



# Millhouse

Primary School and Nursery

## Procedure for dealing with Subject Access Requests (SAR)

To be reviewed: Summer 2023

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# **Procedures for Handling Subject Access Requests**

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## 1. Introduction

- 1.1. This document applies to data controllers who process personal information about others (data subjects). We have a duty to uphold data subject rights and must be able to understand our responsibilities to those data subjects.
- 1.2. We recognise that the law allows individuals to exercise certain rights in respect of their personal data and one of these rights is the right of access. Therefore there is a need to acknowledge this right and to supply the requested information within the statutory timeframe.
- 1.3. Where an individual has requested a copy of the information we hold about them it is the responsibility of the data controller to comply with the request.

## 2. Policy References

- 2.1. This procedure is a requirement of the following policies:
  - Statutory Requests Policy

## 3. Procedures

### 3.1 *What is a Subject Access Request (SAR)?*

- 3.1.1 A subject access request is a request for personal information under the General Data Protection Regulations 2016.
- 3.1.2 The requestor does not have to specify under what legislation they are making a request. It is our responsibility to correctly identify which legislation applies.
- 3.1.3 The individual may ask another person to request the information for them e.g a parent, representative or a solicitor.
- 3.1.4 You must provide a copy of the information free of charge. However, you can charge a 'reasonable fee' when a request is manifestly unfounded or excessive, particularly if it is repetitive.
- 3.1.5 You may also charge a reasonable fee to comply with requests for further copies of the same information. This does not mean that you can charge for all subsequent access requests.
- 3.1.6 The fee must be based on the administrative cost of providing the information.
- 3.1.7 The timescale for disclosing personal information is 1 month, however where a request is very complex it is possible for the Data Controller to claim an

additional 2 months. The burden of proof that a request is complex sits with the Data Controller. If you intend to claim the additional time it must be communicated to the Data Subject as early as possible in the process.

3.1.8 There is an additional right of access to curricular and educational records defined in the Education (Pupil Information) (England) Regulations 2005. The timescale for responding to such requests is fifteen days from receipt of the request (excluding the summer holiday).

## **3.2 Employee Responsibilities**

3.2.1 Anyone receiving a subject access request must immediately inform the Headteacher / Deputy Headteacher.

3.2.2 The request must be logged on the central record which is reported as part of the standard reporting suite to Senior Leaders.

### **3.2.3 Investigations**

3.2.3.1 The Headteacher / Deputy Headteacher will verify the identity of the person making the request using reasonable means.

3.2.3.2 The identity of the requestor must be established before the disclosure of any information, and checks should also be carried out regarding proof of relationship to the child. Evidence of identity can be established by requesting production of:

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

*This list is not exhaustive.*

3.2.3.3 If the individual has requested that another person may request the information for them the Headteacher / Deputy Headteacher will ensure that the relevant written authority to share or other evidence such as a power of attorney has been provided.

3.2.3.4 If we think an individual may not understand what information would be disclosed to a third party who has made a subject access request on their behalf, we may send the response directly to the individual rather than to the third party. The individual may then choose to share the information with the third party after having had a chance to review it.

3.2.3.5 Where a parent/carer is requesting information about a child, we should consider whether the child is mature enough to understand their rights. If we are confident that the child can understand their rights, then we should respond to the child rather than the parent/carer, or seek their consent to disclose directly to the parent/carer.

### **3.2.4 Timescales**

- 3.2.4.1 Information must be provided without delay and at the latest within one month of receipt.
- 3.2.4.2 We 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, we must inform the individual within one month of the receipt of the request and explain why the extension is necessary.
- 3.2.4.3 Where the personal data is requested under the [Education \(Pupil Information\) \(England\) Regulations 2005](#) the timescale for responding to such requests is fifteen days from receipt of the request (excluding the summer holiday).
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### **3.2.5 Completing the Subject Access Request (SAR) where IGS are processing the request on behalf of the Data Controller**

- 3.2.5.1 IGS should be informed immediately that a subject access request has been received.
- 3.2.5.2 All information scoped within the request must be gathered by the Headteacher / Deputy Headteacher
- 3.2.5.3 All of the gathered information should be sent to the appropriate person within IGS within the agreed timeframe.
- 3.2.5.4 Once the information has been received back from IGS, the audit copies should be stored securely electronically.
- 3.2.5.5 The client copies should be released to the individual in the format advised by IGS as soon as possible.

### **3.2.6 Completing the Subject Access Request (SAR) where IGS are not processing the request on behalf of the Data Controller**

- 3.2.6.1 All information scoped within the request must be gathered by the Headteacher / Deputy Headteacher
- 3.2.6.2 The information must be reviewed before disclosure.
- 3.2.6.3 Third party information is that which has been provided by another, such as the Police, Local Authority, Health Care professional or another

school. Before disclosing third party information consent should normally be obtained. There is still a need to adhere to the 40 day statutory timescale.

- 3.2.6.4 Any information which may cause serious harm to the physical or mental health or emotional condition of the pupil or another should not be disclosed, nor should information that would reveal that the child is at risk of abuse, or information relating to court proceedings.
- 3.2.6.5 Any necessary redactions should be made, either by using redaction software, or by blacking out the redaction. Where redaction (information blacked out/removed) has taken place then a full copy of the information provided should be retained in order to establish, if a complaint is made, what was redacted and why. Information disclosed should be clear, thus 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. If redactions are made by using a black marker pen, it is advisable to re-copy the information so that it cannot be seen under the blacking out.
- 3.2.6.6 A copy of the original information, an audit copy if possible and the client copy should be saved electronically in a secure location.
- 3.2.6.7 The client copies should be released to the requestor as soon as possible, but within the statutory timeframe.
- 3.2.6.8 Information can be provided at the school with a member of staff on hand to help and explain matters if requested, or provided at face to face handover.
- 3.2.6.9 The views of the applicant should be taken into account when considering the method of delivery. If postal systems have to be used then registered/recorded mail must be used.
- 3.2.6.10 Complaints about the above procedures should be made to the Chairperson of the Governing Body 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.

### **3 Advice and Support**

- 3.1 If you have any issues over the clarity of these procedures, how they should be applied in practice, require advice about exemptions from the requirements or have any suggestions for amendments, please contact the DPO at [dpo@essex.gov.uk](mailto:dpo@essex.gov.uk)
- 3.2 For more information and advice on processing subject access requests, please go to [www.ico.org.uk](http://www.ico.org.uk)

### **4 Breach Statement**

A breach of this procedure is a breach of Information Policy. Breaches will be investigated and may result in disciplinary action. Serious breaches of Policy may be

considered gross misconduct and result in dismissal without notice, or legal action being taken against you.

## Appendix A: Roles & Responsibilities

- All staff should have an understanding of how to recognise a **subject access request (SAR)** and know who to report this to.

### Headteacher / Deputy Headteacher

This person is appointed to:-

- Log the **subject access request (SAR)**
- Collect all information within the scope of the request and pass to the person who will be reviewing and redacting the information.
- Ensure that a person with adequate and relevant knowledge of the legislation reviews the information prior to release.
- Save audit copies and client copies electronically in a secure area.
- Send the required information to the individual within the statutory timeframe.
- Ensure that the individual is advised on how to make a complaint to the Data Protection Officer or the Information Commissioner.

### DPO

This person is appointed to:

- Review all information before releasing to the individual.
- Take full account of the legal requirements around fulfilling subject access rights.
- Withholding information to be consistently presented.
- Answer any complaints regarding the **subject access request (SAR)**