

Central Community and Ashgate Nursery Schools' Federation



Subject Access Request Procedure and Protocol

Signed by:

[Signature]

Head teacher

Date: 15 December 2022

[Signature]

Chair of governors

Date: 15 December 2022

Subject Access Request (SAR) – Process and Protocol

As an organisation we collect and process data about individuals. We explain what information we collect, and why in our Privacy Notices.

Any individual, or person with parental responsibility, or young person with sufficient capacity to make a request is entitled to ask what information is held. Copies of the information shall also be made available on request. A form to complete is available.

To ensure that requests are dealt with in an effective and timely manner we may seek to clarify the terms of a request.

To collate and manage requests we have designated **the Head Teacher** to co-ordinate all requests. Please ensure that requests are made on the form to **the Head Teacher**.

Identity

Any person making an SAR will need to provide 2 different forms of evidence of their identity. At least one must be photographic wherever possible. On the basis of the information set out and the signature on the identity must be cross-checked to that on the application form. Discretion about employees and persons known to the school may be applicable but if ID evidence is not required an explanation must be provided by school staff and signed and dated accordingly

Exemptions

Exemptions to a SAR exist and may include

- Education, Health, Social Work records
- Examination marks and scripts
- Safeguarding records
- Special educational needs
- Parental records and reports
- Legal advice and proceedings
- Adoption and Court records and/or reports
- Regulatory activity and official requests e.g. DfE statistical information
- National security, Crime and taxation
- Journalism, literature and art
- Research history, and statistics
- Confidential references

Does the requested information need to be amended?

In accordance with ICO guidance, an SAR relates to the data held at the time the request was received; however, routine use of the data may result in it being amended or deleted. It would be best to supply the requester with the information the school holds when the response is sent, even if this information is different to that held when the request was made. It is not acceptable to amend or delete data that would not otherwise have been edited with had the request not been received. Under the DPA, it is an offence to amend data with the intention of preventing its disclosure.

Does the data include information about other people?

Under the DPA, an SAR does not have to be complied with if it would mean disclosing information about another individual who can be identified from the information, unless:

- The other individual has consented to the disclosure.

- It is reasonable to comply with the request without that individual's consent.

In determining whether it is reasonable to disclose the information, you must take into account all of the relevant circumstances, including:

- The type of information that you would disclose.
- Any duty of confidentiality you owe to the other individual.
- Any steps you have taken to seek consent from the other individual.
- Whether the other individual is capable of giving consent.
- Any express refusal of consent by the other individual

Right to Know

All data subjects have the right to know:-

- What information is held?
- Who holds it?
- Why is it held?
- What is the retention period?
- That each data subject has rights. Consent can be withdrawn at any time (to some things).
- A right to request rectification, erasure or to limit or stop processing
- A right to complain

Many of these questions will be within the Privacy Notices on the website.

Timescale

The information will be provided in an electronic format, usually within one calendar month of the request. However in some circumstances, for example the school is closed for holidays, this may be extended by up to another calendar month.

Has the requester provided enough information to proceed with the request?

Before proceeding with the request, it is important that the data protection officer (DPO) understands exactly what information an individual is looking for – where there is any ambiguity regarding a requester, clarification should be sought from the requester.

Does the school have the information requested?

If the school does not have any information requested, e.g. if it has been safely disposed of once the data's purpose has been fulfilled, the request cannot be fulfilled, and the school must reply to the requester as soon as possible.

Do you know where the information is stored? E.g. with a processor

Where information is stored with a processor, e.g. register applications such as SIMS, the school must still handle the SAR as it has been submitted to them.

Requests from third party persons or organisations

Is the request from the police or HMRC?

Where a data controller, e.g. school or MAT, receives an SAR from an individual requesting data processed by the police or HMRC a crime and taxation exemption can be used – this exemption is applied to help prevent and detect crime, persecute offenders and in the assessment and collection

of tax.

Has a link between the use of the data and the prejudicial effect been established?

When establishing whether a crime and taxation exemption applies, the data controller should identify the prejudice (likelihood) that might occur if the data was provided to the requester. The prejudice could be that a specific investigation would be compromised by information being withheld or disclosed, for example. Prejudice must be real, actual and of substance.

Once it has been established whether or not an exemption applies, the next step would be to establish a link between the use of the data and the prejudicial effect. For example, if the data requested has been used by the police, such as where CCTV footage is used as evidence of a pupil assaulting another pupil, providing this data could damage the police prosecution. The data controller should be able to demonstrate that, if the information is given to the requester, there would be damage done to the criminal investigation – where this is the case the subject will need to be informed of the reasons the request cannot be fulfilled

Can the request be fulfilled?

Schools and other organisations can refuse to comply with a request if it is manifestly unfounded or excessive, e.g. if the request is repetitive in nature.

If a request is found to be manifestly unfounded or excessive, schools can:

- Request a reasonable fee to deal with the request.
- Refuse to deal with the request.

In either case, schools should justify their decision – where a fee is sought, schools do not need to comply with the SAR until the fee has been received.

If a request cannot be fulfilled, schools must inform the requester without delay and within the one month of receipt of the request. Schools should inform the individual about:

- The reason no action will be taken.
- The requester's right to make a complaint to the ICO or another supervisory authority.
- The requester's ability to seek to enforce this right through a judicial remedy.

Schools should also provide this information if they request a reasonable fee or need additional information to identify the individual.

Sending the individual their information

In accordance with the DPA, the information a school provides should be in a concise, transparent, intelligible and easily accessible form, which uses clear and plain language – this is of the utmost importance when information is being addressed to a pupil.

The information a school sends should be understandable by the average parent or pupil; however, schools are not required to ensure that the information is provided in a form that can be understood by the individual who has made the request.

In most cases, a fee cannot be charged when processing an SAR; however, a reasonable fee can be charged if an individual requests additional copies of their data – fees must be calculated based on the administrative costs of providing further copies.



Appendix 1 SAR request form

Data Subject (person who information is about)

Title	Name		
Date of Birth			
Year group (if child or young person)			

Person making the request

Name	Date of Birth
Address	
Email Address	
Contact phone no	
Identification Evidence Provided (if required) Passport Driving licence Or two forms of utility bill within last 3 months Bank statement of last three months Council Tax bill Rent book	

Status of person making request

Parent or person with Parental Responsibility	
Are you acting on their written authority (please provide a copy of the consent)	
If not the parent or with PR, what is your role?	

Details of Data Requested

Declaration

I,, hereby request that **the Head Teacher** provide the data requested about me.

Signature:

Dated:

I,, hereby request that **the Head Teacher** provide the data requested about(insert child's name) on the basis of the authority that I have provided.

Signature:

Dated: