

*Status: Point in time view as at 18/01/2010.*

*Changes to legislation: Data Protection Act 1998, SCHEDULE 11 is up to date with all changes known to be in force on or before 29 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 11

Section 68(1)(6).

#### EDUCATIONAL RECORDS

##### *Meaning of “educational record”*

- 1 For the purposes of section 68 “educational record” means any record to which paragraph 2, 5 or 7 applies.

##### *England and Wales*

- 2 This paragraph applies to any record of information which—
- (a) is processed by or on behalf of the governing body of, or a teacher at, any school in England and Wales specified in paragraph 3,
  - (b) relates to any person who is or has been a pupil at the school, and
  - (c) originated from or was supplied by or on behalf of any of the persons specified in paragraph 4,
- other than information which is processed by a teacher solely for the teacher’s own use.
- 3 The schools referred to in paragraph 2(a) are—
- (a) a school maintained by a local education authority, and
  - (b) a special school, as defined by section 6(2) of the <sup>M1</sup>Education Act 1996, which is not so maintained.

#### **Marginal Citations**

**M1** 1996 c. 56.

- 4 The persons referred to in paragraph 2(c) are—
- (a) an employee of the local education authority which maintains the school,
  - (b) in the case of—
    - (i) a voluntary aided, foundation or foundation special school (within the meaning of the School Standards and Framework Act 1998), or
    - (ii) a special school which is not maintained by a local education authority,a teacher or other employee at the school (including an educational psychologist engaged by the governing body under a contract for services),
  - (c) the pupil to whom the record relates, and

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- (d) a parent, as defined by section 576(1) of the Education Act 1996, of that pupil.

[<sup>F1</sup>4A In paragraphs 3 and 4 “local authority” has the meaning given by section 579(1) of the Education Act 1996.]

#### Textual Amendments

**F1** Sch. 11 para. 4A inserted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1), Sch. 2 para. 42(3)

#### Scotland

- 5 This paragraph applies to any record of information which is processed—
- (a) by an education authority in Scotland, and
  - (b) for the purpose of the relevant function of the authority,
- other than information which is processed by a teacher solely for the teacher’s own use.
- 6 For the purposes of paragraph 5—
- (a) “education authority” means an education authority within the meaning of the <sup>M2</sup>Education (Scotland) Act 1980 (“the 1980 Act”) [<sup>F2</sup>or, in relation to a self-governing school, the board of management within the meaning of the <sup>M3</sup>Self-Governing Schools etc. (Scotland) Act 1989 (“the 1989 Act”)],
  - (b) “the relevant function” means, in relation to each of those authorities, their function under section 1 of the 1980 Act and section 7(1) of the 1989 Act, and
  - (c) information processed by an education authority is processed for the purpose of the relevant function of the authority if the processing relates to the discharge of that function in respect of a person—
    - (i) who is or has been a pupil in a school provided by the authority, or
    - (ii) who receives, or has received, further education (within the meaning of the 1980 Act) so provided.

#### Textual Amendments

**F2** Words in Sch. 11 para. 6(a) repealed (S.) (31.12.2004) by 2000 asp 6, ss. 60(2), 61(2), Sch. 3; S.S.I. 2004/528, art. 2

#### Marginal Citations

**M2** 1980 c. 44.

**M3** 1989 c. 39.

#### Northern Ireland

- 7 (1) This paragraph applies to any record of information which—
- (a) is processed by or on behalf of the Board of Governors of, or a teacher at, any grant-aided school in Northern Ireland,
  - (b) relates to any person who is or has been a pupil at the school, and

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- (c) originated from or was supplied by or on behalf of any of the persons specified in paragraph 8,  
other than information which is processed by a teacher solely for the teacher's own use.
- (2) In sub-paragraph (1) "grant-aided school" has the same meaning as in the <sup>M4</sup>Education and Libraries (Northern Ireland) Order 1986.

#### Marginal Citations

M4 [S.I. 1986/594 \(N.I.3\)](#).

- 8 The persons referred to in paragraph 7(1) are—
- (a) a teacher at the school,
  - (b) an employee of an education and library board, other than such a teacher,
  - (c) the pupil to whom the record relates, and
  - (d) a parent (as defined by Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986) of that pupil.

#### *England and Wales: transitory provisions*

- 9 (1) Until the appointed day within the meaning of section 20 of the School Standards and Framework Act 1998, this Schedule shall have effect subject to the following modifications.
- (2) Paragraph 3 shall have effect as if for paragraph (b) and the "and" immediately preceding it there were substituted—
- “(aa) a grant-maintained school, as defined by section 183(1) of the Education Act 1996,
  - (ab) a grant-maintained special school, as defined by section 337(4) of that Act, and
  - (b) a special school, as defined by section 6(2) of that Act, which is neither a maintained special school, as defined by section 337(3) of that Act, nor a grant-maintained special school.”
- (3) Paragraph 4(b)(i) shall have effect as if for the words from "foundation", in the first place where it occurs, to "1998)" there were substituted " or grant-maintained school".

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