



Circular letter 0040/2019

TO THE BOARDS OF MANAGEMENT OF POST-PRIMARY
SCHOOLS AND CHIEF EXECUTIVES OF EDUCATION AND
TRAINING BOARDS

Fair Processing Notice to explain how the personal data of students in post-primary schools on the Post-Primary Online Database (P-POD) will be recorded, processed and shared.

1. Purpose

The Post Primary Online Database (P-POD) is an individualised database of pupils enrolled in post primary schools which are recognised by the Department. While the database is hosted by and data will be accessible to, the Department of Education and Skills, the pupils' data is provided and kept up to date by the schools in which the pupils are enrolled. This database contains the following individualised information on pupils in post primary schools:

- Personal Public Service (PPS) Number
- Name
- Address
- Date of Birth
- Gender
- Nationality
- Mother's maiden name
- Mother Tongue
- Eircode
- Birth Certificate Name
- Birth Certificate checked indicator
- Irish exemption date granted
- Irish exemption reason
- Mother Tongue indicator
- Ethnic/Cultural Background
- Repeat of a Year indicator
- Repeat of a Year reason
- Repeat of a Year date granted
- Deceased Indicator
- Boarder

The purpose¹ of P-POD is to enable the Department to fulfil its public function of providing for education, as far as is practicable and having regard to the resources available, at a level and quality appropriate to meet the needs and abilities of students in post-primary schools recognised by the Department.

P-POD enables monitoring of the progress of children through the education system in order to ensure that every student can meet their educational potential and to ensure that every child of compulsory school age is in receipt of an education.

The data on P-POD shared by schools with the Department enables the public function of the Department of providing for education, including the allocation of funding and staffing to schools based on the individually verified student data, the provision of support and resources to schools and the monitoring and inspection of the curricula being taught by schools.

The Department is committed to:

- abiding by the General Data Protection Regulation (GDPR) (EU) 679/2016 and the Data Protection Act, 2018
- respecting individuals' rights to confidentiality and privacy

Article 4(7) of the General Data Protection REGULATION (EU) 2016/679 defines the data controller as the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data;" As the Department of Education & Skills decides 'why' and 'how' the personal data, provided to PPOD by schools, should be processed it is the data controller. This fair processing notice outlines how the Department of Education and Skills will comply with each of these rules in relation to data stored on the Post-Primary Online Database and which schools share with it. Where relevant it will also outline how these rules are adhered to in the case of the Pupil Entity (internal departmental database).

The PPS number will be used as the unique student identifier on P-POD and the Pupil Entity to enable the Department to provide for education for post-primary students as far as practicable and subject to available resources.² This will allow for a child's educational history to be maintained accurately as they move school, as well as ensuring that there are no duplicate enrolments in the system. The PPS number as provided by the parents/guardian or student will be obtained from the school and used to authenticate the student's public service identity using the Department of Employment Affairs & Social Protection's client service.³ This combines a matching process which authenticates the PPS numbers using other variables from a student's Public Service Identity dataset, and returns a match code to the Department of Education and Skills. In cases where the PPS number is not available from the school, the Department will attempt to obtain the number via the PPS number client service and add the information to P-POD and PEIP (Pupil Entity Implementation Project).

The PPS number may be shared by the Department of Education and Skills as necessary with Tusla – the Educational Welfare Service or the National Council for Special Education (as permitted under the Educational Welfare Act 2000) if it is required for ensuring the educational welfare of a child or for provision of educational supports to meet special educational needs.

¹ Section 6(b) of the Education Act, 1998 – *to provide that, as far as practicable and having regard to the resources available, there is made available to people resident in the State a level and quality of education appropriate to meeting the needs and abilities of those people.*

² Section 262(6)(b) of the Social Welfare Consolidation Act, 2005

³ Section 262(6)(a) of the Social Welfare Consolidation Act, 2005

The PPS number may also be subsequently shared with the Department of Employment & Social Affairs to enable that Department to establish the student's continued reckoning for inclusion in child benefit payments when the student has left the post-primary education system before completing their Leaving Certificate.

In cases where the PPS number is required for a school's own use, and not just for the purposes of population onwards to P-POD, schools are obliged under data protection legislation to explain the specific purpose for which they are collecting and using it.

2. Guides to P-POD in plain English

A set of Frequently Asked Questions on P-POD is available at <https://www.education.ie/en/Schools-Colleges/Services>Returns/Post-Primary-Online-Database-P-POD-Project/FAQs.html>

Other information on P-POD is available on

<https://www.education.ie/en/Schools-Colleges/Services>Returns/Post-Primary-Online-Database-P-POD-Project/>

3. Seven Principals of Data Protection

Article 5 of the GDPR sets out seven key principles which lie at the heart of the general data protection regime.

These seven key principles are

- Lawfulness, fairness and transparency
- Purpose limitation
- Data minimisation
- Accuracy
- Storage limitation
- Integrity and confidentiality (security)
- Accountability

Lawfulness, fairness and transparency

Personal data must be obtained and processed “fairly and lawfully”.

The Data Protection Act 2018 highlights a clear obligation to inform data subjects how their data is or will be processed and processing will not be considered fair unless the data subject is given specific information about the identity of the controller, who the information will be disclosed to, and the purposes for which the data is to be processed. The rationale is that if the processing is to be fair the data subject must be placed in a position to learn of the existence of the processing operation, have access to that information and consequently be able to have that data rectified if required.

Purpose limitation

All data collected, must be collected for specified, explicit and legitimate **purposes** and not further processed **in** a manner that is incompatible with those **purposes**.

Data minimisation

Only the minimum amount of personal data should be shared. In many cases all that may be required is a "yes" or "no" in regard to whether an individual is, for example, on P-POD the question as to whether or not a pupil's mother tongue is English or Irish requires a "yes" or "no" response

Accuracy

All data should be accurate and, where necessary, kept up to date. Any data that is known to be inaccurate should be erased or rectified without delay.

Storage limitation

All data will be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed.

Integrity and confidentiality (security)

All data will be processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

Accountability

Any organisation which collects personal data of an individual must take responsibility for what they do with personal data and how they comply with the other six principles.

They must have appropriate measures and records in place to be able to demonstrate their compliance.

The controller shall be responsible for, and be able to demonstrate compliance with the above seven principles.

4. October Returns

The student data that schools have obtained previously from parents/guardians or the student, was provided by them to schools for the purposes of the individual identification of the student in relation to the provision of their education and for some of this data to meet the requirements of education policy as determined by the Department and communicated by way of departmental rules and circulars to schools. The onward transfer of data from the school to the Department is to ensure the Department can undertake its public function to provide for education (Section 266(a) of the Social Welfare Consolidation Act 2005).

Once a year as part of the annual returns process, known as the October Returns, the schools generate an extract from P-POD containing data on students enrolled as at 30th September. The October Returns generated are returned electronically in a secure manner to the Department.

On receipt of the October Returns from each school the Department updates its Pupil Entity, a departmental database (formerly known as the Post-Primary Pupil Database), with the student data from the return. Internal Department applications such as those used in the allocation of staffing resources and funding to schools or in the case of statistical analysis and research access the data held on the Pupil Entity (i.e. enrolment data as at 30 September). Where statistical analysis and research requires access to up-to-date student data this data may be sourced from P-POD.

Some of the data collected on P-POD will also be used solely by the school for their own internal administrative purposes. At Junior Cycle, data on outcomes of assessments and examination is retained on P-POD for 3 months (then subsequently deleted) to enable schools to generate or provide reprints of the Junior Cycle Profile of

Achievement for students or former students of the school. Schools as data controllers have responsibility for data protection within their own schools and the Department has advised schools of necessity to adhere to their legal responsibilities as data controllers under the Data Protection Acts, please see departmental circular 38/2014 – *Revised arrangements for the submission of returns to the Department of Education and Skills by post-primary schools for 2014/15 and future years.*

Queries in relation to how individual schools are adhering to the seven principles of data protection should be referred to the individual school in question.

Schools may only access the data of students on P-POD where the students are currently enrolled in their schools or the school was the last post-primary school of a person who has finished their post-primary education.

It is Department policy that access within the Department to data held on both P-POD and the Pupil Entity is limited to the I.T. technical support staff, P-POD support staff, and staff in the Department's Statistics unit, Teacher Allocations and Schools Financial Section.

The Department also shares some of the personal data stored on the Pupil Entity (i.e. data as at 30th September) as populated from the October Returns from P-POD with other public bodies.

These are:

- *Central Statistics Office*, under section 30(1)(b) the Statistics Act, 1993 to assist with the compilation of national statistics.⁴
- *Department of Employment Affairs & Social Protection* under section 262(6)(a) of the Social Welfare Consolidation Act 2005⁵, this Department shares a limited amount of each student's personal data, including a student's PPS number with the Department of Employment Affairs & Social Protection's client service in order to authenticate the identity of each student.
- *State Examinations Commission* as provided for under Social Welfare Consolidation Act 2005 (between specified bodies) the data on entrants for the state examinations is provided from the schools via the October Returns to SEC to assist its planning of the state examinations.
- *Education Research Centre (PISA)*, in compliance with the General Data Protection Regulation (GDPR) (EU) 679/2016 and the Data Protection Act, 2018, data on 15 year old students, excluding their PPS number, to meet its research requirements including some of Ireland's international research commitments. The Centre subsequently liaises with post-primary schools directly in respect of any further data it may require on individual students to assist its research requirements.
- *Student Universal Support Ireland* under Section 28(5)(b) of Student Support Act 2011, to verify data supplied as part of the application process confirmation (i.e. either a Yes or No) is provided to SUSI that the applicants for the student grants have been returned by schools as having been enrolled in post-primary education for at least three years out of the five school years.
- *Higher Education Access Route (HEAR) and Disability Access Education Route (DARE)* by way of consent from the applicants from socio-economic disadvantaged backgrounds for consideration under the HEAR access schemes confirmation (i.e. either a Yes or No) is provided to HEAR to confirm that an applicant have been returned by schools as having been enrolled in post-primary education for at least three years out of the last five years. A similar arrangement applies to DARE in respect of applicants with disabilities.
- *NEPS (National Educational Psychological Service)* under sections 2 and 7 of the Education Act 1998 relating to the function of the Minister and the psychological service, this Department shares a limited amount of each student's personal data, including a student's PPS number with NEPS to allow them assess and identify need, and to inform appropriate interventions, in collaboration with schools, parents and

⁴ The Statistics Act, 1993 gives the CSO the authority to assess the statistical potential of the records maintained by other public authorities and to ensure that this potential is realised; therefore, the CSO has indirect access on a statutory basis to data on individuals and businesses collected for administrative purposes

⁵Section 262(6)(a) of the Social Welfare Consolidation Act 2005 where a specified body has a transaction with a person, the Minister may share the person's public service identify with the specified body to the extent necessary for authentication by the specified body of the person's public service identity. For the purposes of this act the Department of Education and Skills is a specified body

pupils, in respect of concerns raised in relation to a student's wellbeing, or educational, social or emotional development.

The Department has put in place a memorandum of understanding with each of these bodies, which includes the purpose and legal basis for which the body requires the data, its storage, security and retention.

Since 2016/17 P-POD has facilitated the transfer of student data from a state body to the school:

- *State Examinations Commission* may transfer the final results of the state examination at Junior Cycle to schools to enable the school to include this data in the Junior Cycle Profile of Achievement (JCPA) which schools issue to their students who complete the Junior Cycle.

While the Department via P-POD facilitates the transfer of the above type of data it will not access this type of individual data including the assessment outcomes and examination results of individual students in the Junior Cycle except in what is anticipated to be very rare and exceptional circumstances where in order for the Department to provide technical support to a school user of P-POD the Department needs to access individual records.

The assessment data held on P-POD may be aggregated by school for use by the Department's Inspectorate for purposes of evaluation and assessment of implementation of the Junior Cycle programme by schools. The assessment data may also be used in aggregate format for statistical analysis and research purposes. If this data is used in the compilation of "Comparative Performance) tables, then a specific derogation is required under section 4(a) of Education (Miscellaneous Provisions) Act 2015.

The small technical support staff unit within the Department which provides technical support to school users of P-POD may when authorised in advance by schools, access assessment records where this is necessary to resolve a technical issue with P-POD which has been notified to the Department by a school.

Under Section 20 of the Education Welfare Act 2000 schools within the P-POD system may also exchange data for the purposes of facilitating the application and subsequent enrolment of a student in another school.

The student data on P-POD shall be maintained by the school in which the student is enrolled. The school is obliged to ensure that the data of its students is maintained accurately.

The student data on the Pupil Entity database is updated annually via the October Returns process. It should be noted that this data is mainly used in aggregate format as at 30th September each year and occasionally at individual record level for statistical analysis purposes.

Each year the Department requires school authorities as part of the October Returns process to sign a declaration that they have fulfilled their data protection obligations in relation to the collection and sharing of their student data via P-POD.

To assist both schools and the Department to comply with their respective data protection requirements for P-POD, post-primary schools are asked to bring this circular to the attention of parents/guardians, students and school staff.

**Tom Deegan,
Principal Officer,
P-POD Unit
Schools Division,
July 2019**

APPENDIX 1 – LEGAL BASIS

The legal bases set out for collection of the personal information on P-POD, including the list of personal items is as follows

1) **Social Welfare Consolidation Act Section 266.—**

Notwithstanding anything contained in any other enactment, a specified body may share any information that may be prescribed with—

(a) the Minister for Education and Science, where that Minister requires the information for the purpose of enabling him or her to provide education in accordance with section 6(b) of the Education Act 1998, or

(b) an tÚdarástUum Ard-Oideachas, where that body requires the information for the purpose of performing its functions under section 3(a), (b) or (d) of the Higher Education Authority Act 1971.

SI No317/2015 Social Welfare Consolidated Claims Payments and Control Regulations

<http://www.irishstatutebook.ie/eli/2015/si/317/made/en/pdf>

Sharing of information

2. Article 189 of the Social Welfare (Consolidated Claims, Payments and Control) Regulations 2007 (S.I. No. 142 of 2007) is amended by—

(a) The substitution of the following sub-article for sub-article (1):

“

(1) The following information is prescribed as the information that may be shared, in accordance with section 266, by a body specified in paragraph 2 of Schedule 5 with the Minister for Education and Skills or an tÚdarás um Ard-Oideachas:

(a) in relation to a student of that body—

(i) his or her—

(I) forename,

(II) surname,

(III) date of birth,

(IV) address,

(V) sex,

(VI) nationality,

(VII) personal public service number, and

(VIII) mother's birth surname,

and

(ii) whether the student—

(I) boards at his or her school,

(II) is exempt from studying the Irish language and, if so, the date, category and grantor of such exemption,

(III) is in receipt of resource teaching support or learning support and, if so, the type of such support,

(IV) is in a class for students with special educational needs and, if so, the level of integration of the student, if any, in mainstream class settings,

(V) is a student in a special class and, if so, the type of special class,

(VI) Is a student in a special school and, if so, the category of capitation grant that is paid in respect of that student,

(VII) Is a new entrant,

(VIII) Is repeating a year and, if so, the reasons why,

(IX) Is a short-term placement student and, if so, the duration for which he or she has been enrolled;

(b) In relation to the course of study being undertaken by a student of that body—

(i) his or her—

(I) forename,

(II) surname,

(III) date of birth,

(IV) address,

(V) sex,

(VI) nationality,

(VII) personal public service number, and

(VIII) mother's birth surname,

and

(ii) whether the student—

(I) boards at his or her school,

(II) is exempt from studying the Irish language and, if so, the date, category and grantor of such exemption,

(III) is in receipt of resource teaching support or learning support and, if so, the type of such support,

(IV) is in a class for students with special educational needs and, if so, the level of integration of the student, if any, in mainstream class settings,

(V) is a student in a special class and, if so, the type of special class,

(VI) Is a student in a special school and, if so, the category of capitation grant that is paid in respect of that student,

(VII) Is a new entrant,

(VIII) Is repeating a year and, if so, the reasons why,

(IX) Is a short-term placement student and, if so, the duration for which he or she has been enrolled;

- (i) *The date of enrolment of the student,*
- (ii) *The source of enrolment for the student,*
- (iii) *The class group and standard of the student,*
- (iv) *The class type of the student,*
- (v) *The student type,*
- (vi) *The current school roll number for the student,*
- (vii) *The former school roll number for the student, if applicable,*
- (viii) *The date that the student leaves the course of study and the leaving destination,*
- (ix) *The programme for which the student is studying and his or her programme year,*
- (x) *The examination candidate number for the student,*
- (xi) *The subjects which the student is studying and the subject level at which he or she is studying those subjects,*
- (xii) *The language through which the student is studying,*
- (xiii) *Whether the student is participating in a scheme administered by an Education and Training Board and known as the Vocational Training Opportunities Scheme, and*
- (xiv) *Where the student is enrolled in a Post Leaving Certificate or an Applied Leaving Certificate Programme, the highest level of academic attainment previously achieved.”,*

2) Section 20 of the Education Welfare Act 2000

- (1) *The principal of a recognised school shall, as soon as may be after the commencement of this section, cause to be established and maintained a register of all students attending that school.*
- (2) *The principal of a recognised school shall, on the day on which the child first attends that school, enter the child's name, the date of his or her first so attending and such other particulars as may be prescribed by the Minister, in the register maintained under this section in respect of that school, and the child concerned shall, for the purposes of this Act, be deemed, as on and from that date, to be registered in that school.*
- (3) *The principal of a recognised school shall, as soon as may be after entering in the register maintained under this section in respect of that school the name of a child who is registered in another recognised school, so inform by notification in writing the principal of the second-mentioned school.*
- (4) *The principal of the second-mentioned school referred to in subsection (3) shall, on receipt of a notification under that subsection, remove the name of the child concerned from the register maintained under this section in respect of the said second-mentioned school except where the child continues to receive part of his or her education at that school.*
- (5) *The principal of a recognised school shall, on receiving a notification under subsection (3) in relation to a child, notify the principal of the school first-mentioned in that subsection of—*
 - (a) *any problems relating to school attendance that the child concerned had while attending the second-mentioned school referred to therein, and*
 - (b) *such other matters relating to the child's educational progress as he or she considers appropriate.*
- (6) *The principal of a recognised school shall not remove a child's name from the register other than—*
 - (a) *in accordance with subsection (4), or*
 - (b) *where he or she has received a notification in writing from the Board that the child concerned is registered in the register maintained under [section 14](#).*

3) Section 28 of the Education Welfare Act, 2000.

<http://www.irishstatutebook.ie/2000/en/act/pub/0022/sec0028.html#sec28>

- (1) *The data controller of a prescribed body may supply personal data kept by him or her, or information extracted from such data, to the data controller of another prescribed body if he or she is satisfied that it will be used for a relevant purpose only.*
- (2) *The data controller of a prescribed body may, for a relevant purpose only, keep and use personal data supplied to him or her under this section.*

(3) In this section— "data controller" and "personal data" have the meanings assigned to them by the Data Protection Act, 1988; "prescribed body" means a body prescribed by the Minister; "relevant purpose" means the purpose of—

(a) recording a person's educational or training history or monitoring his or her educational or training progress in order to ascertain how best he or she may be assisted in availing of educational or training opportunities or in developing his or her full educational potential, or

(b) carrying out research into— (i) the extent to which persons in receipt of, or who have received, a certain minimum education present for examinations to which Part VIII of the Act of 1998 applies, and the performance in such examinations of persons who so present, (ii) the extent to which persons who have received a certain minimum education participate further in programmes of education, training or instruction, or (iii) the general effectiveness of educational or training programmes.

A recognised school within the meaning of section 2 of the Education Act has been designated a prescribed body for these purposes.

3) Social Welfare Consolidation Act (2005) Section 262

(4) *A person shall give to a specified body his or her personal public service number and the personal public service numbers of his or her spouse and children, where relevant, as required by the body for the purposes of the person's transaction.*

(6) (a) *Where a specified body has a transaction with a person, the Minister may share the person's public service identity with the specified body to the extent necessary for authentication by the specified body of the person's public service identity.*

SCHEDULE 5 of the Social Welfare consolidation Act contains a list of Specified Bodies.

1. *Each of the following shall be a specified body for the purposes of this Schedule and sections 262 to 270*

(1) *A minister of the Government*

2. *Each of the following shall be a specified body for the purposes of this Schedule and section 266 : a recognised school or centre for education (within the meaning of section 2 of the Education Act 1998),*

<http://www.irishstatutebook.ie/2005/en/act/pub/0026/sched5.html>

Rules and Programme for Secondary⁶ Schools made pursuant to the Education Acts, 1878 to 1998.

<http://www.education.ie/en/The-Education-System/Post-Primary/Rules-and-Programme-for-Secondary-Schools-2004-2005.pdf>

⁶ The **Rules and Programme** apply to all second level schools including schools in the Community & Comprehensive and Education and Training Boards sectors as well as the voluntary secondary schools.

APPENDIX 2 – CONSENT FORM

SCHOOL LOGO

Consent Form for Sensitive Personal Data for the School’s October Return to the Department of Education and Skills

Certain sensitive personal data which the Department asks post-primary schools to furnish via the October Returns process requires your written consent for your child’s school to record this information and for the school to forward this information to the Department.

Please note that the reference to “you” in this consent form means a parent or a guardian of a student, or a student aged 18 years and over who is attending a recognised post-primary school.

Please enter the following details in BLOCK CAPITALS

Name of School: _____

Name of Parent/Guardian: _____

Name of Student: _____

Class year of student: _____

1. **What is the Ethnicity and Cultural Background of your child?**

- White Irish
- Irish Traveller
- Roma
- Any other White Background
- Black or Black Irish – African
- Black or Black Irish – any other Black background
- Asian or Asian Irish – Chinese
- Asian or Asian Irish – any other Asian background
- Other (inc mixed background)
- No Consent

Signed: _____
Parent/Guardian/Student

Date: _____

Please complete this form and return to your post-primary school. This form will be retained by the post-primary school and will be made available for inspection by authorised officers of the Department or from the Office of the Data Protection Commissioner.