



## Whitgreave Primary School Subject Access Requests (SAR)

### Subject Access Requests (SAR)

A person can submit a SAR on behalf of someone else but it is the responsibility of the DPO to ensure that the request is valid and lawful. Examples would be requests on behalf of a child (under the age of 13 years), although it should be noted that even if a child is too young to understand the implications of subject access rights, any data about them is still their personal data and does not belong to a parent or guardian, nor does the parent/guardian have an automatic right of access. Other examples are a vulnerable person for whom the requester has been granted powers to act, or simply where the person has given authorisation. There is no regulation which prevents an individual making a SAR via a third party. Often, this will be a solicitor acting on behalf of a client, but it could simply be that an individual feels comfortable allowing someone else to act for them. In such cases the DPO needs to be satisfied that the third party making the request is authorised to do so.

Documents often only relate to one person and, therefore, can be easily released following a SAR however, if the document contains information about others or contains other information that does not relate to the person or constitute personal data, you can either extract the relevant data about the person and put it in a new document or you can redact the document (blank out details)

SARs can be made by letter, email, fax and should not be limited to submission of a permanent form.

All requests for access to personal data should be forwarded to the Data Protection Officer (DPO) without delay as a response to the SARs will have to be made within 1 month (unless the request is complex in which case the timescale can be extended to 2 months)

The DPO will:

Notify the applicant that their request has been received and provide a date on which the data will be available. All responses should be made in writing unless the SAR has been received verbally and the response is short, simple, straightforward and will have no repercussions e.g. what email address do you hold for me? Care should be taken when accepting verbal requests to ensure the authenticity of the caller.

Before responding to a SAR for information held about a child the DPO will consider whether the child is mature enough to understand their rights. If confident that the

child can understand their rights then the response to the request should be made to the child rather than the parent/guardian. When considering borderline cases and when a complaint from the parent/guardian is anticipated when access is denied them but granted to the child, the following should be taken into account:

- The child's level of maturity and their ability to make decision like this
- The nature of the personal data
- 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 access to the child or young person's information. This is particularly important if there have been allegations of abuse or ill treatment.
- Any detriment to the child or young person if individuals with parental responsibility cannot access this information and
- Any views the child or young person has on whether their parents should have access to information about them

If, due to the complex nature of the SAR an extension to the 1 month time period is to be applied for, the applicant should be advised of this and of the fact that if dissatisfied they can complain to the Information Commissioner's Office (ICO).

The DPO will work towards the deadline set for access as, even if a complaint has been applied for, a response may be able to be made prior to the complaint being processed

### **Refusing a SAR**

It is possible to refuse a SAR (derogation) on the need to "respect the essence of the fundamental rights and freedoms and is a necessary and proportionate measure in a democratic society to safeguard:

- National security
- Defence
- Public security
- The prevention, investigation, detection or prosecution of criminal offences
- Other important public interest, in particular economic or financial interests, including budgetary and taxation matters, public health and security
- The protection of judicial independence and proceedings
- Breaches of ethics in regulated professions
- Monitoring, inspection or regulatory functions connected to the exercise of official authority regarding security, defence, other important public interests or crime/ethics prevention
- The protection of the individual, or the rights and freedoms of others
- The enforcement of civil law matters

If a SAR is refused the requestor must be informed, as soon as possible and the reason stated, they must also be advised that they have a right to complain to the ICO (standard letter available)

### **Charging for a SAR**

SARs should be processed free of charge unless the request is "manifestly unfounded or excessive" or a second or further copies of information already provided is requested. Subsequent requests for similar information should not be confused with a request for a second or further copies of information. It is not permissible to charge for further SARs.

### **Notes on redaction**

Hardcopy - if you use a dark marker pen on single copies it is highly likely that the text will still be visible from the back or when the document is held up to the light - the solution is to copy the document, cross out the relevant text on both sides and then re-copy.

Electronic copies - if you save the document as a second copy and then highlight in black or delete the text before sending be aware that, in certain formats, the document can be easily restored to its original form. One solution is to save a copy of the original amend the copy by deleting the text and then save the document using a different name, this can then be sent as a pdf.