



# Procedure for Accessing Personal Information (Data Subject Access Request) May 2024

**Article 6 – I should be supported to live and grow**



**Article 12 – I have the right to be listened to, and taken seriously**



**Article 24 – I have the right to good quality health care, to clean water and good food**



**Article 29 – I have the right to an education which develops my personality, respect for others' rights and the environment**



## **Key Contact Personnel in School**

**Nominated Member of Leadership Staff Responsible for the policy: Sarah Costain**

**Designated Safeguarding Lead: Sarah Costain**

**Data Protection Officer: Sarah Costain**

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**Date agreed and ratified by Governing Body: July 2023**

**Date Reviewed: May 2024**

**Date agreed and ratified by Governing Body: July 2024**

**Date of next review: May 2025**

**This policy will be reviewed following any updates to national and local guidance or procedures**

## **Procedure for Access to Personal Information**

### **Five Acre Wood School**

#### **1. Right of access to information**

There are two distinct rights of access to personal information held by schools.

**Under the UK GDPR and the Data Protection Act 2018** an individual (e.g. pupil, parent or member of staff) has a right to request access to their own personal data, subject to some exemptions. In certain circumstances requests may be made by a parent or guardian on behalf of a child (see explanation below).

**The Education (Pupil Information) (England) Regulations 2005** gives parents or those with parental responsibility the right of access to curricular and educational records relating to their child.

#### **2. Processing a request**

Requests for personal information can be made in writing and addressed to the Headteacher or Principal. SAR requests can also be made verbally, including via social media. If the initial request does not clearly identify the information required, then clarification should be sought. Requests will be considered on a case by case basis.

The identity of the requestor must be verified before the disclosure of any personal information, and checks should also be carried out regarding proof of relationship to the child. If a request is being made by a third party (such as a relative or a solicitor), evidence of their authority to act on behalf of the individual must be obtained.

Evidence of identity can be established by requesting production of the following (this list is not exhaustive):

- passport
- driving licence
- utility bills with the current address
- Birth / Marriage certificate
- P45/P60
- Credit Card or Mortgage statement
- Parental Responsibility

Individuals are entitled to be told if we are processing their personal information, to obtain a copy of that information and to other supplementary information – see below.

#### **Supplementary Information**

In addition to a copy of their personal data, you also must provide individuals with the following information:

- the purposes for processing their data
- the categories of personal data concerned
- the recipients or categories of recipient you disclose the personal data to
- your retention period for storing the personal data or, where this is not possible, your criteria for determining how long you will store it
- the existence of their right to request rectification, erasure, or restriction or to object to such processing
- the right to lodge a complaint with the ICO or another supervisory authority
- information about the source of the data, where it was not obtained directly from the individual
- the existence of automated decision-making (including profiling); and
- the safeguards you provide if you transfer personal data to a third country or international organisation

Much of this information is already included in the school Privacy notice.

The response will normally be sent by email, unless the requestor has specified another method, and it is reasonable to meet that request.

Information can be viewed at the school with a member of staff on hand to help and explain matters if requested or provided at a face-to-face handover, although this is not a substitute for provision of the data.

The views of the requestor should be considered when considering the method of delivery. If the requestor has asked for the information to be posted then special next day delivery or recorded delivery postal service must be used.

A reasonable fee for the administration costs of complying with a request if the request is manifestly unfounded or excessive or if further copies of data are requested. This will be in addition to charges made under the education regulation.

Information can be viewed at the school with a member of staff on hand to help and explain matters if requested or provided at a face-to-face handover.

The views of the applicant should be considered when considering the method of delivery. If the applicant has asked for the information to be posted then special next day delivery or recorded delivery postal service must be used.

### **3. Information relating to children**

Children have the same rights of access to their own personal information as adults, and the same rights of privacy. The right to access information held about a child belongs to the child, although their rights can be exercised by a parent or carer on their behalf. Parents or those with parental responsibility do not have a separate right to access that data in their own right.

There is no minimum age in English law, at which a child is deemed to be competent to exercise their rights of access. Current practice accepts that, provided a child is mature enough to understand their rights, a child of, or over the age of 13 years shall usually be considered capable of giving consent. This does not rule out receipt of a valid request from a child of a younger age, as each request should be considered on its merits on an individual basis and the child's competence assessed.

When a subject access request is received from a child it will need to be judged whether the child has the capacity to understand the implications of their request and of the information provided as a result of that request. If the child does understand then their request will be dealt with in the same way as a request from an adult.

If the child does not have capacity (either because of age/maturity or on wider grounds), and the request is from a person with parental responsibility for the child, it is usually appropriate for the holder of parental responsibility exercise the child's rights on their behalf.

If a parent or legal guardian makes a request on behalf of a child age 13 and over the request will only be complied with when assurances are received that the child has authorised the request and that their consent was not obtained under duress or on the basis of misleading information. If the child does not understand, then a request from a parent or legal guardian for the child's information will only be complied with when we are satisfied that they are acting in the best interests of the child.

We will take into account when making this assessment:

- any court orders relating to parental access or responsibility that may apply,
- any duty of confidence owed to the child or young person,
- any consequences of allowing those with parental responsibility or those authorised to act on their behalf access to the child or young person's information,
- any detriment to the child or young person if individuals with parental responsibility or their authorised representatives cannot access this information, and
- any views the child or young person may have on whether their parents, guardians or authorised representatives should have access to information about them.

#### **4. Response time** **UK GDPR & DPA:**

The response time for compliance with a subject access request is usually within **one month** following date of receipt. The time frame does not begin until the school has received all the information necessary to comply with the request i.e. proof of identity.

Five Acre Wood school may be able to extend the timeframe by a further two months where requests are complex or numerous. If this is the case, we will inform the individual within one month of the receipt of the request and explain why the extension is necessary.

If we are unable to act in response to a request, the requestor will be notified without delay (and in any event within one month).

### **Education Regulations**

Requests for information from parents or legal guardian for access to information classed as being part of the education record must be responded to within **15 school days**.

### **5. Charges**

#### **Under GDPR & DPA:**

Should the information requested be personal information that **does not** include any information contained within educational records the school cannot make a charge, unless the request is manifestly unfounded or excessive. You may charge a “reasonable fee” for the administrative costs of complying with the request, where such request is manifestly unfounded or excessive. The requestor will be made aware promptly that charges may be made upon request of the information.

The School can also charge a reasonable fee if an individual requests further copies of their data following a request. You must base the fee on the administrative costs of providing further copies.

#### **Under the Education Regulations**

The school may make a charge if the information requested relates to the educational record, the amount charged will depend upon the number of pages provided. The fees work on a sliding scale basis as below.

<b>Number of pages</b>	<b>Maximum fee</b>
1-19	£1
20-29	£2
30-39	£3
40-49	£4
50-59	£5
60-69	£6
70-79	£7
80-89	£8
90-99	£9
100-149	£10
150-199	£15
200-249	£20
250-299	£25
300-349	£30
350-399	£35
400-449	£40

450-499	£45
500+	£50

## 6. Exemptions

There are some exemptions to the right to subject access and to the right to access an education record, that apply in certain circumstances or to certain types of personal information. **This means all information must be reviewed prior to disclosure.**

Included below are some of the exemptions that apply to a school, this is not an exhaustive list;

**Third Party information:** If the information held identifies other people, then it will sometimes be right to remove or edit that information so as not to reveal the identity of the third parties, unless the third parties have agreed to the disclosure or if it reasonable to comply with the request without that third party's consent. (This is less likely to apply to information identifying teachers or other professionals unless to disclose it would cause them serious harm.) Reasonable steps must be taken to obtain third party consent to disclosure. If the third parties cannot be located or do not respond it may still be reasonable to consider disclosure if the information is of importance to the data subject. The school must still adhere to the **one month** statutory timescale.

Where redaction (information edited/removed) has taken place then a full copy of the information provided should be retained to establish, if a complaint is made, what was redacted and why.

Information disclosed should be clear, meaning any codes or technical terms will need to be clarified and explained. If information contained within the disclosure is difficult to read or illegible, then it should be retyped.

**Information likely to cause serious harm or distress:** Any information which may cause serious harm to the physical or mental health or emotional condition of the pupil or another individual involved should not be disclosed, nor should information that would reveal that the child is or has been the subject of, or at risk of abuse, or information relating to court proceedings.

**Crime and Disorder:** If the disclosure of the information is likely to hinder the prevention or detection of a crime, the prosecution or apprehension of offenders, or the assessment or collection of any tax or duty, the information should be withheld.

**Legal professional privilege:** If the information is general legal advice or advice which relates to anticipated or pending legal proceedings it is subject to 'legal professional privilege'. The disclosure of any communication to or from a legal advisor to another person (including the data subject) should not

take place unless this has first been discussed with the legal advisor concerned.

**References:** The right of access does not apply to references given (or to be given) in confidence.

**Absence of or invalid consent to disclosure:** If the data subject is considered incapable of giving valid consent to disclosure (i.e. they do not have the capacity to understand the nature/implications of the access request), or if it is suspected that the consent was obtained under duress by someone acting on their behalf, or based on misleading information, then access should be refused.

The above is intended to act as an overview of some of the exemptions available to disclosure. Please seek further advice from the DPO before relying on any of the above exemptions.

## **7. Complaints**

Complaints about the above procedures should be made to the Data Protection Officer (DPO) who will decide whether it is appropriate for the complaint to be dealt with in accordance with the school's complaint procedure.

Complaints which are not appropriate to be dealt with through the school's complaint procedure can be dealt with by the Information Commissioner. Contact details of both will be provided with the disclosure information.

## **8. Contacts**

If you have any queries or concerns regarding individuals right of access to their own personal information, please contact:

Sarah Costain, DPO at Five Acre Wood School

Kent County Council, Information Resilience & Transparency Team:

Email: [dataprotection@kent.gov.uk](mailto:dataprotection@kent.gov.uk)

Further advice and information can be obtained from the Information Commissioner's Office: [www.ico.gov.uk](http://www.ico.gov.uk)