for implementation of follow-up of the incident.

The IG Team investigator will also review whether or not any risk of the breach occurring had been identified prior to the incident and whether or not it was avoidable. If so:

- did the incident occur despite existing measures being in place?
- were current policies and procedures followed? If not, why not?
- in what way did the current measures prove inadequate?
- had staff received appropriate training and communication in relation to information governance?
- if current procedures and policies were inadequate, how can they be improved e.g. by revision and rewriting, training etc.?

If not:

- how likely is the incident to recur?
- could changes to current policies and procedures have prevented or lessened the impact of the incident?
- should current policies and procedures be rewritten?

Consideration also needs to be given to whether or not the incident involved deliberate or reckless behaviour by an employee:

- For a deliberate act, disciplinary measures or prosecution should be considered, taking advice from Legal and HR.
- For reckless behaviour, disciplinary measures and retraining, as appropriate should be considered, taking advice from HR.

The IG Team investigation should also consider if the employee concerned in the incident was aware of current policies and procedures.

- If yes, did they comply?
- If not, why not?
- Carry out checks with IT relating to policies and procedures read and accepted via NetConsent.

Finally, the Information Governance team will conduct a further risk assessment on the incident (Section 2 of the Serious Information Governance Incident Reporting Form in Appendix 1). Where the RAG status is amber or red as a result of this assessment, the incident will be referred to the DPO. There may also be instances in which the Information Governance team refer incidents with a green RAG status to the DPO e.g. if an incident gives an indication of wider corporate issues.

4. ICO Notification

ICO Notification will be determined by the Data Protection Officer. Where the ICO is to be notified, the ICO breach reporting form will be completed by a member of the Information Governance Services Team alongside the appropriate investigating officer.

The notification to the ICO should include as much information pertinent to the incident as is known at the time the incident is notified. Further details can be added to the notification as they become known and as the internal SIGI process develops.

The ICO will respond to the breach notification and may conduct further investigations. The findings of the ICO investigation may require further changes to policies or procedures, or impose sanctions. Any interactions with the ICO regarding School breaches should be brought to the attention of the IG team and the investigating officer.

5. Staff Notification and Training

Where policy or procedure changes are introduced, all relevant staff should be informed of the changes and required to record their acknowledgement of reading and understanding the changes.

There may also be a requirement to repeat, extend or revise training. All involved staff should be required to undertake any new or repeated training resulting from the incident.

6. Monitoring

The IG Team will monitor the implementation and progress of action plans for all incidents on a regular basis to ensure that follow-up action is taken to avoid repeat incidents occurring.

If further information is required relating to this policy please speak to your Line Manager in the first instance or to the Information Governance Team.

Serious Information Governance Incident (SIGI) Reporting Form

Stage 1 – To be completed by the Investigating Manager

| Serious Information Governance Incident Reporting Form | |
|--|--|
| School name | |
| Date of incident | |
| Office location | |
| Investigating Officer | |
| Information Asset Owner | |
| Type of Data ¹ - Is it personal data / special category or non-personal data? | |
| How many individuals affected? | |
| Data Lost / Recovered | |

Please provide as much detail as possible using the questions as prompts.

Do not provide the personal details of those involved in the breach or those affected by the breach. Eg. Use 'service user' and instead of the name of the subject.

| Details of incident – Please describe incident in as much detail as possible |
|--|
| <p>Chronology and explanation of how the incident happened? Including:</p> <ul style="list-style-type: none"> • Dates and times • Who was involved and advised • Explanation of any delay in reporting the incident |

¹ Examples of data might include; documents/diaries/files/paperwork/emails/faxes containing personal data, loss of unencrypted device/personal data seen by third parties.

| |
|---|
| Corrective action already taken – Provide details of all steps taken to recover and contain the incident |
| Have the affected individuals been informed (when/how)? If not, advise why not. |
| Has this type of incident happened before? If so, provide a brief summary of when, who was involved, outcome. |
| What actions have been taken to minimise risk of reoccurrence? E.g. staff training, changes to processes/procedures, changes to system controls etc. |
| Any other actions taken? E.g. where the incident involves the loss of IT equipment have IT been informed? Or if the incident involves social care service user or patient information, have the School's departments been involved? |
| Further action planned – Provide details of all further actions yet to take place |
| |

If you require further advice in relation to this incident please contact:

Information Governance Team

School Support inbox - IGSchoolSupport@stockport.gov.uk

Becky Swan – Rebecca.swan@stockport.gov.uk

Phil Welch – Phil.welch@stockport.gov.uk

E-mail the completed form to:

School Support inbox - IGSchoolSupport@stockport.gov.uk

Appendix 2

Severity Table

NB: This table only gives broad guidelines on the severity of incidents. Each case may differ depending on other variables e.g. the number of people affected, the type of information concerned etc. The severity of each incident should therefore be considered on an individual basis.

| Incident Type | Breach of (Confidentiality, Integrity, Availability & Accountability) | Severity |
|---|---|---|
| Unauthorised access to Network/ Systems/ Applications/ Email | Integrity/ Confidentiality/ Availability & Accountability | Moderate to Major depending on the level of information accessed |
| Sending information | | |
| Information sent to the wrong recipient (internally), disclosing information that is neither confidential nor personal | Integrity | Minor |
| Information sent to various recipients (including external recipients) disclosing non confidential or non-personal information | Integrity | Moderate |
| Information sent to an unauthorised recipient(s) containing confidential and sensitive personal information (whether Internal or External) | Integrity/Confidentiality | Major |
| Loss of equipment | | |
| Loss or theft of equipment containing no confidential and/or personal information | Availability | Minor/ Moderate |
| Loss and theft of equipment containing confidential and/or personal information but with encryption software installed on the equipment | Availability/ Confidentiality | Moderate |
| Loss and theft of equipment containing confidential and/or sensitive personal information where equipment has no encryption software installed | Availability/ Confidentiality | Major |
| Inappropriate material found on PC | Accountability | Minor to Major depending on the type of material found on the PC |
| Illegal material found on PC | Accountability | Major |
| Inappropriate/unauthorised use of the network/software leading to a disruption of services | Availability | Major |
| Inappropriate use of the internet or email as defined within the AUP Policy | Accountability/ Availability | Minor to Major depending on the circumstances |
| Passwords written down leading to unauthorised access | Integrity/ Confidentiality/ | Moderate/ Major depending on the |

| | | |
|--|---|---|
| | Availability & Accountability | type of information and system and impact of the incident |
| Offensive emails being sent | Accountability | Moderate to Major depending on content of the email |
| Spam or 'phishing' emails | Availability | Minor to Moderate depending on the impact and number of users affected. |
| Information sent externally or internally by fax, post or hand (containing no confidential or personal information) is lost | Availability | Moderate |
| Information sent externally or internally by fax, post or hand (containing confidential or sensitive personal information) is lost | Integrity/ Confidentiality/ Availability & Accountability | Major |
| Unintentional corruption of data | Availability | Moderate/Major depending on the amount of data and type of data corrupted |
| Intentional corruption of data | Availability and Accountability | Major |
| Password sharing | Accountability/ Integrity/ Confidentiality | Moderate to Major depending the type of data in question |
| Downloading or copying of unlicensed software | Accountability | Major |
| Information/ data deleted or amended from a database in error | Accountability/ Integrity & Availability | Moderate |
| Information/ data deleted or amended from a database maliciously | Accountability/ Integrity & Availability | Major |
| Confidential information disposed of inappropriately | Accountability | Major |
| Website Hacked | Availability/ Integrity | Moderate to Major depending on the criticality of the system |
| Misuse of Telephony Service | Accountability | Minor to Major on the level of misuse |

Appendix 3

Template Data Subject Notification Letter

Dear **XXXXX**,

I am contacting you because it has come to my attention that there appears to have been a breach in the security of Personal Information held about you by **[School name]**

The circumstances of the incident are as follow:

Explain what the breach entails, what personal/ special categories of personal information have been affected (be specific) and how the breach has been brought to the School's attention

I can confirm that **[School name]** take the security of the Personal Data we control very seriously and steps have been taken to minimize the risk of this incident reoccurring and to mitigate any implications this incident may have on you and your privacy.

The following steps have been taken to ensure this error has been contained and will not be repeated;

Detail the steps taken, or intended to be taken, to ensure that this breach is contained and what action will be/has been taken to ensure that the breach is not repeated. Explain how the error occurred (if known).

Also detail any steps which have been taken to assist the Data Subject in retaining control of their personal data.

Please also detail any additional internal security measures which are available to the Data Subject (renewed passwords, security questions, notes on account detailing additional security may be required) and ask if the Data Subject would like to engage with any of these services.

Should you wish to raise a formal complaint regarding this matter you may do so by contacting the Schools' Data Protection Officer: Phil Welch – Phil.welch@stockport.gov.uk

I would like to take this opportunity to apologies on behalf of **[School name]** for this incident and any inconvenience or undue concern it may have caused you.

If you would like to discuss this matter prior to taking further action please do not hesitate to contact me on **[enter appropriate contact details]**

Yours sincerely