Procedures for Handling Subject Access Requests

Contents

1. Introduction 2
2. Quick Reference Guide 2
3. Policy References 2
4. Procedures 2

What is a Subject Access Request (SAR)? 2

Employee Responsibilities 3

Investigations 4

Timescales 4

Completing the Subject Access Request (SAR) where IGS are processing the request on behalf of the Data Controller 4

Completing the Subject Access Request (SAR) where IGS are not processing the request on behalf of the Data Controller 5

5 Handling Complaints 6

6 Advice and Support 6

7 Breach Statement 6

Appendix A: Standard Responses 7

Appendix B: Parental Guide to SAR 7

Appendix C: Subject Access or Pupil Information Request 8

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1. Introduction

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.

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.

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. Quick Reference Guide

1. Satisfy yourself that the person requesting the information has a legal right to it, for example because the requestor is the data subject (staff), or they hold parental responsibility
2. Seek confirmation of identity where the requestor is not known to you
3. Request consent where necessary, for example where a child is 12 years or older (see Appendix A)
4. Acknowledge you are processing the request (See Appendix A)
5. Understand the scope and parameters of the request
6. Collate the information relevant to the request
7. Review the information and where necessary apply redactions, explaining why the information has been removed
8. Agree how the disclosure will be made, for example the requestor will collect from the school, by secure email, by special delivery post
9. Make the disclosure
10. Ensure you retain a copy of the information disclosed
11. Ensure you have fully logged the request on your B1 reporting tool

3. Policy References

This procedure is a requirement of the Statutory Requests Policy.

4. Procedures

What is a Subject Access Request (SAR)?

A subject access request is a request for personal information under the Data Protection Act 2018. 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.

The individual may ask another person to request the information for them e.g. a parent, representative or a solicitor. We have a handy parental guide to SAR at Appendix B.

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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.

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. The fee must be based on the administrative cost of providing the information.

The timescale for disclosing personal information is one month, however where a request is overly complex it is possible for the Data Controller to claim an additional two 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.

The right of access (SAR) entitles requesters to receive:

- confirmation that you are processing their personal data;
- a copy of their personal data; and
- other supplementary information, which includes
    - your purposes for processing;
    - categories of personal data you are processing;
    - recipients or categories of recipient you have or will be disclosing the personal data to (including recipients or categories of recipients in third countries or international organisations);
    - your retention period for storing the personal data or, where this is not possible, the criteria for determining how long you will store it;
    - the individual's right to request rectification, erasure or restriction or to object to processing;
    - the individual's right to lodge a complaint with the Information Commissioner's Office (ICO);
    - information about the source of the data, if you did not obtain it directly from the individual;
    - whether or not you use automated decision-making (including profiling) and information about the logic involved, as well as the significance and envisaged consequences of the processing for the individual; and
    - the safeguards you have provided where personal data has or will be transferred to a third country or international organisation.

This supplementary information will be held in your privacy notices, so you should always provide a link to these in your response letter to the requester.

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). At Appendix C there is a pictorial to help you decide which legislation should be used.

Employee Responsibilities

Anyone receiving a subject access request must immediately inform the school office. The request must be logged on the central record which is reported as part of the B1 reporting template to Senior Leaders.

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Investigations

You must verify the identity of the person making the request using reasonable means. Sometimes it is not necessary to gain ID as the person is known to you, for example your staff. 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
- Birth / Marriage certificate
- P45/P60
- Credit Card or Mortgage statement

This list is not exhaustive. See Appendix A for a form to be used to request this information

If the individual has asked another person to request the information for them you must ensure that the relevant written authority to share or other evidence such as a power of attorney has been provided.

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.

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. Any disclosure made to parent/carers without the child's consent must be in the child's best interest in your opinion.

Timescales

Information must be provided without delay and at the latest within one month of receipt. 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.

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). This legislation is not applicable to Academies.

Completing the Subject Access Request (SAR) where IGS are processing the request on behalf of the Data Controller

The following steps must be completed:

1. IGS must be informed immediately that a subject access request has been received.
2. All relevant information in scope of the request must be gathered by the school
3. All of the gathered information must be scanned to PDF, including emails

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4. All Excel spreadsheets must be filtered to the data subject's name before converting to PDF
5. All converted in scope material to be placed in the shared SharePoint folder provided by IGS within seven working days of your receipt of the request . Failure to meet this timescale may result in the request not being processed within the legal timeframe.
6. The background information form must also be completed and shared with the PDF'd material
7. Once the disclosure has been prepared, IGS will upload to the same shared folder in SharePoint and advise you that this has been done
8. The client copies should be reviewed by the school and any requests to change redactions should be discussed with IGS as soon as possible
9. Once reviewed and agreed, the folder containing the audit copies should be stored securely electronically and retained in line with your retention schedule
10. The Client files should be released to the requester in the format advised by IGS as soon as possible (using the relevant letter in Appendix A).

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

All information scoped within the request must be gathered by the school. The information must be reviewed before disclosure.

Third party information is that which relates to another individual. The DPA 2018 says that you do not have to comply with the request if it would mean disclosing information about another individual who can be identified from that information, except if:

a) the other individual has consented to the disclosure; or
b) it is reasonable to comply with the request without that individual's consent.

You cannot refuse to provide access to personal data about an individual simply because you obtained that data from a third party.

Any information which in the opinion of the education professional working with them consider 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. Such information is exempt from disclosure. Exemptions from disclosure can be found in the Data Protection Act Schedule 2 and Schedule 3. More information can be found in the ICO detailed SAR Guidance.

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. You must explain the exemptions relied on to withhold information (see exemption glossary in Appendix A).

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A copy of the original information, an audit copy if possible and the client copy should be saved electronically in a secure location. The client copies should be released to the requestor as soon as possible, but within the statutory timeframe (use the relevant form in Appendix A)

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. Alternatively you can disclose electronically, for example through secure (encrypted) email or secure file transfer.

The views of the applicant should be taken into account when considering the method of delivery. If postal systems have to be used then special delivery mail must be used.

5 Handling Complaints

If you receive a complaint about a disclosure made under SAR you must review how you handled the request, taking into account any specific concerns from the requester.

For a disclosure to be fully compliant it must be:

- made within the statutory timeframe one month for a standard SAR and three months for a complex SAR. You must have made the requester aware before the first month has elapsed if you are claiming the additional time for a complex SAR.
- provided securely
- easy to access and retain in a permanent form
- contain the supplementary information (see section 4)
- include all the requested information unless an exemption applies
- contain an explanation any exemptions applied in your disclosure

If IGS have redacted the disclosure you can discuss any complaint with them.

You must provide a response to the complainant, whether upholding the complaint and providing a resolution, or advising you have fully complied with the law. If they remain dissatisfied they are able to ask the ICO to review your decision. The contact details for the ICO must be provided with the disclosure information and complaint response.

6 Advice and Support

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 your Data Protection Officer. For more information and advice on processing subject access requests, please go to www.ico.org.uk

7 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.

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Appendix A: Standard Responses

Response Type	Explanatory note	Embedded Document
Application Form	To capture information you need in order to process a request, including asking for ID	SAR Application Form.docx
Background Information Form	To be completed by the school to capture background information about the request to enable us to make appropriate redactions	SAR Background Information
Internal Request for Information	Request to internal staff for data subject to a SAR held by them outside the school main systems	SAR Internal Request for Information.docx
Acknowledgement Letter	To acknowledge that the request is underway, and that ID has been received and verified	SAR Acknowledgement Le
Child Consent Form	To gain the student's consent	SAR Child Consent Form.docx
Complexity Decision Letter	The request is large and complex requiring additional time to complete	SAR Complexity Decision Letter.docx
Disclosure Letter	A covering letter when disclosing personal data to the requestor	SAR Disclosure Letter.docx
Exemption Glossary	A glossary explaining exemptions which might be applied to a SAR disclosure	IGS Disclosure Glossary.docx
No Information Held Letter	Confirmation that the School holds no personal data relating to the request	SAR No Information Held Letter.docx

Appendix B: Parental Guide to SAR

Parents Guide to SAR

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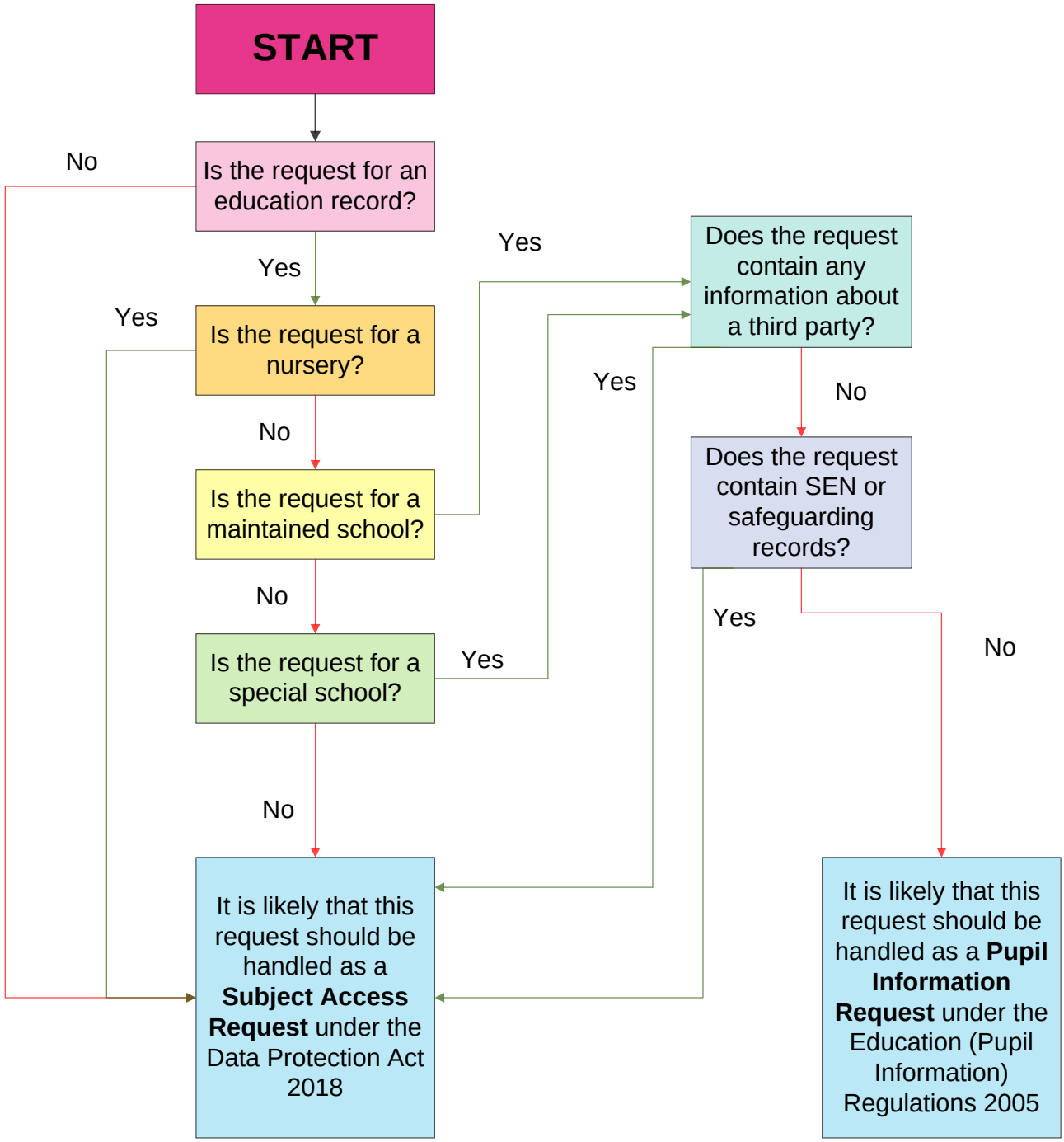
Appendix C: Subject Access or Pupil Information Request



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