

Data Protection Commission

My child's data
protection rights –
the basics



An Coimisiún um
Chosaint Sonraí
Data Protection
Commission

DATA PROTECTION COMMISSION,
21 FITZWILLIAM SQUARE, DUBLIN 2

My child's data protection rights – the basics

The purpose of this guidance note is to help anyone who wishes to raise a query or concern with the Data Protection Commission (DPC) about children's personal data. It is aimed mainly at parents and legal guardians. Even so, any adult who may have a role in helping to keep a child's personal data safe – teachers, foster parents, extended family members or others – may also find it helpful.

When it comes to children's personal data, it's very important to bear in mind two fundamental things:

- **Children of any age have the same data protection rights as adults, and**
- **A child's personal data does not belong to anyone else, such as their parent or guardian.**

These mean that a parent who wants to exercise or assert their child's data protection rights – for example by asking for a copy of their child's personal data or having their child's data deleted – may find that there are limits on what they can do or ask for. This is not to say that parents can't or shouldn't step in and take control when needed. It simply means that parents should be mindful of their child's own right to data protection. They should be careful to put their child's best interests front and centre when acting on their behalf.

How can parents get the balance right between protecting their children and respecting their right to privacy?

For the vast majority of parents, their day-to-day supervision of their children's personal data and digital lives is unlikely to pose any difficulties. In most cases, when a parent makes a request in relation to their child's data, it will be presumed that they are acting in their child's best interests. For example, if you ask a school, crèche or sports club for a copy of your child's data, that organisation will in most cases simply assume that you have the right to this information and will not challenge you on this. They may however ask you to confirm your identity to make sure that they don't disclose your child's personal data to someone who has no right to receive it.

In some cases, an organisation may have legitimate concerns that a child's right to privacy is not being respected. In those cases, it may be right for the organisation to refuse or delay fulfilling that request until they receive additional information that resolves those concerns.

When might an organisation be entitled to refuse a request from a parent?

This will depend on the circumstances and the nature of the request.



If the other parent or guardian objects to the request: Obviously if one parent says “Give me my child’s data” and the other says “Don’t listen to them”, then ultimately one parent will have to be overruled.



If the child objects to the request: If there is evidence that the child does not agree with the request then, depending on factors such as the child’s age and maturity, the sensitivity of the data, whether or not there is a duty of confidence owed to the child, it may be appropriate for the organisation to refuse the request.



If there is evidence that the request is not really about the child’s data protection rights: This can happen when children are caught in the middle of an argument between divorcing or separated parents. In some cases, one parent might try to use their child’s data protection rights to gain leverage over or upset the other parent in some way (e.g. by making a request in their child’s name to access information about their former partner.) An organisation that has reason to be concerned will be careful to prevent a child’s data protection rights being exploited in this way.



If the parent is estranged from the child: Most people would agree that a parent who is not the child’s legal guardian and is not a part of their child’s life should not have an unrestricted right to the child’s data.



Where security requires a parent to prove their identity: It may be appropriate for the organisation to ask a parent to prove their identity before providing a child’s personal data, particularly if the data includes sensitive information such as health data. Organisations such as schools, GPs, hospitals and therapists must protect this data with robust security. Checking your identity will help them to prevent your child’s personal data being disclosed to anyone who simply claims to be their parent.



If the child is old enough to make the request himself or herself: The older a child is, the less likely that it will be reasonable for their parents to exercise their rights without consultation or agreement with them. If there’s no evidence that the child has been consulted, an organisation holding the child’s data may have grounds for concerns. It’s always a good idea to make requests jointly with your child if they are old enough.

Bear in mind that this is a non-exhaustive list. There are few hard and fast rules when it comes to parents and their children’s data protection rights. What is appropriate in any given case will depend on a range of factors that the organisation holding your child’s data will have to assess. The more of the above boxes that your requests ‘ticks’, the more likely that it doesn’t respect your child’s right to privacy and may have to be refused.

Does this mean that parents have to 'walk on eggshells' when supervising their children and setting rules about what they can or can't do online?

Not at all. There's nothing in data protection law that stops parents from setting rules such as "no phones at the dinner table" or "no video games until after homework is done". It's simply about remembering that your child's personal data rights are for their benefit, and are not simply an extension of your own rights. Young children depend entirely on parents to protect and support them. But as they mature, children's rights become more their own to control.

In short, parents must be mindful, when exercising their child's data protection rights, that a child's personal data concerns the child rather than anyone else, and their data protection rights exist for the benefit of that child. The key rule of thumb is to always consider your child's views and best interests, and to ask yourself **"If I were my child, would I want this?"**

