Data protection for independent schools

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What we are going to cover

1. Data protection myth-busting
2. Subject access requests
3. Complaints
4. Accountability, transparency and training
5. Artificial Intelligence
6. Data breach response
7. Data Protection and Digital Information Bill

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Data Protection Myth-Busting

- UK GDPR and DPA
- Personal data
- Processing
- Safeguarding
- Consent
- Controller
- Data breach reporting

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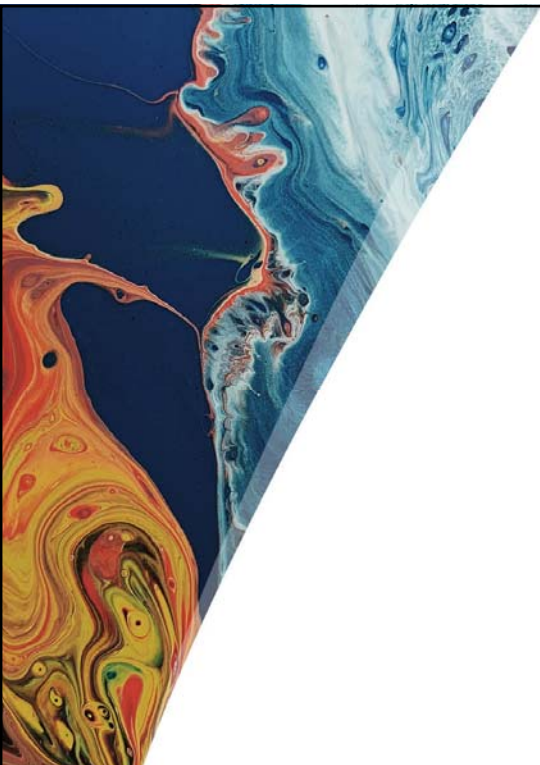# Subject Access Requests

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Initial Considerations

- The right belongs to the child
- Requests from third parties
- Asking for ID
- Asking for clarification
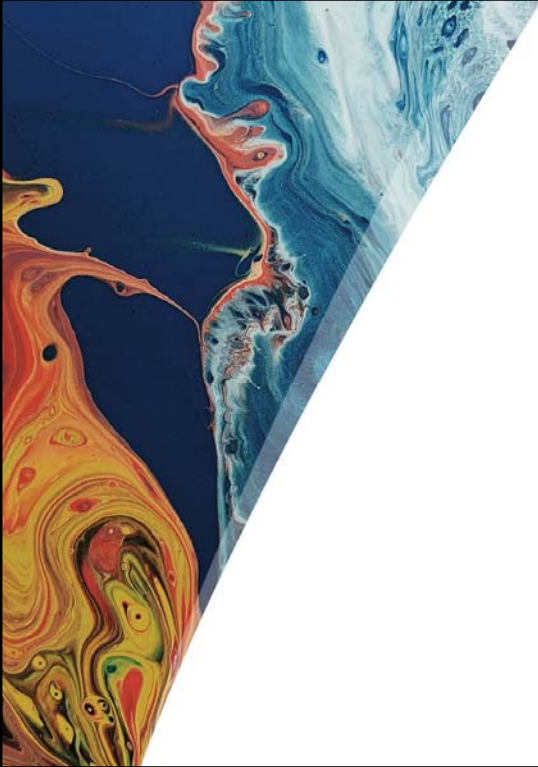- Calculating the deadline

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Preparing the response

- Searching for the personal data
- Social media and personal devices
- Extending the timeframe
- Applying exemptions
- Practicalities

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Other points to consider

- Refusing to respond
- Complaints to the ICO
- Reprimands and published data-sets
- How the law on SARs might change
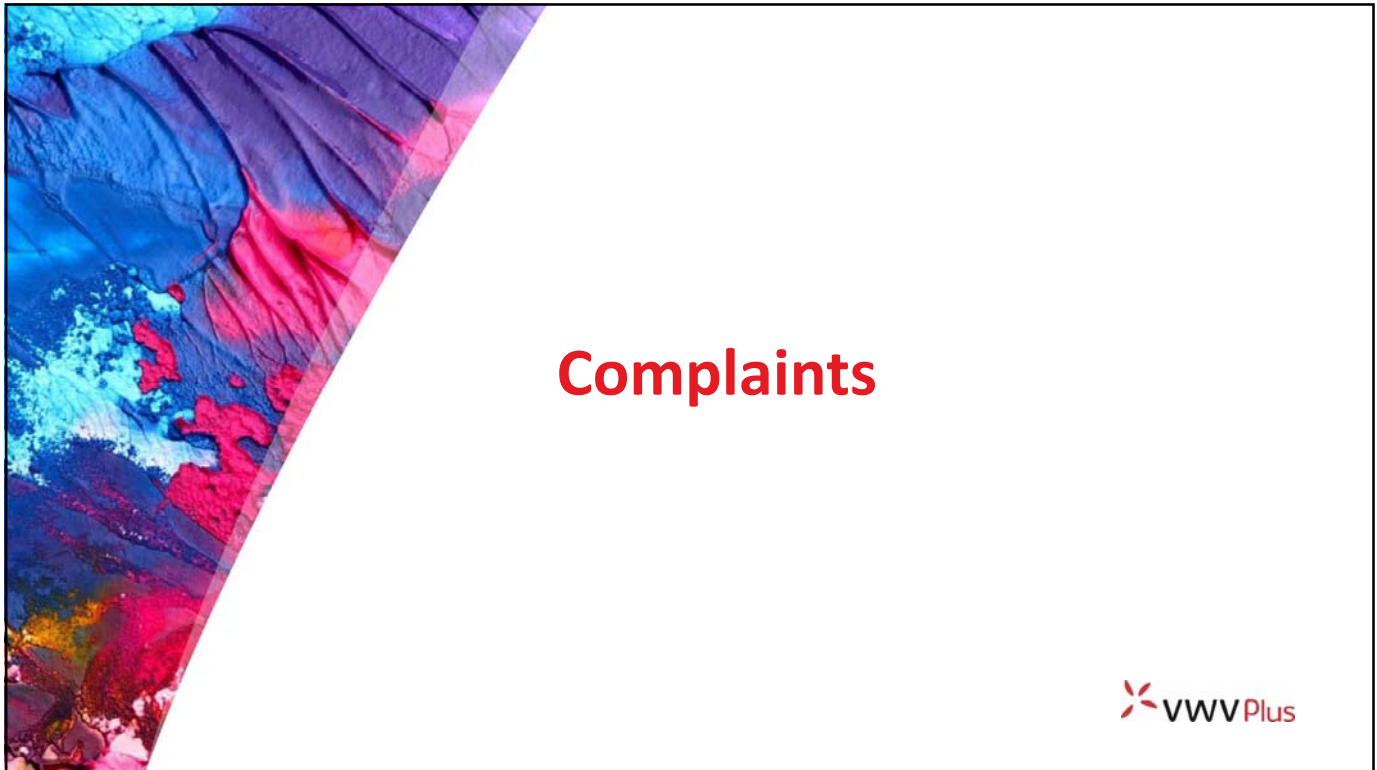
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Case Study 1

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Complaints

Complaints

- Free to complain to the ICO
- Vast majority of complaints are about SARs
- ICO publishes information about the complaints it receives on its website
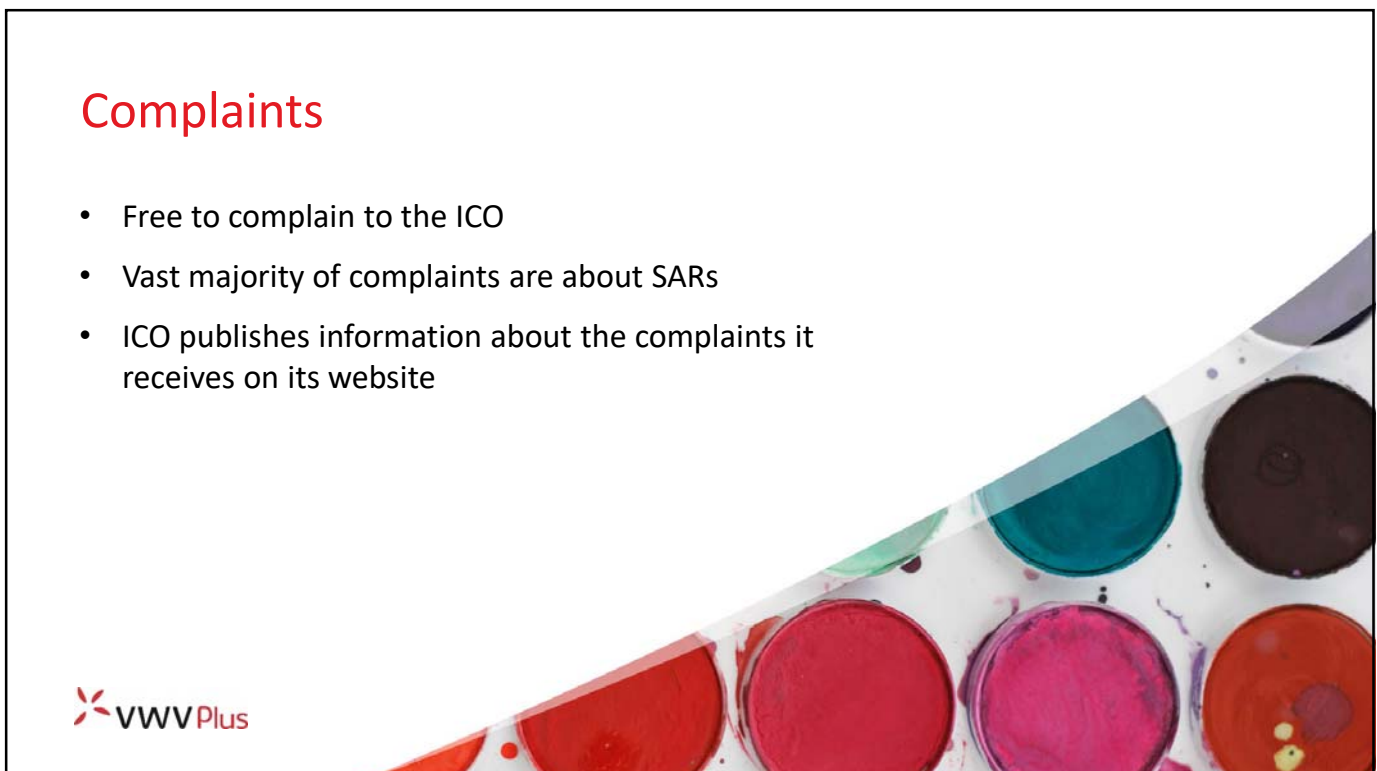
Dealing with complaints

- Strategy will likely depend on your relationship with the complainant

- Might need to go down official route e.g. parental complaint procedure

- ICO will usually expect you to resolve the complaint before they get involved (this might become law)

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Accountability, documentation and training

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Procedures and policies

- Accountability: You must comply with the law and be able to demonstrate your compliance

- Data protection by design and default

- Not about ticking boxes

- Measures in place proportionate to the risks

- Explicitly required documents e.g. ROPA and Appropriate Policy Document

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Procedures and Policies

- Should cover points such as:
  - The essentials
  - Information security
  - Data breaches
  - Retention
  - Using photos / videos
  - CCTV
  - When to do a DPIA

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Transparency

- Privacy notices
- Age appropriate
- Layered approach
- Data collection forms

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Data Protection Handbook

Key features:

✓ 18 policies and documents we feel are needed for data protection

 compliance

✓ Privacy notices

✓ Policies for all staff that contain practical guidance tailored to schools

✓ Policies for those with a data protection role

✓ Documents for compliance when using a processor e.g. template agreement

Please indicate on your feedback form if you would like to find out more.

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Training

- Specific training for certain teams/groups

- Refresher training

- Culture and staff awareness

- All staff that handle personal data (including volunteers and governors) must have training

- Consider including a test

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Data Protection and Info Security eLearning

Key features:

✓ risks of data breach or cyber-attack will be minimised

✓ evidence that staff have read and understood their responsibilities

✓ upload your school policy for staff to read alongside training

✓ quick and easy set up

Just £3 per user. Please indicate on your feedback form if you would like to find out more.

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Artificial Intelligence

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DP law and AI

- Is your school considering using AI?
- Will the use of AI involve processing personal data?
- Assessing the risks - DPIA

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DP law and AI

- Controller or processor or joint controller
- Fairness and bias
- Lawful basis
- Accuracy
- Data minimisation
- Transparency
- Security

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Data breach response

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Consequences and risks

- ICO enforcement
- Diversion of resource and management time
- Enforcement notices and undertakings
- Personal liability
- Compensation

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Data breach examples

- Sending emails to the wrong recipient or email addresses visible to all recipients or sending the incorrect attachment
- Internal and external attacks including ransomware. E.g., recent ICO Interserve fine
- Misplacing paper records, e.g. during school building refurb
- Screensharing personal data that should not be disclosed

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Key points to consider

- Contain the breach
- Who at the school needs to be involved?
- Notify insurers?
- Notify ICO?
- Notify individuals?

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Key points to consider

- Report to Charity Commission?
- Is there a safeguarding angle?
- Report to police, Action Fraud or NCSC?
- Report to DfE cyber team?
- Data breach log

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Case study 2

- What did the school do well and what could be improved?
- Which of the breaches are reportable to the ICO?
- Who should the school notify?

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Marketing and fundraising

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Marketing and fundraising

- Broad definition of direct marketing
- If electronic - data protection law + Privacy and Electronic Communications Regulations (PECR)
- Data Reform Bill to extend soft-opt-in?
- Consent vs legitimate interests
- Right to object

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Data Protection and Digital Information Bill

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What's happened so far

- Government consultation
- Re-introduced in March 2023
- Still in House of Commons
- ICO recently published its response to the Bill
- Some small amendments so far but nothing significant

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Key changes

- Definition of personal data
- Data subject rights
- Senior Responsible Individual
- Records of Processing Activities
- Data Protection Impact Assessments
- Recognised legitimate interests
- Soft opt-in
- Cookies

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Get in touch

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