

# Subject Access Request Policy and Procedure



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## 1. Policy Statement

1.1 The Data Protection Legislation is an important mechanism in achieving confidence between the School and its Data Subjects. It gives individuals: staff, parents, pupils, governors, suppliers and other stakeholders who work for and on behalf of the School, rights of access to their personal data held by the School. This policy explains how the School aims to fulfil its obligations under the Data Protection Act 2018 and the GDPR. If any conflict arises between those laws and this policy, the School intends to comply with the 2018 Act and the GDPR.

1.2 The School will deal with each subject access request it receives in accordance with this policy. Should any conflict arise between this policy and the Data Protection legislation, the School will process the SAR in accordance with the legislation.

## 2. Definitions

2.1 "Data" means Personal Data and Special Category Personal Data.

2.2 "Data Controller" is the School. The School determines the purposes and the manner in which any personal data is processed. The School is responsible for establishing policies and procedures in line with Data Protection Legislation.

2.3 "Data Subject" means all living individuals about whom the School holds Data. All Data Subjects have legal rights in respect of their Data and the information that the School holds about them.

2.4 "Data Processor" means any person or organisations which process Data on behalf of the Data Controller, including contractors, suppliers and any third party whose work involves accessing or otherwise using Data held by the School. Data Processors have a duty to protect the information they process for and on behalf of the School by following this, and other School information governance policies, at all times.

2.5 "Data Protection Legislation" means the General Data Protection Regulation (GDPR) and the Data Protection Act 2018.

2.6 "Personal Data" means any information relating to an identified or identifiable natural person (a data subject). An identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

2.7 "Processing" means any activity that involves use of the data. It includes obtaining, recording or holding the data, or carrying out any operation or set of operations on the data such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction. Processing also includes transferring personal data to third parties.

2.8 "Special Category Personal Data" means information about a person's racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, physical or mental health or condition or sexual life, or genetic or biometric data.

2.9 “Social Media” means websites and applications that enable users to create and share content or to participate in social networking including Facebook, LinkedIn, Twitter, Google+, and all other social networking sites, internet postings and blogs. It applies to use of Social Media for School purposes as well as personal use that may affect the School in any way.

2.10 “Subject Access Request” (“SAR”) means a request by an individual to School pursuant to Article 15 of the GDPR.

### 3. Legal Framework

3.1 Article 15 of the GDPR provides an individual with a right to be informed on request whether Personal Data concerning them is being processed and, if so, access to the Personal Data and the following information:

- the purposes of the Processing;
- the categories of Personal Data concerned;
- the recipients or categories of recipient to whom the personal data have been or will be disclosed, in particular recipients in third countries or international organisations;
- where possible, the retention period for which the personal data will be stored, or if not possible, the criteria used to determine that period;
- the existence of the right to request from the Data Controller rectification or erasure of Personal Data or restriction of Processing of Personal Data concerning the Data Subject or to object to such Processing under certain circumstances;
- the right to lodge a complaint with the Information Commissioner’s Office;
- where the Personal Data are not collected from the Data Subject, any available information as to the source;
- the existence of any automated decision making, together with additional information about such Processing where this is taking place.

3.2 Data may be withheld from a SAR where disclosure may cause serious harm to the Data Subject or any other person. This exemption relates only to health, social care, and education data.

3.3 The School, is also exempt from disclosing third-party Personal Data unless the third party has consented to their Data being disclosed or it is reasonable in all the circumstances for the third party’s Personal Data to be disclosed without their consent.

### 4. Making a SAR to the School

4.1 The GDPR does not specify how a valid SARs request should be made. An individual can make a subject access request verbally or in writing. “In writing” is defined as by letter or email. It can also be made to any part of the organisation and does not have to be directed to a specific person or contact point.

4.2 The School has a legal responsibility to identify when an individual has made a valid subject access request and handle it accordingly. This may require the School to request further information to properly understand the nature and extent of a SAR, and to provide an appropriate and sufficient response.

4.3 It is good practice to have a standard form to record details of any written or verbal subject access requests received by the School in order to identify any barriers to an effective response.

4.4 Barriers may include:

- incomplete contact information;
- verification of the Requesters identity;
- details of the data requested.

4.5 Requesters may be invited to use the form to make their SAR. However, they cannot be compelled to use it.

## 5. Confirming the identity of the Requester

5.1 In order to minimise the risk of a data breach, where the School receives a SAR and it is not satisfied as to the identity of the Requester, it will take the steps set out at 5.2

5.2 Data Protection legislation requires the School to take 'reasonable measures' to verify the identity of a data subject. Often verification of identity can be determined from comparing personal information in the SAR request with data held by the School. For example, if the information being requested is a reference, the initial application form can help you verify their identity: Is the signature or address on the application form the same as that given on the subject access request?

### Further verification

If the School cannot reliably verify the data subject's identity from the information provided further steps are required:

1. Verifying identity by phone Telephone the Requester to confirm they have made the SAR request and ask them a number of questions based on the information held about them so as to confirm their identity.
2. Verifying identity by letter If verification of identity by phone has failed, or if the School is not satisfied as to the identity of the Requester, the School may ask the individual to verify their identity and address by providing one document for each category: (a) Photographic Confirmation: - full driving licence, passport. (b) Confirmation of name and address: - full driving licence, utility bill, bank or credit card statement, child benefit book, pension book (or other equivalent/similar official document – but it MUST show the Requesters name and address).

5.3 If the School does not receive verification of identity as requested, or is not satisfied as to the identity of the Requester, then the SAR will not be complied with, to ensure the School does not inadvertently disclose Personal Data to a third-party who is not entitled to receive the information.

## 6. Sharing Information with Third Parties

6.1 Data subjects can ask the School to share their personal data with another person such as an appointed representative. In such cases the School should request written authorisation signed by the data subject confirming which of their personal data they would like shared with the other person.

6.2 Equally, if a request is made by a person seeking the personal data of a data subject, and which purports to be made on behalf of that data subject, then a response must not be provided unless and until written authorisation has been provided by the data subject. The School should not approach the data subject directly but should inform the requester that it cannot respond without the written authorisation of the data subject.

6.3 If the School is in any doubt or has any concerns about providing personal data to the third party, then it should provide the information requested directly to the data subject. It is then a matter for the data subject to decide whether to share this information with any third party.

6.4 Personal data belongs to the data subject and, in the case of the personal data of a child regardless of their age, the rights in relation to that personal data are theirs and not those of their parents. Parents, in most cases, do not have automatic rights to the personal data of their child.

6.5 However there are circumstances where a parent can request the personal data of their child without requiring the consent of the child. This will depend on the maturity of the child and whether the School is confident that the child can understand their rights. Generally, in the UK, where a child is under 13 years of age they are deemed not to be sufficiently mature as to understand their rights of access and a parent can request access to their personal data on their behalf.

6.6 In relation to a child 13 years of age or older provided that the School is confident that they understand their rights, and there is no reason to believe that the child does not have the capacity to make a request on their own behalf, the School will require the written authorisation of the child before responding to the requester, or provide the personal data directly to the child in accordance with the process above.

6.7 In all cases the School will consider the particular circumstances of the case, and the above are guidelines only.

## 7. Clarification of the Request

7.1 Where it is unclear what Data is being sought, the School will contact the Requester to provide further clarification.

7.2 In clarifying the request, the School will contact the Requester by telephone, writing or email and ask for additional information to assist in determining whether any Data is being held and, if so, locating that Data.

## 8. Fees

8.1 The School, as appropriate, will usually deal with a SAR free of charge.

8.2 Where the request is considered to be manifestly unfounded or excessive, a fee may be requested. Alternatively, the School may refuse to respond to the request.

8.3 If a request is considered to be manifestly unfounded or unreasonable the School will inform the Requester why this is considered to be the case.

## 9. Time Limits

9.1 The School will respond to a SAR promptly and, in any event, no later than one calendar month from the date of the request, or receipt of appropriate identification or clarification of a request where appropriate.

9.2 In relation to complex requests the response period may be extended by two calendar months. What constitutes a complex request will depend on the particular nature of the request. Where a request is considered to be sufficiently complex as to require an extension of the period for response, the Requester will be notified within one calendar month of receiving the request, together with reasons as to why this is considered necessary.

## 10. Responding to a SAR

10.1 In responding to a SAR, the School will search the following for the Data of the Data Subject:

- (a) Manual and other paper records held by the School.
- (b) Electronic records including databases and emails including the inbox, outbox, subfolders and deleted items.

10.2 The School will consider whether any of the Data held is subject to any of the exemptions set out in the Data Protection Legislation or whether the Data requested should otherwise be withheld.

10.3 In so far as the School is able to disclose then the Requester will be provided with the information set out at paragraph 3.1 above.

10.4 In responding to a SAR, the School will, in so far as is reasonable, provide the information in the format required by the Requester and will take reasonable steps to ensure the information can be understood by the average person.

10.5 If the School does not hold any Data of the Requester, it will respond to the SAR to this effect.

10.6 In responding to a SAR, the School will only provide third party Personal Data in accordance with Section 11 of this policy.

10.7 Where any of the exemptions in the Data Protection Legislation apply in relation to Data held by the School, as appropriate, it will not disclose that Data to the Requester.

10.8 If Personal Data is withheld pursuant to an exemption then, where appropriate, the Requester will be informed in writing that Data has been withheld due to the application of an exemption, set out the nature of the exemption and give reasons as to why the School considers that the exemption applies.

10.9 Where the School receives a SAR and some Data is exempt from disclosure and others not, where practicable the School, as appropriate, will redact the information which is exempt from disclosure and provide the remainder to the Requester.

10.10 If it is not possible for the exempt information to be redacted then, where possible, the unredacted information will be extracted and forwarded to the Requester.

10.11 Where the School cannot provide the Data requested in a permanent format, necessary arrangements will be made for the Requester to inspect the Data being processed.

## 11. Third Party Information

11.1 Where the School receives a SAR and the Data of the Requester contains the Personal Data of a third party, the School will not disclose the third party's Personal Data unless the third-party consents to the disclosure or it is reasonable in all the circumstances to disclose the Personal Data of third party without their consent.

11.2 In determining whether it is reasonable in all the circumstances to disclose third party Personal Data in responding to a SAR, the School will consider the following:

- (a) Any duty of confidentiality owed by the School to the third party;
- (b) The steps taken in trying to obtain the consent of the third party;
- (c) Whether the third party is capable of providing consent for their Personal Data to be released;
- (d) Any express refusal of the third party to not disclose their Personal Data;
- (e) Whether any of the third party Personal Data is already known by the Requester;
- (f) The circumstances which gave rise to the request.

## 12. Disproportionate Effort

12.1 The School may decide not to provide Data pursuant to a SAR if to do so would involve a disproportionate effort.

12.2 In determining whether responding to a SAR will involve disproportionate effort, the School will consider the time, costs and any technical expertise required to respond to the SAR.

12.3 Where responding to the SAR will involve a disproportionate effort, the School will consider refusing to deal with the request unless the Requester amends their request, for example by providing search terms in order to narrow the scope of that request.

## 13. Repeated Requests

13.1 The School cannot limit the number of SARs which can be made by an individual, however where there has been no reasonable interval between a previous request and the new request the School, as appropriate, may refuse to respond to the Requester.

13.2 In determining whether a request has been made at a reasonable interval, the School will consider the following:

(a) Whether any new Data about the Data Subject has been processed by the School and how often any Data being processed is altered;

(b) The nature of the Data being requested, including the Data's sensitivity;

(c) Whether any processing is likely to cause harm to the Requester in processing the data.

13.3 If the School does not intend to deal with the request on grounds that a reasonable interval has not passed since the previous request, it will inform the Requester of this in writing within the time limit set out in Section 9 above.

13.4 Where additional copies are requested of information then the School may charge a reasonable fee based on administrative costs.

#### 14. Concerns

14.1 If a Requester is unhappy with the way the School has handled their request they should raise the matter with the School. If the school is unable to resolve any concerns the Requester can contact the School's Data Protection Officer at [DPOService@schoolspeople.co.uk](mailto:DPOService@schoolspeople.co.uk).

14.2 If, after review, the Requester is still unhappy with the way their SAR has been dealt with, they can contact the Information Commissioner by telephone on 0303 123 1113 or by writing to Information Commissioner's Office Wycliffe House Water Lane Wilmslow Cheshire SK9 5AF.