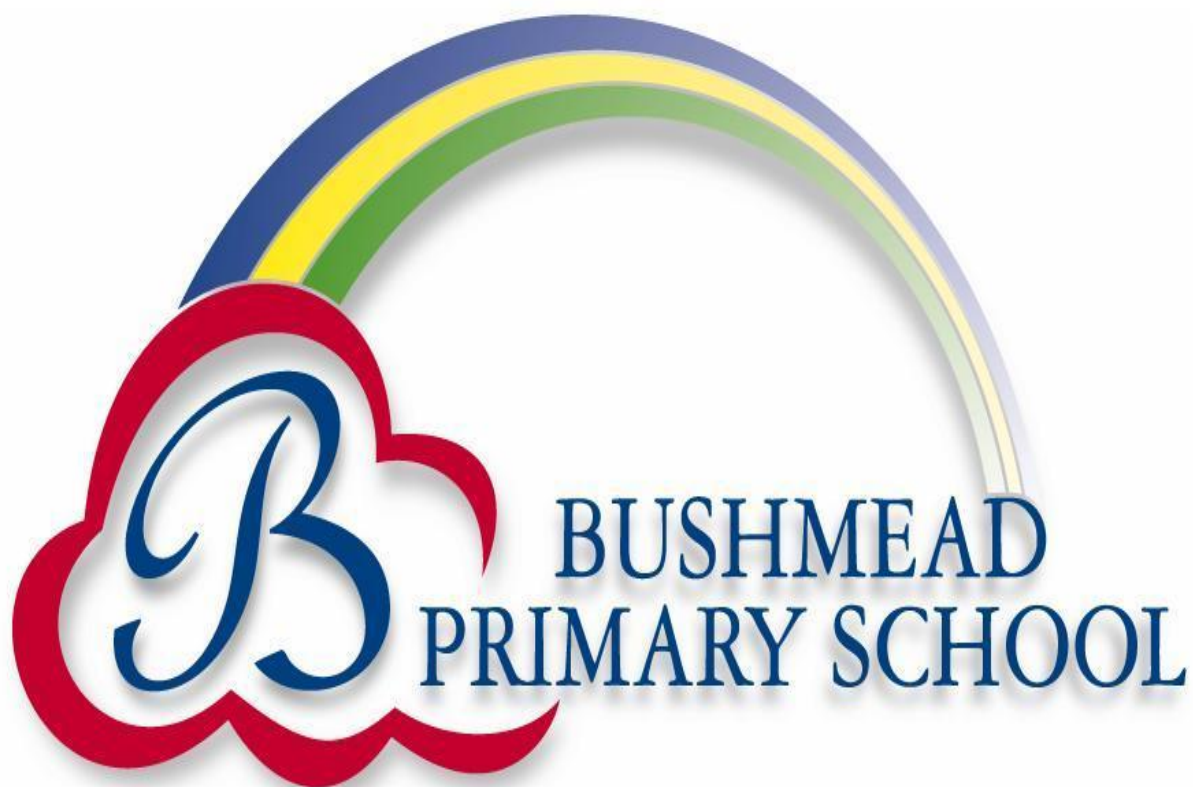


SUBJECT ACCESS REQUEST (SAR) POLICY



Owned and Written by	K Leech and Luton Borough Council	Date September 2022
Approved by	Full Governing Body	Date 28.11.22
Date for Review	Summer 2024	
This policy reflects the General Data Protection Regulation (UK GDPR) and Data Protection Act 2018.		

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Introduction and purpose

The Data Protection Act 2018 gives individuals rights of access to their personal records held by Bushmead Primary School. Subject access is a fundamental right for individuals but it is also an opportunity for the school to provide excellent customer service by responding to Subject Access Requests (SARs) efficiently and transparently and by maximising the quality of the personal information you hold. This policy explains how the school will fulfil its obligations under the Act.

Policy Statement

The school regards the Act as an important mechanism in achieving an honest, safe and open relationship with its students and employees.

Subject access is most often used by individuals who want to see a copy of the information the school holds about them. However, subject access goes further than this and an individual is entitled to be:

- Told whether any personal data is being processed;
- Given a description of the personal data, the reasons it is being processed, and whether it will be given to any other organisations or people;
- Given a copy of the personal data; and
- Given details of the source of the data (where this is available).

An individual can also request information about the reasoning behind any automated decisions taken about him or her, such as a computer-generated decision for benefit or a grant entitlement, or an assessment of performance at work.

The aim of this policy is to ensure that the school complies with its legal obligations under the Data Protection Act 2018 and can evidence that we have done so. It also aims to ensure that:

- There are robust processes in place for dealing with SARs, saving time and effort;
- There is an increased level of trust and confidence by being open with individuals about the personal information held;
- There is transparency of activities in line with public policy requirements.

Scope of the Policy

This document outlines how an applicant can make a request for their personal information under the Act and how it will be processed.

This is not a legal document. It does not confer rights nor override any legal or statutory provisions which either require or prevent disclosure of personal information.

This document takes into account the key features of the Act and outlines how the school will take steps to ensure compliance in relation to requests for personal information.

Requests for access to the records of people who are deceased are not within scope of this Policy as the Act only applies to the data of living individuals. Such requests will be treated as requests for access to information under the Freedom of Information Act or as miscellaneous requests, depending on the nature of the data and the reason the data is being requested.

Key Definitions

Subject Access Request or SAR	<p>A request for access to data by a living person under the Act is known as a Subject Access Request or SAR. All records that contain the personal data of the subject will be made available, subject to certain exemptions.</p>
Freedom of Information Request or FOI.	<p>A request for access to data held is dealt with under the Freedom of Information Act 2000 and is known as a Freedom of Information Request or FOI. Requests for the data of deceased people may be processed under this legislation.</p>
Personal Data	<p>Personal data means data which relates to a living individual who can be identified directly or indirectly from the data, particularly by reference to an identifier.</p> <p>Personal data can be factual (such as a name, address or date of birth) or it can be an opinion (such as a performance appraisal).</p>
Special Category Data	<p>Certain personal data, special category data, is given special protections under the Act because misuse could create more significant risks to a person's fundamental rights and freedoms. For example, by putting them at risk of unlawful discrimination. Special category data includes:</p> <ul style="list-style-type: none"> ● a person's racial or ethnic origin; ● political opinions; ● religious or similar beliefs; ● trade union membership; ● physical or mental health or condition or sexual life; ● biometric or genetic data.
Data Controller	<ul style="list-style-type: none"> ● The organisation which determines the purposes and the manner in which any personal data is processed is known as the data controller. The school is the data controller of all personal data used and held within each part of the school
Data Processors	<ul style="list-style-type: none"> ● Organisations or individuals who process personal data on behalf of a data controller are known as data processors. Employees of data controllers are excluded from this definition but it could include suppliers which handle personal data on our behalf.
Data Subject	<ul style="list-style-type: none"> ● A living individual who is the subject of personal data is known as the data subject. This need not be a UK national or resident. Provided that the data controller is subject to the Act, rights with regards to personal data are available to every data subject, wherever their nationality or residence.
Third Party	<ul style="list-style-type: none"> ● An individual who is not the subject of the data but may be connected to or affected by it is known as a third party.

Relevant Professional	<ul style="list-style-type: none"> The practitioners who supply information held on Social Services records, and various other medical and educational records. A relevant professional will consider where disclosure is likely to cause serious physical or mental harm to the applicant or any third party.
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Roles and Responsibilities

Adhering to the Data Protection Act 2018 is the responsibility of every member of staff acting for or on behalf of the school. Subject Access requests fall within the data protection statutory framework and the ability to identify and appropriately handle a request for information is considered to be part of every employee's role.

Staff Specific Roles and Responsibilities

Headteacher	Ms J Travi holds overall responsibility for compliance with the Act.
Data Protection Officer (DPO)	Mr K Leech has responsibility for the management of Subject Access Requests; this includes dealing with complaints from the Information Commissioner's Office, general compliance issues and data subject queries and concerns. Ensures that SARs are responded to in a timely manner and that only data that the data subject is entitled to access are sent out. Also responsible for completing a double check of all SAR's before they are securely dispatched.
Employees	All employees, including temporary staff, must understand their duty of care to ensure the confidentiality of all personal data. In addition they must have an understanding of this policy and where to direct individuals enquiring about subject access requests.

How can an individual make a SAR?

A valid SAR must always be made in writing. Most SAR requests are made by parents and members of staff via email or post. SARs should be made for the attention of the school's DPO (Mr K Leech).

It is quite common that a request for personal data can be linked with a complaint, or a Freedom of Information request.

NOTE: No matter how a request is received there is no requirement for the requester to mention either the Data Protection Act or Subject Access for it to be a valid request. In some cases the requester may even state the wrong legislation e.g. Freedom of Information Act, but the request will still be valid.

Either way, it is the responsibility of the staff member dealing with the request to appropriately recognise a request as one for personal data, i.e. information relating to the requester, and process it accordingly. Failing to recognise a SAR is not an excuse for non-response and the school will still

fall foul of the Data Protection Act should a response not be provided in a prompt and appropriate manner.

Can individuals request personal information on behalf of another person?

Yes they can. The Act allows for an individual to make a request on behalf of another person. This may be a solicitor acting on behalf of the individual, a parent making a request for their child's information, a third party making the request for someone who has limited capacity, or indeed many other reasons. However, whilst the Act allows us in certain circumstances to process a request in this way, there are a number of considerations and checks that need to be undertaken before processing a request which is made on behalf of another person. To ensure the security of personal information that is held, we must confirm identity before processing the request. For example, a parent is not necessarily automatically entitled to information about their children. They must have parental responsibility for the child. One parent does not have the power to consent or to refuse a request made by another parent who has parental responsibility.

How long do we have to respond?

The school has a maximum of a month starting from the day the request and identification (if required) is received. This is a statutory requirement which must be adhered to. In exceptional circumstances an extension can be agreed.

What do I do if I receive a request?

In practice, if someone wants to see a small part of their data (an exam result or written consent); you need to apply common sense. You should not require a formal SAR if the individual can prove their identity, the information is readily available there and then, and no other third party data will be unreasonably released. Such requests should be dealt with quickly, as business as usual and with little formality.

All other ("non-routine") requests for personal data which are likely to take a reasonable amount of resource must be directed to the DPO -

Can I provide all information found relating to the data subject?

The simple answer is no.

The school must consider whether it is possible to comply with the SAR without revealing information that relates to and identifies a third party individual or any other exempt information.

Examples of third party information that cannot be shared routinely without specialist consideration are:

- Safeguarding concerns which may contain information about multiple children including siblings and estranged parents
- Files containing legally privileged information
- Files containing advice from relevant professionals such as doctors, police or probation services
- Employee files containing information identifying managers or colleagues who have contributed to (or are discussed in) that file.

Special consideration should be given to sharing this type of information.

What is a double check?

Before a SAR is sent out to the data subject Senior Management are required to carry out a double check. This is done to ensure that all third party data has been removed appropriately and that any documents have been redacted appropriately.

Third party data sent out in error to the wrong person constitutes a data breach under the Data Protection Act 2018 and can have very serious consequences for the school.

Senior Management are responsible for completing a double check of the information to be provided to the data subject.

NOTE: Occasionally schools will outsource the redaction of SARs to a third party provider such as LBC's IG team, a solicitor or barrister. A double check of the work completed must be carried out by Senior Management before any documents are sent out to the data subject. This is to ensure that the work is completed to the standards expected by the school.

How is a SAR responded to?

Once all of the information has been collated (duplicates and third party information has been removed or redacted and a double check has been carried out) the information will be provided either in paper copy, electronically or during a meeting with the Data Subject and sent securely.

The school is required to provide the copies in a format requested by the data subject.

Complaints

The school will provide a right of complaint to all applicants in the event they are dissatisfied with the handling of their request. If an applicant is unhappy with the service they have received they should firstly contact the Headteacher (Ms Travi).

If the applicant is dissatisfied with the content of the information they have received they should also make a complaint in writing to the Chair of Governors. If an applicant remains dissatisfied with the outcome of their Stage 1 complaint, the school should seek advice from the Data Protection Officer at LBC.

The Data Protection Officer will make an independent assessment of the case. If the applicant remains dissatisfied they may ask the Information Commissioner's Office to carry out an independent investigation.

Review of the Policy

This policy will be reviewed as a minimum every 2 years to ensure that the school meets statutory requirements and any codes of practice made under the Act.