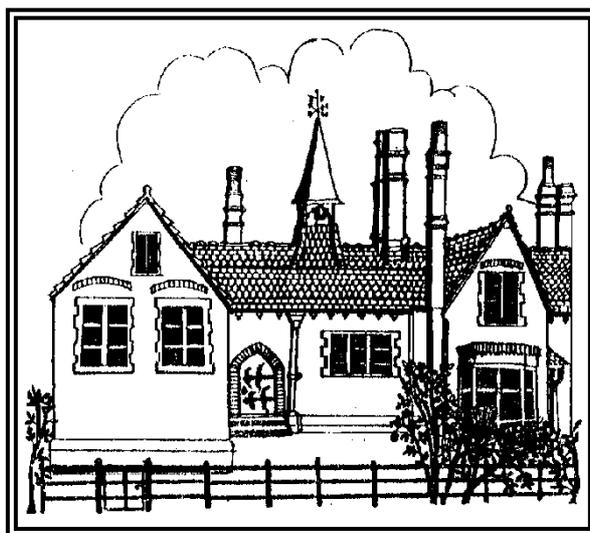


Subject Access Request Procedure

Campton Lower School



Approved by:	Nicky Fletcher
Signed:	
Date approved:	18 th April 2018
Next review due by:	18 th April 2020

1 Introduction and purpose

The Data Protection Act 2018 gives individuals rights of access to their personal records held by schools.

This guidance aims to help employees deal with Subject Access Requests (SARs) in compliance with school policy.

This document should be read in conjunction with the Subject Access Request Policy

2 How long do I have to complete a SAR

The school has a maximum of a month starting from the day the request and identification (if required) is received. This is a statutory requirement which must be adhered to. As there is no definition of a month, the school is adopting 20 working days, to ensure consistency.

You will be able to extend the period of compliance by a further two months where requests are complex or numerous. If this is the case, you must inform the individual within one month of the receipt of the request and explain why the extension is necessary. You should contact the SAR owner as soon as possible if an extension is required. Extensions will only be granted in exceptional circumstances.

In any event the request should be responded to as quickly as possible. The deadline is a maximum and any deliberate or unjustified delay to hold back a response until nearer the deadline expiry is not acceptable.

For example data such as CCTV footage is subject to “automatic / routine” deletion, which means that after 28 days the data is automatically wiped. If a request is received for data that is subject to automatic deletion such as this, you must not delay the request until after the deletion date, but instead consider responding within the 20 days in a timely manner, or where this is not possible due to other priorities you should mark the footage for non-deletion to allow the request to be fulfilled after the deletion date but still within the 20 days.

3 Who can submit a SAR

An application for a Subject Access Request must be made by either of the following:

3.1 The Data Subject;

A data subject is entitled to make a request in writing to see any personal data held about them under the Act. The school must ensure they only provide data to the data subject or an authorised person on their behalf and so may require the data subject to provide proof of identity and current residence before the request is processed, this must be in the form of photographic ID, such as drivers license or passport and a recent utility bill or bank statement as proof of address. This is to prevent unauthorised disclosure to third parties. The documents must be brought in to the school so that the identity of the person can be verified. Only in exceptional circumstances can this requirement be waived. Contact the Information Governance Team if ID cannot be provided face to face.

3.2 On Behalf of the Data Subject

Anyone applying for a Subject Access Request on behalf of someone else must apply in writing together with written authorisation from the data subject, which must be signed by the data subjects themselves, if they have capacity. The school requires both the data subject and the

person making the request to bring in photographic ID and proof of address. Only in exceptional circumstances can this requirement be waived. Contact the Information Governance Team if ID cannot be provided face to face.

3.3 A Person with Parental Responsibility

An individual only has a right to access the records of a minor if they have either parental responsibility or legal guardianship of the child. Parental responsibility is defined in the Children Act 1989 and updated by the Adoption & Children Act 2002. A person with parental responsibility is:

- The natural mother;
- The natural father, if married to the mother either before or after the birth, even if divorced or separated;
- The natural father, if unmarried, and he registered the birth along with the mother after December 2003;
- The natural father, if unmarried, by agreement with the mother (evidenced by a form provided by a solicitor, signed by both parents and witnessed by an Officer of the Court) or by a court order (parental responsibility order);
- The natural father, if unmarried, and appointed as the child's guardian on the death of the natural mother;
- An individual (generally a family member) with a residence order for the child (if the order is for a period of time, then parental responsibility is removed at the end of the period);
- An individual who has legally adopted the child;
- A local authority under a care order - individual acting as a Children's
- Guardian: If the application for access to a child's record is made by someone having parental responsibility access shall only be given where:
 - The child is capable of understanding what the application is about and has consented to it.
 - The child is not capable of understanding the nature of the application and giving access would be in his/her best interests. The relevant professionals will decide on the child's capacity to understand the application.

If an individual is claiming parental responsibility then they must provide a copy of the necessary evidence such as a parental responsibility order or the long version of the birth certificate of the child.

3.4 A Person Appointed by the Courts

Where the data subject is incapable of managing their affairs someone appointed to act on their behalf by a court of law may submit a subject access request. Proof of the court order must be given.

3.5 Solicitors acting on behalf of a Client or Insurance Companies

Where a solicitor or other legal professional requests access on behalf of a client they are representing, the appropriate form of authority containing the signed consent of their client must be obtained and evidenced. The request must be dealt with in the same way as if it had come direct from the Data Subject.

3.6 Third Party Requests

In addition to subject access requests the school may also receive third party requests submitted under the Data Protection Act. All third party requests should be submitted in the same manner as Subject Access Requests. They will be considered by the Data Protection Administrator and will be given the same level of confidentiality as a subject access request.

3.6.1 The Police

The police may from time to time submit requests for information relating to a specific individual, these requests are made in order to prevent or detect crime or for taxation purposes. In these circumstances the school will not be required to obtain the consent of the data subject. Requests should be made using s29 form and authorised by a senior officer.

3.6.2 Other Government Agencies

In some circumstances the school may be asked to provide information to other Government Agencies. Government Departments require a range of information to carry out their functions. Unless there is a legal requirement to disclose, for example for the prevention or detection of crime or for safeguarding reasons, the Data Subject will be informed and their consent obtained in writing.

4 What should I do when I receive a SAR?

If you receive a SAR direct from a member of the public you should determine whether you can deal with the request immediately or whether the request is complex and needs further consideration.

Simple requests:

- I. Decide if it is something that you can provide quickly yourself. For example copies of a consent form, exam result, their own letter of complaint.
- II. If you can provide it quickly do so.
- III. Put a note on file of what is provided, to whom it went and when the request was completed.

Complex requests:

- IV. Make sure the request is in writing and send it to your Data Protection Lead.
- V. Most SAR requests are made by parents
- VI. Alternatively you can ask the requestor to email your Data Protection Lead or write to the school at:
Campton Lower School
Rectory Road
Campton
Shefford
SG17 5PF
- VII. Your Data Protection Administrator will log the SAR and will allocate the case according to the subject matter

5 What should I do when I am allocated a SAR by the Data Protection Administrator?

- I. Think about where the information requested will be kept
- II. What types of records you are looking for
- III. Do you need to do a search of emails?
- IV. Are there any duplicate records?
- V. Allocate sufficient time to process the request

5.1 How do I find the information requested

Requests for information are not limited to “live” files. SARs cover all information held by the school regardless of where it is stored, closed, archived.

You should first consider which system the information requested will be stored on. For example information about pupils will be kept on SIMS. Information about safeguarding will be kept on CPOMS or paper files.

In some cases multiple systems will need to be checked in order that all relevant data is located.

You should do searches using the minimum data fields possible. For example, using common surnames such as Khan or Smith will result in a significant number of hits, many of which will be unrelated. However, using the DOB and Surname will limit the number of search results significantly.

It can often be helpful to speak to the requestor to find out if there is something specific that they are looking for. For example a requestor might ask for everything the school holds about them, but they may only want to see information relating to a specific issue such as a disciplinary matter.

Often limiting the search to a specific timeframe also helps reduce the search.

In most cases this information will need to be printed manually. **NOTE:** make sure that you print securely and lock away any documents printed until you have completed the entire search.

5.2 Are there any duplicate records?

Once you are satisfied that you have access to all of the relevant documents related to the SAR request you should take time to remove all duplicates.

Email trails forwarded numerous times can result in a number of duplicates. You should spend time to find the latest email and remove any others that contain the same information.

A document may have been attached to a number of emails and printed out numerous times you only need to print a document once. In addition, numerous drafts of the same document do not need to be provided. The school is only required to provide the final draft of documents.

Reducing the volume of documents in this way will reduce the risk of making a mistake and sending out incorrect information.

It is good practice to produce a schedule of the documents which you have identified, which will help you organise how you work, keeping track of which documents need redacting, which are later considered not relevant etc. It is also very helpful to refer to any complaint made about the handling of the request.

6 What information is exempt from disclosure and needs to be removed?

6.1 Third party information

A data subject is not entitled to see what we hold on any third party, including a partner or relative, unless that third party has consented. You can contact the third party and ask for their consent, and should keep a record of their response. In some circumstances we can decide to disclose without that consent e.g. if it is not possible to obtain; the information is already known to the requester or there is no prospect of harm from the disclosure. Decisions need to be made on a case by case basis.

We cannot refuse to provide access to personal data about an individual simply because it was obtained from a third party. The rules about third-party information apply only to personal data that includes information about the individual who is the subject of the request and information about someone else.

6.2 Exemptions

For other personal data, there are exemptions provided by the Act (set out below) and you should familiarise yourself with these exemptions before you start to redact.

Not all of the exemptions apply in the same way, and you should look at each exemption carefully to see how it applies in a particular SAR. Some exemptions apply because of the nature of the personal data in question, e.g. information contained in a confidential reference. Others apply because disclosure of the information would be likely to prejudice a particular function of the school. The DPA does not explain what is meant by 'likely to prejudice'. However, the Information Commissioner's view is that it requires there to be a substantial chance (rather than a mere risk) that complying with the SAR would noticeably damage the discharge of the function concerned.

6.3 Confidentiality and references

We do not need to disclose information which was provided to us in confidence. Whether or not information is confidential is subject to a number of defined conditions. The information needs to be confidential in nature and provided in circumstances which create an expectation of confidentiality. Something simply being marked "Confidential" does not make it confidential, if the information is not actually confidential in nature.

If information is widely known elsewhere, it cannot be considered confidential, and the passage of time may mean that the confidential nature of information has elapsed.

Where something may be confidential, we should ask the person whose information it is, whether they consent to the disclosure, and keep a record of that. In some circumstances, set out above, we may decide that we should disclose the information.

You may give or receive references about an individual, e.g. in connection with their employment, or educational purposes. Such references are often given 'in confidence', but that fact alone does not mean the personal data included in the reference is exempt from subject access.

The DPA distinguishes between references we give and references we receive. References we give are exempt from subject access if we give them in confidence and for the purposes of an individual's education, training or employment or the provision of a service by them.

There is no such exemption for references we receive from a third party. If we receive a SAR relating to such a reference, we must apply the usual principles about subject access to decide whether to provide some or all of the information contained in the reference.

If a question of confidentiality arises, you should contact the author to find out whether they object to the reference being disclosed and, if so, why.

Even if the provider of a reference objects to its disclosure in response to a SAR, we will need to supply the personal data it contains to the requester if it is reasonable to do so in all the circumstances. You will therefore need to weigh the referee's interest in having their comments treated confidentially against the requester's interest in seeing what has been said about them. Relevant considerations are likely to include:

- Any clearly stated assurance of confidentiality given to the referee;
- Any reasons the referee gives for withholding consent;
- The likely impact of the reference on the requester;
- The requester's interest in being able to satisfy himself or herself that the reference is truthful and accurate; and
- Any risk that disclosure may pose to the referee.

6.4 Publicly available information

If the law says we must make information available to the public, any personal data included in it is exempt from the right of subject access.

The exemption only applies to the information that we are required to publish. If it holds additional personal data about an individual, the additional data is not exempt from the right of subject access.

6.5 Crime and taxation

Personal data processed for certain purposes related to crime and taxation is exempt from the right of subject access. These purposes are:

- The prevention or detection of crime;
- The capture or prosecution of offenders; and
- The assessment or collection of tax or duty.

However, the exemption applies only to the extent that complying with a SAR would be likely to prejudice the crime and taxation purposes set out above. You need to judge whether or not this is likely in each case – you should not use the exemption to justify denying subject access to whole categories of personal data if for some individuals the crime and taxation purposes are unlikely to be prejudiced.

Personal data that is (1) processed for the purpose of discharging statutory functions and (2) consists of information obtained for this purpose from someone who held it for any of the crime and taxation purposes described above is also exempt from the right of subject access.

This is only to the extent that providing subject access to the personal data would be likely to prejudice any of the crime and taxation purposes. This prevents the right applying to personal data that is passed to statutory review bodies by law-enforcement agencies, and ensures that the exemption is not lost when the information is disclosed during a review.

Section 29(4) of the DPA provides an additional exemption from the right of subject access that is designed to prevent the right being used to force relevant authorities to disclose information about

the operation of crime detection and anti-fraud systems, where such disclosure may undermine the operation of those systems.

6.6 Management information

A further exemption applies to personal data that is processed for management forecasting or management planning. Such data is exempt from the right of subject access to the extent that complying with a SAR would be likely to prejudice the business or other activity of the organisation.

6.7 Negotiations with the requester

Personal data that consists of a record of your intentions in negotiations with an individual is exempt from the right of subject access to the extent that complying with a SAR would be likely to prejudice the negotiations.

6.8 Regulatory activity

This exemption only applies to personal data processed for core regulatory activities, and then only to the extent that granting subject access to the information concerned would be likely to prejudice the proper discharge of those functions.

6.9 Health and education records

The exemptions that may apply when a SAR relates to personal data included in health and education records are explained in chapter 10 of the code.

‘The Secretary of State may, by order, exempt certain personal data required for the purposes of health, education, social work from the subject information provisions or modify those provisions in relation to this personal data. [note 10]’

6.10 Other exemptions

The exemptions mentioned above are those most likely to apply in practice. However, the DPA contains additional exemptions that may be relevant when dealing with a SAR.

For more information about exemptions, contact the Complaints and Information Governance team on 6398 or by emailing GDPR@luton.gov.uk or see the [ICO Guide to Data Protection – How to disclose information safely](#)

7 How do I complete redactions?

Much of the data we hold and which needs to be provided in response to an SAR, may contain information which is not the personal data of the data subject or is covered by an exemption and not to be disclosed.

Where the personal data that needs to be disclosed is contained within the same document that the exempt information you need to redact. Redaction is the process of blocking out information so that the data subject cannot read it. Most redaction is done by covering the exempt information with a dark black line.

When you redact a document or remove exempt information you should make notes on the redaction template providing a description of the document and the reason for the redaction/removal, using the redaction template. Redaction can be completed using the following methods:

- Cover large blocks of text with plain paper - If there are large blocks of information to be redacted you can cover these with plain paper before photocopying. The original copy should be destroyed using confidential waste.
- Manual redaction – This is useful where there are only small pieces of text that need to be removed. Manual redaction can be done using an indelible black marker to cover the relevant text. **NOTE:** be careful that you have covered the text completely by holding the document to the light. Often a document redacted manually needs to be re-copied to ensure that the marked text cannot be read. Also note that manual redaction can only be done on single-sided copies.
- Redaction using specialist software – this type of redaction is useful when you need to redact large pieces of text on a large SAR. Adobe redaction software or Rapid Redact are available.

NOTE: redaction should not be done using Word as this can be removed by the data subject, thereby making us responsible for a data breach as we would not have put in place adequate security measures when releasing the data.

8 What is a double check?

Once you are satisfied that the documents are ready for despatch to the data subject you must get your Data Protection Administrator to complete a double check of the SAR.

This is done to ensure that all third party or other exempt data has been removed appropriately and that any documents have been redacted correctly.

Third party data sent out in error to the wrong person constitutes a data breach under the Data Protection Act 2018 and can have very serious consequences for the school (see section 5 of the SAR policy).

You should ask your Data Protection Administrator to do a double check of the information you are providing to the data subject. Provide your Data Protection Administrator with copies of the documents ready for despatch and a copy of the original SAR request. This double check must be done within the time limits allowed for the SAR and therefore must be built into the process.

NOTE: Occasionally schools will outsource the redaction of SARs to a third party provider such as LBC's IG team a solicitor or barrister. A double check of the work completed must be carried out by the Data Protection Administrator before any documents are sent out to the data subject. This is to ensure that the work is completed to the standards expected by the school.

9 How do I respond to a SAR?

Once all of the information has been collated (duplicates and third party information has been removed or redacted and a double check has been carried out) the SAR is ready for despatch.

The school is required to provide copies in a format requested by the data subject.

- Do not provide original documents only copies
- Always keep a copy of the documents provided to the SAR. Best practice is to add the documents to a file alongside the original request.
- Remember if you have scanned the documents into a shared folder you should delete them as soon as they have been moved to their new secure location. This is to ensure that unauthorised parties do not gain access.

You can then send the documents securely using the following methods:

Requested by:	Method:
Hard copy	<p>Documents should be hand delivered to the data subject wherever possible. Check ID and address for sending before handing over documents. Make sure that the documents are securely contained in a sealed envelope.</p> <p>If it not possible for the data subject to collect the documents themselves use the special delivery service and include the name of the data subject on the envelope to ensure that they sign for the documents.</p> <p>Note: Check you have the correct address before posting</p>
Encrypted device	Where the data is especially sensitive you may want to consider saving the documents on a password protected, encrypted memory device rather than posting hard copies. You can send the password to the data subject once they have received the device by post to ensure that only they have access.
Email	If the school has a secure email system this is the school's preferred method. Scan a copy of the file and move it to a secure location on the network. Send the file by secure data transfer (currently Egress). Ask the data subject to confirm receipt of the documents as soon as possible

NOTE: If any of the data goes missing or the data subject complains about the data sent out refer to the school's data breach policy immediately. If you have used Egress or similar to send the data you can revoke access at any time to stop the data file from being opened or shared.

10 Complaints

For information on how data subjects can complain about a SAR refer to section 15 of the SAR Policy

11 Further information

If you need any more information about this procedure or any other aspect of Subject Access requests, please contact us.

Complaints and Information Governance
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