**Subject Access Request (SAR) Procedure and Form**

**(Part of the Data Protection Policy – See Annex 4)**

This document will be reviewed annually and sooner when significant changes are made to the law

Version No: Six Approval Date: 22.11.21

# Subject Access Request (SAR) Procedure

## A4.1 Introduction

A4.1.1 We process personal data in line with all of the legal rights of data subjects’, including their right to:

• Be informed about their data being processed, which links to the first DP Principle of fair, lawful and transparent processing;

• Request access to their data that we hold

• Ask for inaccurate data to be rectified

• Ask for data to be erased (sometimes known as the “right to be forgotten”)

• Restrict processing of their data, in limited circumstances

• Object to the processing, in some circumstances, including stopping their data being used for direct marketing

• Data portability, which means to receive copies of some of their data in a format that can be easily used by another organisation or person

• Not be subject to automated decision making or profiling, if it has legal effects or similarly significant effects on the data subjects

• Withdraw consent when we are relying on consent to process their data

• Make a complaint to the ICO or seek to enforce their rights through the courts

A4.1.2 This procedure supports our Data Protection Policy, and explains how we respond to requests from, or on behalf of, individuals for access to the data we hold that is about the individual. This is known as the right to access, and is a legal right under the General Data Protection Regulation (GDPR) and the Data Protection Act 2018 (DPA 2018). Requests are known as [Data] Subject Access Requests, or DSARs or SARs.

A4.1.3 In addition, pupils, or parents on their behalf, have the right to access curricular and educational records relating to the pupil, under the Education (Pupil Information) (England) Regulations 2005 (EPIR 2005).

A4.1.4 To exercise any of the rights above, contact our Data Protection Officer.

## A4.2 Scope and Responsibilities

The right to access applies to all pupils, parents, staff and anyone else that we hold personal data about. In some circumstances, for example with pupils, a parent or other person with authority may make the Subject Access Request on their behalf.

All staff are responsible for reading and understanding this procedure if they may receive a SAR on behalf of the school, as SARs can be made through any member of staff, although responses should be centrally coordinated. All leaders are responsible for ensuring their team read and understand this procedure if they may receive a SAR on behalf of the school.

Our Data Protection Officer (DPO) provides assistance and further guidance on responding to SARs and coordinates all responses.

Any individual who purposefully alters, defaces, blocks, erases, destroys or conceals information to prevent it being provided to a data subject who has requested it, and has a right to receive it, may be committing an offence.

## A4.3 Receiving a valid SAR

Format: A SAR does not need to be in writing, it can be in any format, including a letter, email, text message, over social media, over the telephone, or face to face, and can be made to any representative of the school.

However, in order to process the request as efficiently as possible, and to help us comply with statutory timeframes, we ask that the form contained in Annexe 1 below is completed.

Content: A SAR does not need to refer to data protection legislation or be described as a subject access request. Any request for access to personal information from, or on behalf of, a data subject, should be treated as a SAR.

Identity & Authority: We must verify the identity of the person making the SAR, and if the SAR is being made on behalf of someone else, we must confirm they have authority to act on their behalf in exercising their rights. Checking identity should not be used as a delaying tactic, and how to verify identity will depend on who is making the SAR, and how well they are known to the person handling the request. For example, a staff member will not usually be required to confirm their identity, but a request from a former staff member, or on behalf of someone else, would need to be verified using proof of identity, signature and address.

A parent / person with parental responsibility does not automatically have the right to make a SAR on behalf of their child, as the child has the right, and in all circumstances should be, considered in handling a SAR from a parent. A child of 13 or over will generally be considered able to consent to the SAR being made, or make a SAR on their own behalf, unless there are reasons to consider an older child cannot make that decision, or to consider a younger child able to make that decision. Also see the section on ‘Content – Exemptions’ under ‘Responding to a SAR’ below.

No charge: In most cases, a SAR will be responded to free of charge. In limited circumstances, where a request is manifestly unfounded or excessive an appropriate charge can be made. Requests made under EPIR 2005 may be charged for. A proposed charge should be agreed with the DPO.

Refusing to fulfil a SAR: In limited circumstances, the request or elements of it, may be refused:

• if the requestor cannot confirm their identity or authority to make the request on behalf of another person, the request will be refused until confirmation is provided

• where a request is manifestly unfounded or excessive

• information that might cause serious harm to the physical or mental health of the data subject or another individual

Elements of the data held may be withheld or redacted, where:

• information that would reveal that a child is at risk of abuse, where disclosure of that information would not be in the child’s best interests

• information contained in adoption and parental order records

• certain information given to a court in proceedings concerning a child

## A4.4 Responding to a SAR

Timescales: SARs must be responded to as soon as possible, and within one month at the latest. In the case of complex or multiple requests an extension of up to an extra two months can be applied, but the requestor must be informed of the extension within the first month from the SAR. The calculation of time will commence once the SAR is determined as valid. An acknowledgement should be sent to the requestor as soon as possible to inform them that the SAR has been received, the start date, and that it is being processed.

For SARs, school holidays, bank holidays and weekends are all included within the month. For example, a valid SAR received on 20th July should be fulfilled by 20th August despite the school closure.

Requests made under EPIR 2005 must be fulfilled within 15 school days.

Format: The DPO will decide with the requestor, the most appropriate and preferred method of providing information.

Content: The ‘right to access’ allows the requestor to receive information held about them, as a Data Subject. The requestor will not necessarily receive every version of information, if it is held in different ways or duplicated. Access is to the data, not the particular documents.

Third party data: Where the person’s data is combined with another person’s data, which does or could identify that other person (third party), that data may be redacted, or withheld if redaction would not fully prevent the other person being identified. Data can be disclosed that identifies the third party if, that person has given their consent to disclose it, or it is judged to be reasonable to disclose the information without that person’s consent. Deciding if it is reasonable should take into account things such as the type of information, any duty of confidentiality owed, the role of the other person, whether the person is capable of giving consent, and whether they have expressly refused consent.

## A4.5 Exemptions

Exemptions apply under the DPA 2018, allowing us to withhold data from a SAR in some circumstances, including amongst others: where legal professional privilege applies, where management forecasts or negotiations could be prejudiced by disclosing the data, confidential references, and where exam results are requested but they are not yet due to be published.

The application of exemptions should be approved by the DPO, but **if in doubt do not disclose information**, as it can always be disclosed at a later date.

**Response**: When sending the relevant data to the requestor, the information should be clear, so any codes or jargon used should be explained in the SAR response. In responding to requests we also explain to data subjects they have the right to make a complaint to the ICO or seek to enforce their rights through the courts.

Data subjects also have a right to receive, in response to their SAR, the following information, which is contained within our Privacy Notice (a copy of which will accompany the release):

• the purposes of our processing

• the categories of personal data concerned

• the recipients or categories of recipient we disclose the personal data to

• retention periods for storing the personal data or, where this is not possible, our 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

• information about the source of the data, where it was not obtained directly from the individual

• the existence of any automated decision-making (including profiling); and

• the safeguards we provide if we transfer their personal data to a third country or international organisation

Monitoring: The receipt of SARs will be logged and coordinated centrally, using GDPRiS where appropriate, to ensure timescales are being met and SARs are being handled appropriately.

## A4.6 SAR Request Form

**Section 1**

About yourself or person you are making this request on behalf of (Please use block capitals and black ink) – this information will help us to identify the personal data that we may hold about you.

|  |  |
| --- | --- |
| Title (Mr /Mrs /Miss /Ms /Dr /Rev etc) |  |

|  |  |
| --- | --- |
| Surname/Family Name |  |
| First Name(s) |  |
| Maiden/Former Name(s) (if applicable) |  |

|  |  |
| --- | --- |
| Date of Birth (dd/mm/yyyy) |  |

|  |  |
| --- | --- |
| Home Address (Include Postcode) |  |

This is the address to which all replies will be sent, unless you specify otherwise.

|  |
| --- |
| **Name of person making request on behalf of data subject (if applicable)** |
| Surname/Family Name |  |
| First Name(s) |  |
| Relationship to data subject |  |
| Preferred alternative address for correspondence (if applicable) |  |

|  |  |
| --- | --- |
| Contact telephone number |  |
| Contact e mail address |  |

**Section 2- About your request**

What records that you believe we hold would you like access to:

|  |
| --- |
|  |

|  |  |
| --- | --- |
| Have you made a request for this information before? (Yes/No) |  |
| If Yes, could you please provide date of request? (dd/mm/yyyy) |  |

|  |
| --- |
| Where do you want to view your information?For example in person, or be sent a paper copy to your home or alternative address or be sent a copy in a specific electronic format to an e mail address (if this is your preferred option we would encrypt the file to keep it secure) |
|  |
| Do you need any other help with this request? (Please specify below) |
|  |

**Section 3 - Proof of identity**

Establishing Proof of Identity

If we have a verified current address for you on our systems we will contact you at that address and ask you to confirm that the request has come from yourself.

If this is not possible, we will ask for documentary evidence to verify you are who you say you are.

To help establish your identity we may ask you to provide at least two different documents which, between them, provide sufficient information to prove your name, date of birth, current address and signature. For example, a combination of driving licence, medical card, birth/adoption certificate, passport and any other official documents e.g. utility bills, which show those details.

If you are making this request on behalf of someone else you must provide evidence you have the right to do so, e.g. letter of consent, birth certificate evidencing you have parental responsibility for a child or any other relevant legal documentation, unless you have supplied this information to us already for other purposes.

On receipt of completed form we will contact you to arrange verification of these documents.

Please note that it may be necessary to seek further information or proof of identity (of data subject or applicant) before the request can be processed. If this is the case, then the statutory one month day limit will start from the date all necessary information and proof is received. Every effort will be made to provide you with your information as soon as possible after receipt of your application, however in some cases we may need longer than a month to respond to your request if any complex issues are involved.

**Section 4 – Declaration**

(To be signed by the Applicant)

The information, which I have supplied in this application, is correct, and I am the person to whom it relates/I have the right to make this request on their behalf (delete as appropriate).

Signature

Date

Warning – A person who impersonates another or attempts to impersonate another may be guilty of an offence. It is similarly an offence to coerce consent from a Data Subject or interested third party.

Should any advice or guidance be required in completing this application, please contact our Data Protection Officer.

General advice on the GDPR and Data Protection Act 2018 can be obtained from The Information Commissioners’ Office, contact details are below.

The information on this form will only be used to support you in exercising your rights under the Data Protection Act 2018 and will be destroyed, in line with our retention policy, after a decision on you request has been made. For further information on how Derbyshire County Council may use your personal information visit: www.derbyshire.gov.uk/privacynotices

**Please return this form once completed to:**

FAO Data Protection Officer Charlesworth VC Primary School

Mark your envelope “Subject Access Request - Confidential”.

|  |  |
| --- | --- |
| **Data Protection Officer**  | GDPR for Schools, Derbyshire County Council  |
| **DPO Email:** | gdprforschools@derbyshire.gov.uk |
| **DPO Phone:** | 01629 532888 |
| **DPO Address:** | Room 396, North Block, County Hall, Smedley Street, Matlock, Derbyshire, DE4 3AG |

If however you are dissatisfied with our response, you can of course contact the ICO quoting our ICO registration number Z6445458 and stating that the Data Controller is Charlesworth VC Primary School

Information Commissioners’ Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF

Tel: 0303 123 1113 (local rate) or 01625 545 745 if you prefer to use a national rate number

Fax: 01625 524 510. Website: https://ico.org.uk/concerns/