



SUBJECT ACCESS REQUEST PROCEDURE

INTRODUCTION / OVERVIEW

1. The GDPR extends to all data subjects a right of access to their own personal data. This is known as a Subject Access Request (SAR). A formal request from a data subject for information that a school holds about them must preferably be made in writing or electronically. A school can invite a data subject to complete a form but cannot insist that they do so. A subject access request can be made by anyone including pupils, parents, staff, governors and members of the public.
2. It is important that all members of staff are able to recognise that any written request made by a person for their own information is likely to be a valid subject access request, even if the individual does not specifically use this phrase in their request or refer to the GDPR. In some cases, an individual may mistakenly refer to the "Freedom of Information Act" but this should not prevent the school from identifying the request as being made under the GDPR if appropriate. Some requests may be a combination of a subject access request for personal data under the GDPR and a request for information under the Freedom of Information Act 2000 ("FOIA"). Requests for information under the FOIA must be dealt with promptly and in any event within 20 school days.
3. Any member of staff who receives a written request for personal data must immediately forward it to the school DPO as the statutory time limit for responding under the GDPR is **one calendar month** from receipt. Previously under the Data Protection Act 1998, Data Controllers had 40 calendar days to respond to a request. The timescales for responding **do not pause** when the school is closed for holidays, unlike the FOIA.
4. A fee may no longer be charged to the individual for provision of this information (previously a fee of £10 could be charged under the Data Protection Act 1998). The school must provide a copy of the information free of charge. However, it is possible to charge a 'reasonable fee' when a request is "manifestly unfounded or excessive", particularly if it is repetitive. It is advisable for the school to consult any guidance issued by the Information Commissioner's Office (ICO) on what is deemed to be "manifestly unfounded or excessive" before relying on this exemption, particularly as it is likely to be a high threshold to satisfy.

The school may also charge a reasonable fee to comply with requests for further copies of the same information. This does not mean that the school can charge for all subsequent access requests.

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

5. The school may ask the Data Subject for reasonable identification so that they can satisfy themselves about the person's identity before disclosing the information.

6. In order to ensure that people receive only information about themselves it is essential that a formal system of requests is in place. Certain information may be exempt from disclosure so it will be necessary to consider the exemptions that might apply. In practice, this means that the school may be entitled to withhold some documents entirely or may need to redact parts of them. Care should be taken to ensure that documents are redacted properly. Please seek further advice or support from the school's DPO if unsure which exemptions apply.
7. Requests from pupils who are considered mature enough to understand their rights to access their data should be processed as a subject access request and the data should be given directly to the pupil (subject to any exemptions that apply under the Act or other legislation). It may be reasonable to adopt a presumption that by the age of 13 a child has sufficient maturity to understand their rights and to make an access request themselves if they wish. In every case it will be for the school, as data controller, to assess whether the child is capable of understanding their rights under the Act and the implications of their actions, and so decide whether the parent needs to make the request on the child's behalf. A parent would normally be expected to make a request on a child's behalf if the child is younger than 13 years of age (subject to any court orders which may be in place).
8. Subject access requests from parents in respect of their own child where a child does not have sufficient maturity to understand their rights should be processed as requests made on behalf of the data subject (the child), subject to any court orders which may be in place. Where the school considers the child to be mature enough to understand their rights to request their data following receipt of a request from a parent, the school trust should ask the child for their consent to disclosure of the personal data (subject to any enactment or guidance which permits the school to disclose the personal data to a parent without the child's consent). Subject to the paragraph below, if consent is not given to disclosure, the school should not disclose the personal data if to do so would breach any of the data protection principles. Subject to some exceptions, schools can usually continue to share information about pupils with parents in the context of the day to day running of the school without needing to obtain pupils' consent. The reference to obtaining consent in this paragraph applies if a parent has made a subject access request for their child's personal data and the child is mature enough to exercise their own rights. If the school is unsure what to do in these circumstances, they should obtain legal advice.
9. It should be noted that the Education (Pupil Information) (England) Regulations 2005 give parents of children who attend maintained schools a right to access their child's educational records. This means that if a parent of a child at a maintained school submits a written request for a copy of their child's educational record, the school must respond within 15 school days. This is a separate statutory right that parents have aside from the DPA 2018, subject to any court orders which may be in place.
10. As the Education (Pupil Information) (England) Regulations 2005 do not apply to academies, requests for educational records from parents of children who attend academies must be dealt with under the DPA 2018 (as outlined above). This is without prejudice to the obligation on the academy trust in the Education (Independent School Standards) (England) Regulations 2014 to provide an annual report of each registered pupil's progress and attainment in the main subject areas taught to every parent (unless they agree otherwise in writing).



11. Following receipt of a subject access request, and provided that there is sufficient information to process the request, an entry should be made in the school/academy's subject access log book, showing the date of receipt, the data subject's name, the name and address of requester (if different), the type of data required (e.g. Student Record, Personnel Record), and the planned date for supplying the information (not more than one calendar month from the request date). Should more information be required to establish either the identity of the data subject (or agent) or the type of data requested, the date of entry in the log will be the date on which sufficient information has been provided.
12. In the context of a school a subject access request is often wrapped up in a broader complaint or concern from a parent or may be connected to a disciplinary or grievance for an employee. The school should therefore ensure that the broader context is taken into account when responding to a request and seek advice if required on managing the broader issue and the response to the request.

This overview is not intended to be an exhaustive statement of the law and should not be relied on as legal advice to be applied to any particular set of circumstances. Instead, it is intended to act as a brief introductory view of some of the legal considerations relevant to the subject in question.