

DATA SUBJECT ACCESS REQUEST POLICY

Learning Academies Trust

Version: 2.0
Approved by: Apex HR
Last review date: 22 November 2022

Ratified date: 16th March 2023
Next review date: 31st March 2024



CONTENTS

1. Overview	2
2. Children & Subject requests	2
3. Recognising SARs	3
4. Responding to SAR's	3
5. Processing SARs	4
6. Restrictions and Exemptions on SARs	4
7. Providing your Data	5
8. Declining and Appealing Requests	5

CHANGES

Policy date	Summary of change	Author	Version	Review date
01/12/2018	Policy has been created	Kay Mabin, CFO	1.0	01/12/2019
22/11/2022	Removed exemption appendix and provided more details on exemptions under section 6	Apex HR Ltd	2.0	22/11/2023

1. OVERVIEW

1.1. Under Data Protection Laws 2018, individuals have a right to access their personal data. This is known within the Data Protection Law 2018 as a Subject Access Request [SAR]. The school has a legal obligation to adhere to all requests made by individuals. Individuals have the right to know what data is being held which may include:

- Confirmation of their personal data
- Access to a copy of the data
- The categories of personal data concerned
- Who the data has been, or will be, shared with
- How long data will be stored for and/or the criteria that determines this
- Whether any automated decision- making is being applied to their data

1.2. It is important to ensure that individuals who make a SAR are given the data they are entitled to under the Act, it is equally important that data:

- i. Of another individual (including children)
- ii. That may cause serious harm to the physical or mental health of the applicant or another individual
- iii. That are generated for the purpose of legal advice

and information relating to that data is not inadvertently or inappropriately disclosed. Part 4 of the Act sets out various exemptions and restrictions to the requirement of Subject Access Requests. Exemptions will be strictly applied in accordance with the Act.

Subject access requests can be requested verbally or in writing by completing a form or writing a letter either by

paper form or email and forwarded to the appointed DPO.

2. CHILDREN & SUBJECT REQUESTS

- 2.1 Personal data about a child belongs to that child, and not the parents or carers. Children under the age of 12 are considered not to be mature enough to understand their rights and the implications of a SAR. Therefore, most SAR requests from Parents or carers of pupils at our school may be granted without the express permission of the pupil. (This is not a rule and a pupil's ability to understand their rights will be judged on a case-by-case basis)
- 2.2 If the judgment that a child has capacity and maturity in their own right, the parent/carer should be notified of whom made the SAR on behalf of the child and inform them that they will only directly respond to that child if they make a SAR in their own right.
- 2.3 A child who has sufficient capacity and maturity and the ability to understand the implications of making a SAR, are therefore entitled to the same rights of subject access as an adult and the rights of their personal data.
- 2.4 On the judgement that the child does not have capacity and maturity to make their own request, the school must be satisfied that the SAR requested will be for the benefit of the child rather than the person who is making the request.
- 2.5 Where a SAR has been made by someone with parental responsibility, but who does not have primary care responsibility, i.e does not have residence rights, the appointed person should notify the primary care responsibility that the SAR has been made and the school will respond to the request in accordance to the Act. If the primary care responsibility decides to take action to prevent or limit the response by the school, further legal advice may be sought by the appointed person.

3. RECOGNISING SARs

All staff are responsible for recognising any SARs, whether or not it is expressly stated to be one.

- I. Example; Individuals may merely request copies of all data relating to them, sometimes this may be part of a complaint.
- II. Example; Individuals may request information relating to their son or daughter in relation to discipline or progress in school.

All staff are responsible for immediately forwarding the SAR onto the Office Manager and/or Data Protection Officer. It the responsibility of the Office Manager and/or Data Protection Officer to process the request.

4. RESPONDING TO SAR'S

- 4.1 It is important to us to ensure that the SAR complies within the Data Protection Laws, and we hope you will understand that when you submit a request, it is our duty of care to ensure we are responding to the rightful owner of that data. Therefore, before we can start to process the request, we will need proof of identity. Please refer to 4.3 for more information. Your request will only start to be processed from the receipt of the written request and the satisfactory receipt of two forms of identity, either for a personal request or a request on behalf of someone else.
- 4.2 The School is not obliged to comply with a SAR until an applicant has provided the necessary supporting items.
- 4.3 When we receive a SAR, we:
 - May ask for the individual to provide 2 forms of identification- usually valid photo ID and a utility bill to confirm address (within 3 months) and/or change of name documents.
 - Will ask to confirm relationship to child, if requesting on behalf of a child- usually a birth certificate, adoption/fostering records.
 - Will follow up initial request with a telephone call to check the request was made- usually within 24hours, process will not begin unless confirmation has been made.

- Will make a judgment on time frame of request from the information requested- usually you will be notified within the month if the request cannot be processed within the expected 1-month period and extended time is required, this could be up to 3 months.

5. PROCESSING SARS

- 5.1 SARS will be responded to within one month of receipt of written request and ID documents, e.g. if a request was received on 3/9/22 you will receive a response by 3/10/22, if this falls on a weekend or bank holiday, you will receive it by the next working day. If the request is deemed excessive, complex or numerous copies are requested, this time frame may be extended to 3 months. You will be notified within one month and an explanation of this extension will be given. Throughout the processing of your request we may need to contact you for further information.
- 5.2 If the information requested reveals information about a third-party, details will be required to be removed before completion of your request or, consent will be sought from the third party. You will be notified if there is likely to be any delay in the process of your request (Refer to Clause 6 on restrictions and exemptions).
- 5.3 Information we will not permit to disclose:
- Information that may cause serious harm to the physical or mental health of the pupil or another individual
 - If the information would reveal that the child is at risk of abuse, where the disclosure of that information would not be in the best interest
 - If the information is contained in adoption or parental order records
 - Is given a court order in proceeding concerning the child.
- 5.4 As stated above, some information may be refused in some circumstances due to legal or regulatory restrictions or exemptions (refer to clause 6. for restrictions and exemptions). Additionally, information may be refused due to record retention obligations, any information previously held may have already been destroyed, erased or your personal data made anonymous. When we refuse a request, we will explain to the individual why, and notify them they have the right to complain to the ICO (Information Commissioner’s Office).
- 5.5 While initial and reasonable requests are now free of charge, if frequent requests of the same information or multiple or excessive copies are requested a reasonable administrative charge may be applied.

6. RESTRICTIONS AND EXEMPTIONS ON SARS

- 6.1 In certain SARS there may be some restrictions applied in relation to third party data. Other restrictions may apply in identifying data tests and consulting with other professionals to protect the disclosing of the data.
- 6.2 Two categories of exemptions that may apply to personal data processed by the schools are;
- I. Category A- Principle Exemptions- these exemptions relate to all records (including reports) processed by the Schools.
 - II. Category B- Exemptions- these may apply in rare circumstances in all processing of data.

Category of Exemptions	
Category A	Category B
Health Data* Social Work Data* Educational Records Data* Child Abuse Data Risk of Serious Harm	Crime and Taxation Legal professional privilege A request for the data of another Confidential References

*If complying with the right to access would be likely to cause serious harm or has been processed by a court. When determining the exemption considerations will be made on a case by case basis.

7. PROVIDING YOUR DATA

- 7.1 Any data that can be lawfully shared with you may be provided as a hard copy or forwarded electronically. Please ensure you have provided the necessary contact information upon your SAR application form, verbal or written request which indicates how you would like the data to be provided, either hard copy or electronic.
- 7.2 When submitting your data via hard copy you will receive a response sheet with your requested data attached. You will be expected to collect your requested data and when doing so you will be expected to confirm your identity again, using the original ID Documents you use to submit your request.
- 7.3 When submitting your data via electronic copy this will be sent via a link to the information. This link will be password protected. Your Password will be provided to you separately.

8. DECLINING AND APPEALING REQUESTS

- 8.1 After receiving the SAR request and further supporting information, the office manager and/or DPO will consider the information and the criteria in which it is being requested. If we decide the request does not satisfy the criteria regarding the SAR process, we will decline the SAR in the best interest of the individual.
- 8.2 We will notify you in writing and with an explanation as to why the SAR has been decline within the 1-month period.
- 8.3 If you are dissatisfied with the outcome of the SAR, you have the right to appeal against our decision. When doing so you will be required to appeal in writing within 5 days of our decision. When we receive your appeal, we will review your SAR and notify of the appeals decision within 1 month, this may be extended if required.
- 8.4 Upon review, if it is decided that our decision is upheld, and declining the request was the right decision, we will again notify you in writing and with an explanation. If you remain dissatisfied with the decision, you are within your rights to make a complaint to the Information Commissioner's Office <https://ico.org.uk/global/contact-us/>.