Data protection for independent schools

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@VWVPlus

What we are going to cover

1. Subject access requests
2. Complaints
3. Accountability, documentation and training
4. Artificial Intelligence
5. Data breach response
6. Data protection in practice for independent schools
7. Data Protection and Digital Information Bill

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Data protection "true or false"

- An opinion about someone can be their personal data
- Data protection is easy, just get consent to avoid problems
- All breaches must be reported to the ICO
- Sharing safeguarding information can breach data protection law even if it's the right thing to do
- "Data protection law" in the UK is made up of the UK GDPR and the Data Protection Act

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1. 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

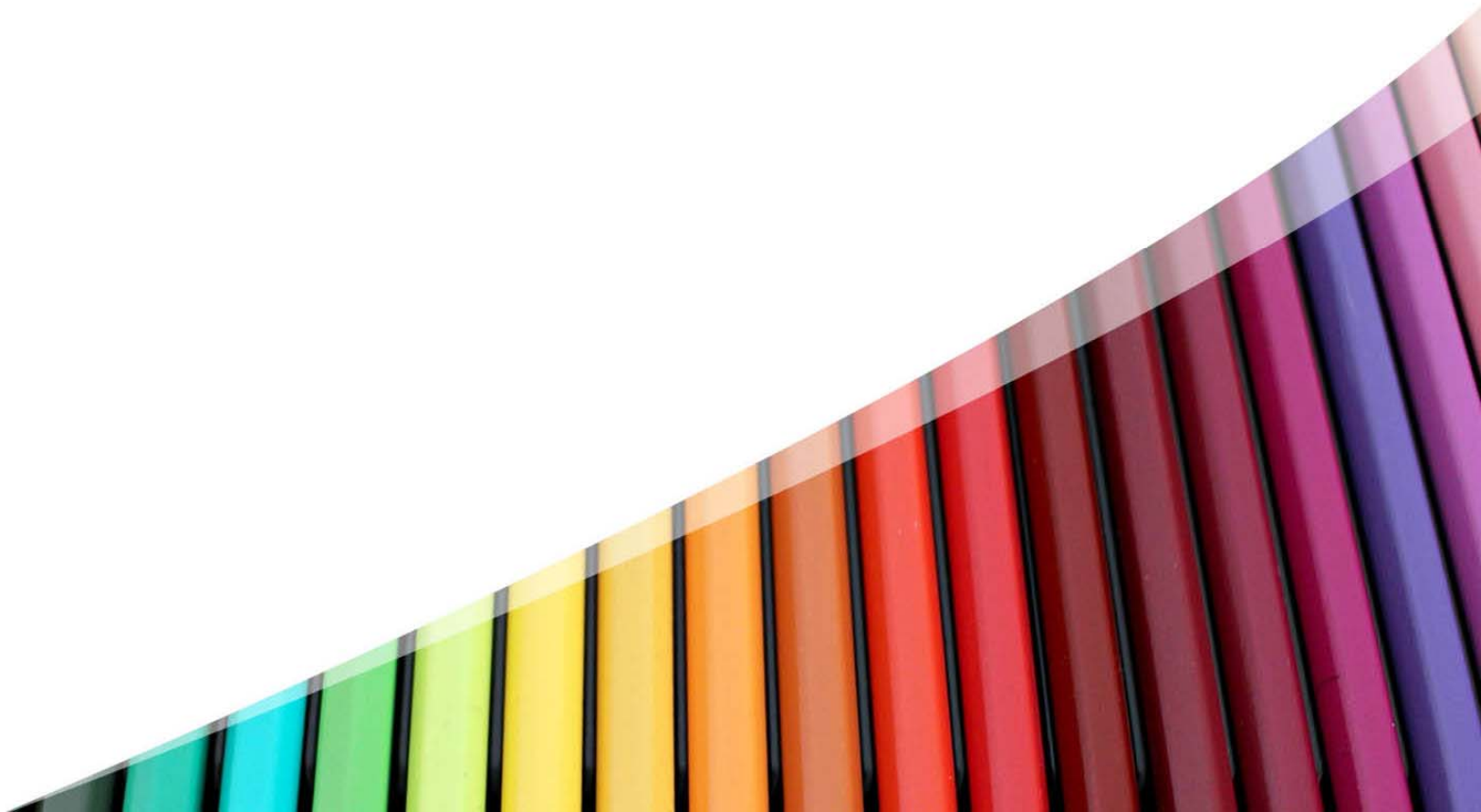- Searching for the personal data

- 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

2. 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
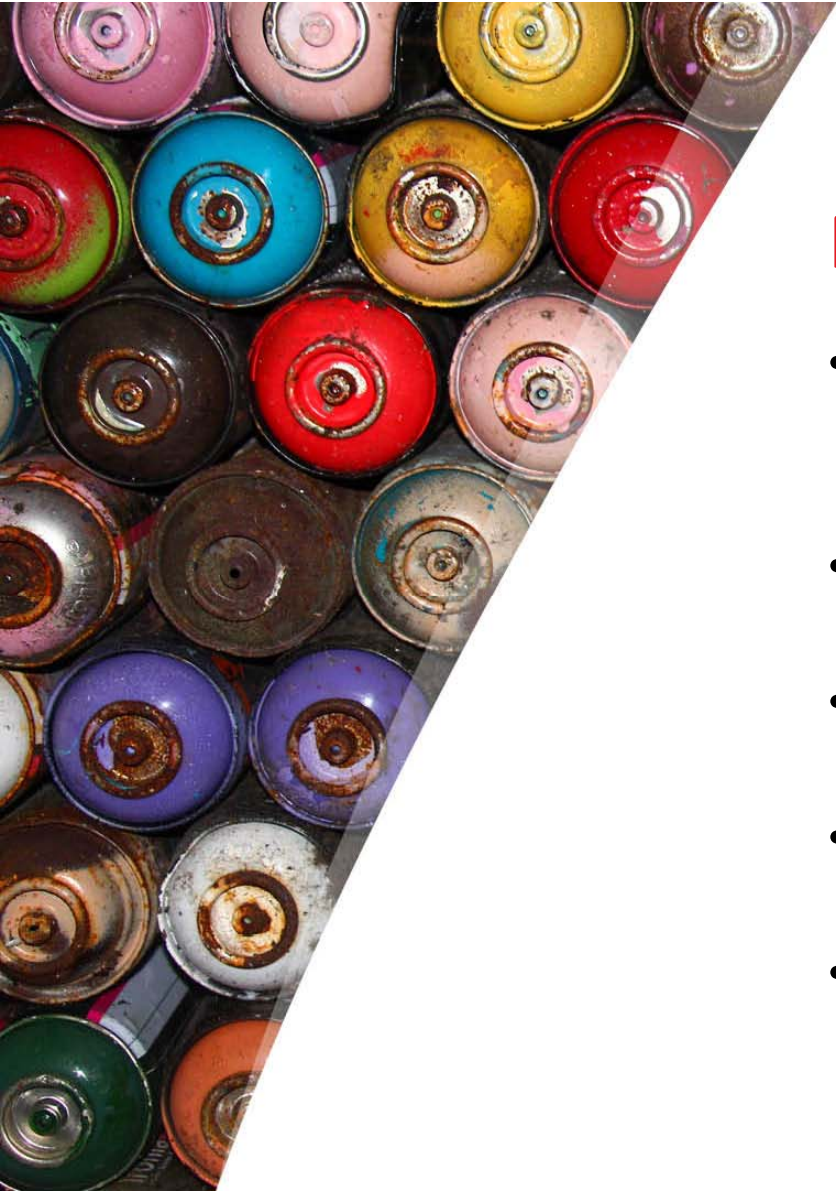
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Dealing with complaints

- 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 try and resolve the complaint before they get involved (this might become law)

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3. Accountability, documentation and training

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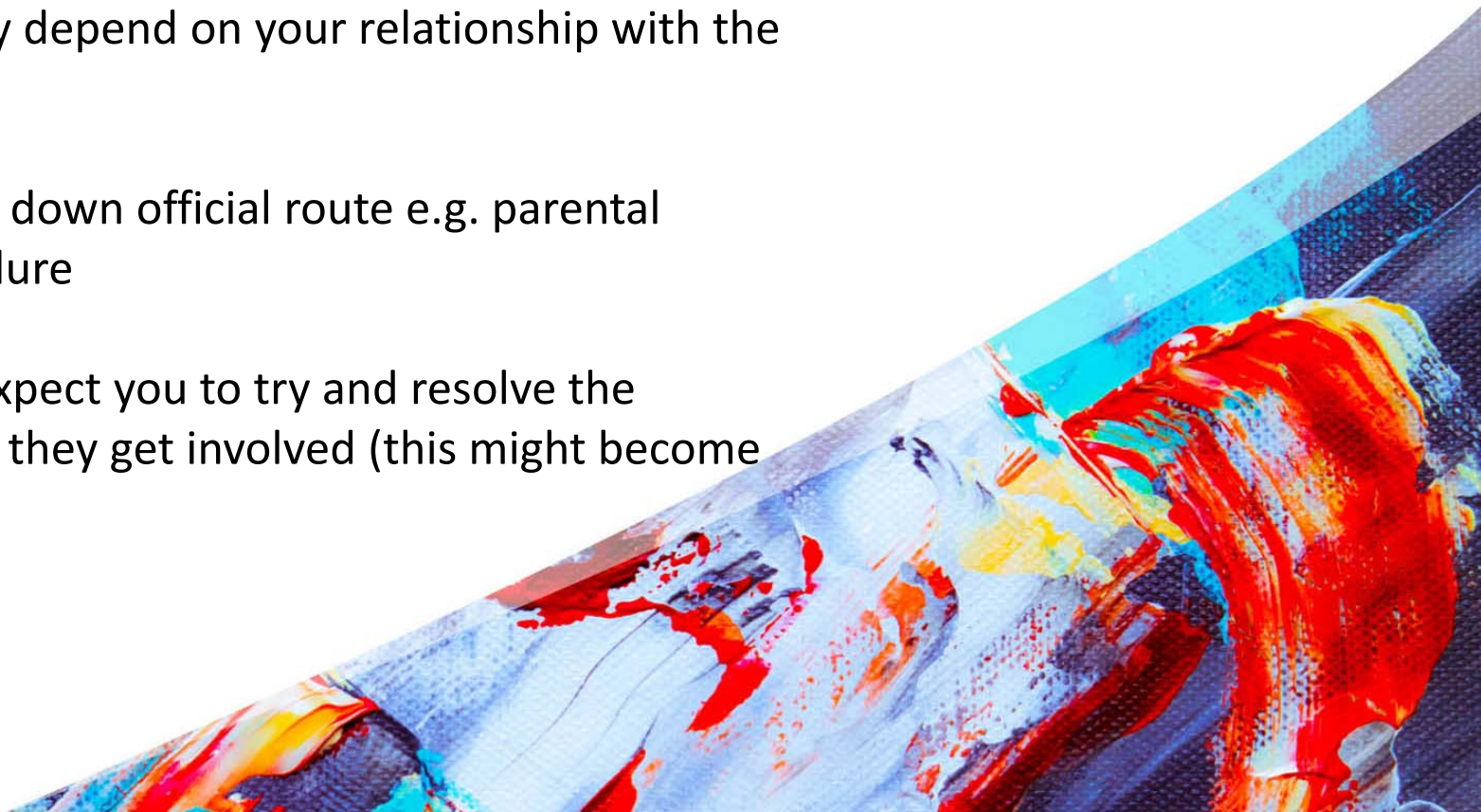
Procedures and policies

- 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

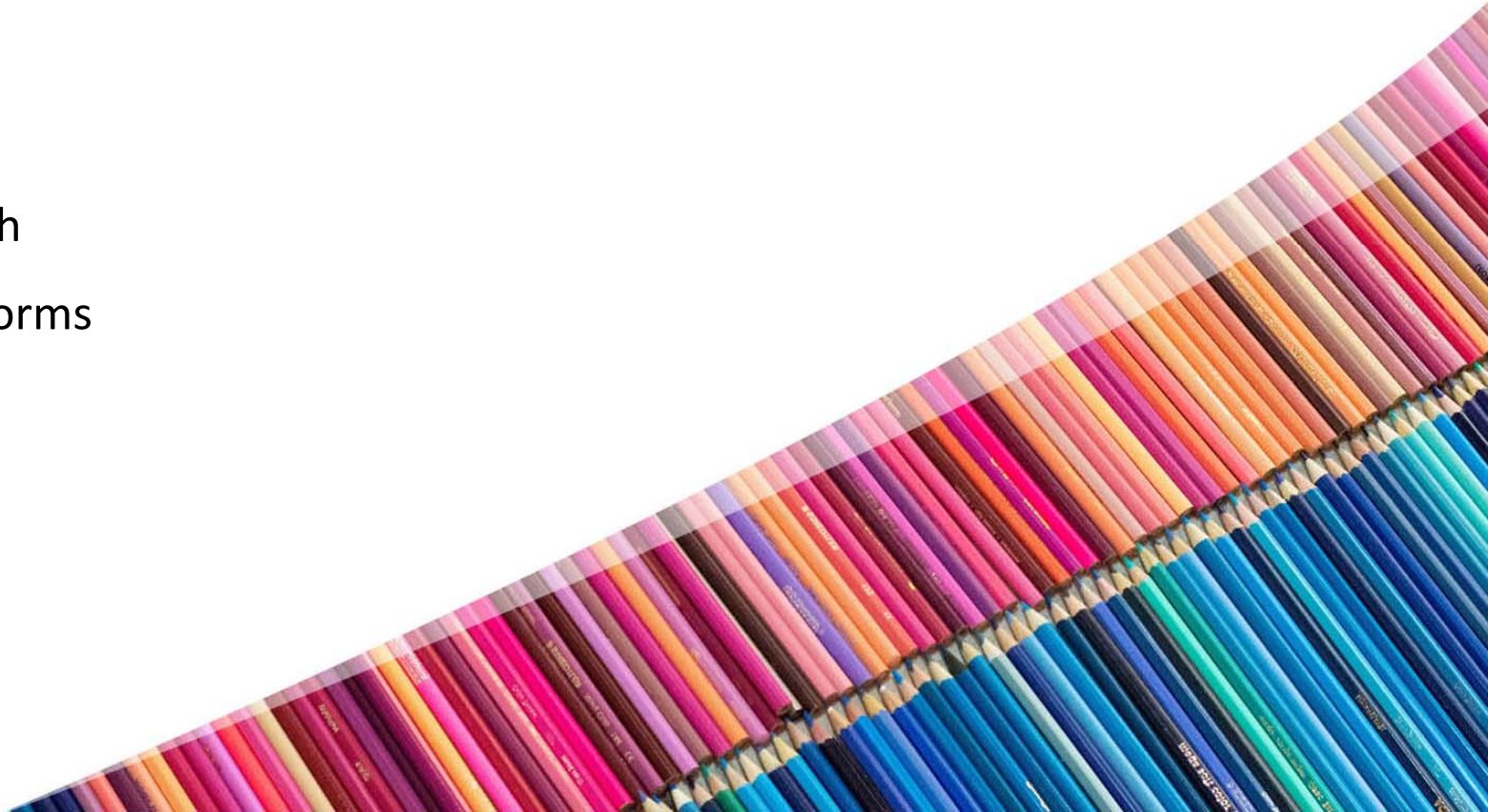VWV Plus

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

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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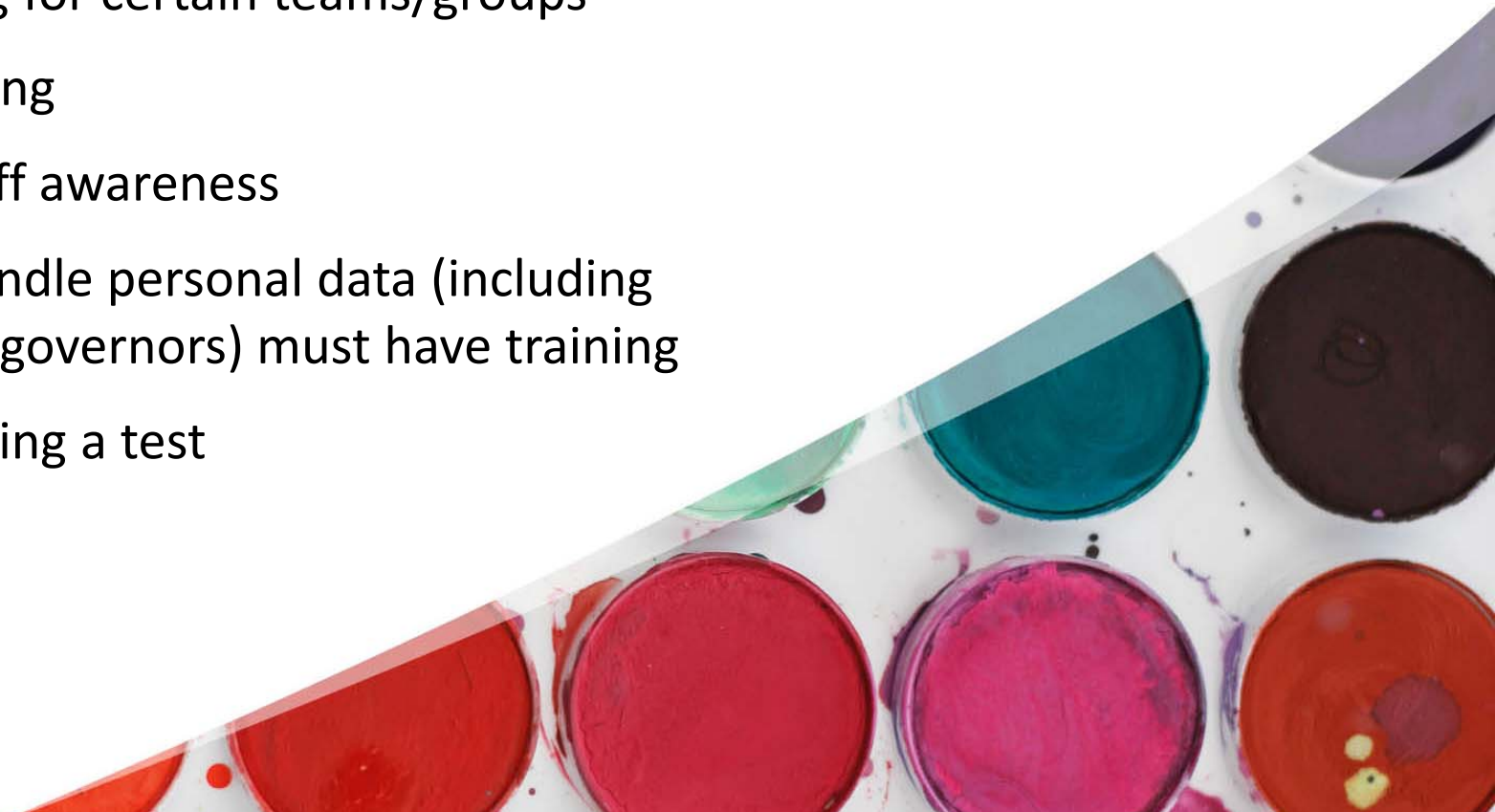
4. Artificial Intelligence

The basics

- What is AI?
- What sorts of things might a school use AI for?
- Will the use of AI involve processing personal data?

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AI and key DP compliance issues

- Fairness and bias
- Accuracy
- Data minimisation
- Transparency
- Security
- Extra obligations when making important automated decisions

- Do a DPIA!

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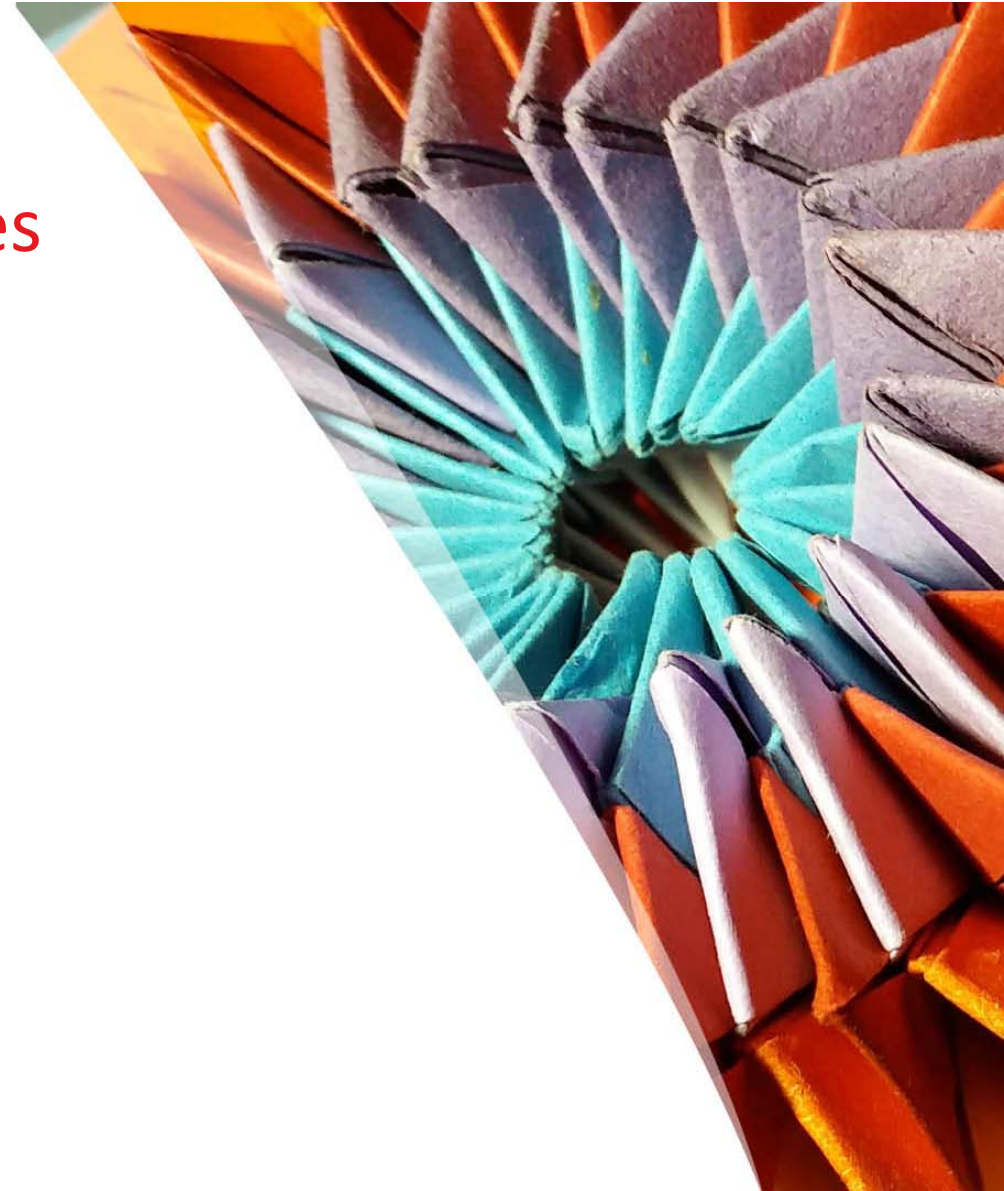
5. Data breach response

Consequences and risks

- ICO enforcement and fines

- Diversion of resource and management time

- 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., ICO Interserve fine last year
- Misplacing paper records, e.g. during school building refurb
- Screensharing personal data by mistake

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Key points to consider

- Contain the breach
- Notify insurers
- Notify ICO?
- Notify individuals?
- Report to Charity Commission?
- Is there a safeguarding angle?

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Key points to consider continued

- Report to police, Action Fraud and/or NCSC?
- Report to DfE cyber team?
- Data breach log

- Learn lessons for future but prevention is the best form of defence:
    - Put appropriate measures in place
    - Lots of resources and help available

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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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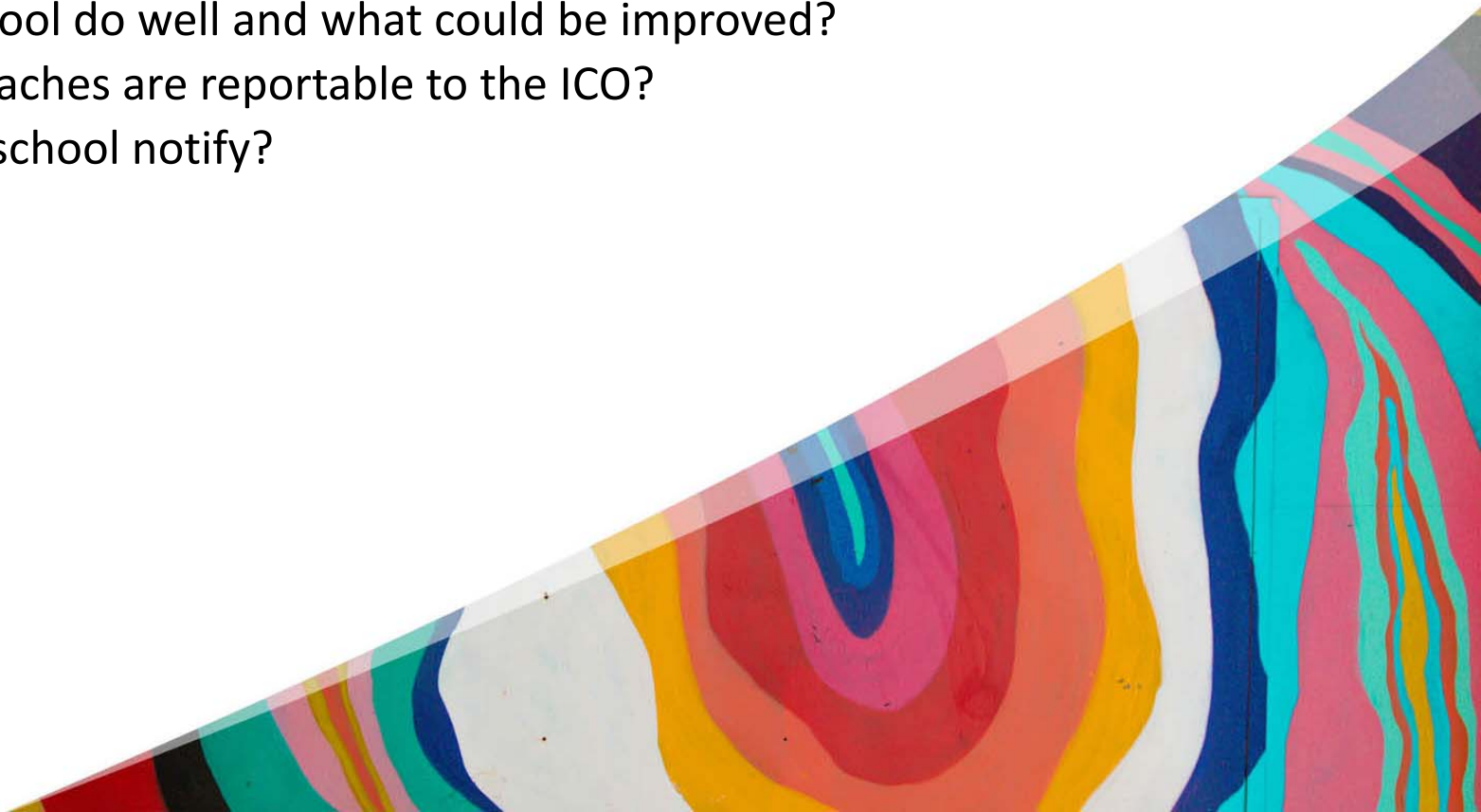
6. Data protection in practice for independent schools

Using images (photos and videos)

- Should a school get consent before using images for marketing?
- Distinction between less privacy intrusive and more privacy intrusive images
- Security breaches aside, most data protection complaints seem to relate to images

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Record retention

- A brief history of school record retention
- The Independent Inquiry into Child Sexual Abuse (IICSA)
- Safeguarding information: still keep indefinitely?
- What does "safeguarding" mean. Where to draw the line?
- IICSA recommendation that ICO produce new code of practice, but no timeframe

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7. Data Protection and Digital Information Bill

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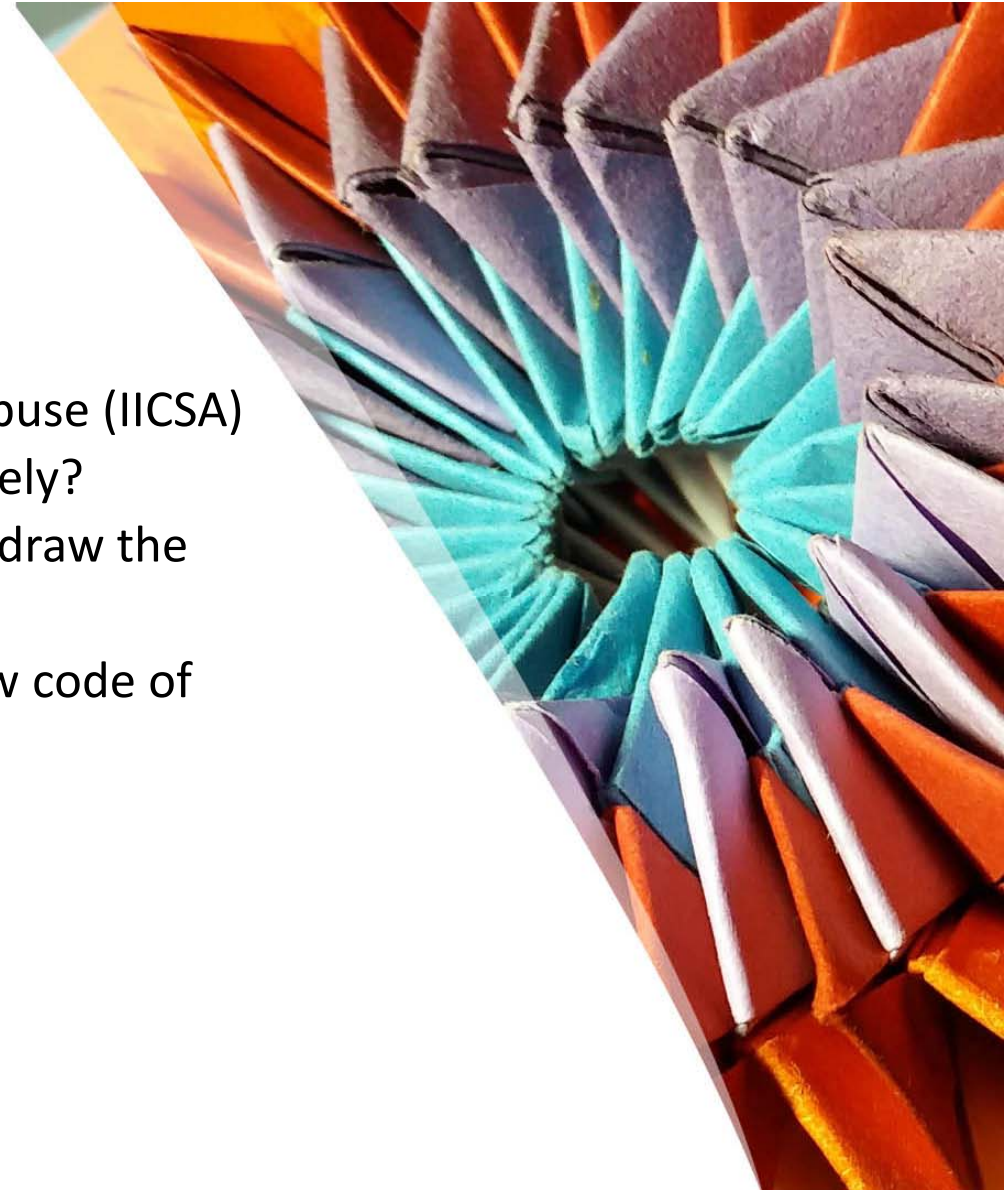
What's happened so far

- Government consultation
- Re-introduced in March 2023
- Still in House of Commons
- Some small amendments so far but nothing significant

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Key changes

- Data subject rights
- Senior Responsible Individual
- Record of Processing Activities
- Data Protection Impact Assessments
- Soft opt-in

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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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Data Protection and Info Security eLearning

Key features:

✓ practical guidance for staff reduces the risk of something going wrong

✓ 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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