





# Subject Access Request (SAR) Policy

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<b>Ratified by Governing Body:</b>				
Sue Welford (Chair of Governors)	Insert Signature 	Insert Date  20/09/21		

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### Version History

Date	Version	Comments / Summary of Changes
July 2021	1.0	Draft version of policy

<b>Title</b>	Subject Access Request Policy
<b>Aim</b>	To state Rushey Mead Primary School's policy and to outline the approach to responding to requests for information
<b>Related documents</b>	Whistleblowing Policy Acceptable Computer Use Policy Freedom of Information Policy Data Protection Policy Safeguarding and Child Protection Policy Document Retention Schedule

# Subject Access Request Policy

Updated July 2021

## 1. Purpose

1.1 The purpose of this document is to describe the basic business process, and roles and responsibilities, for handling Subject Access Requests (SARs) within Rushey Mead Primary School.

## 2. Key definitions

2.1 "SARs" are requests for personal data from a Data Subject (the person that the personal data concerns) or from someone acting on behalf of the Data Subject. This may be a personal representative, i.e. a family member, a friend or colleague or someone acting in a professional capacity like a solicitor or an advisor (e.g. Citizen Advice, etc.). Note any written (including via social media) or verbal request by an individual asking for their personal information is a subject access request. If you can, treat requests that are easily dealt with as routine matters, in the normal course of business.

2.2 "Personal data" - Personal data only includes information relating to natural persons who:

- can be identified or who are identifiable, directly from the information in question; or who
- can be indirectly identified from that information in combination with other information.

Information about a deceased person does not constitute personal data and therefore is not subject to the UK GDPR.

Personal data also includes expressions of opinion, except that (Durant v FSA, 2003) courts have ruled that "mere mention of a data subject does not necessarily amount to personal data", if the person's personal, family, business or professional privacy is not compromised.

2.3 "Redaction" means to conceal or to remove and in this case, means the concealing or removing of data from the documents that we may disclose to the person making the request. There are reasons why we redact data, for example personal data in those documents that refer to other people.

## 3. Review

3.1 This document has been written to support the Data Protection Policy and other information gathering related documents and will be reviewed every year by Rushey Mead Primary School.

## 4. Business Process Overview and Scope

4.1 The SARs and Access to Deceased information requests received by Rushey Mead Primary School will be logged onto the SAR Tracker by the Business Manager.

4.2 Each request should be validated to make sure we know:

- a) what type of information is being requested, and
- b) that the person making the request is entitled to see the information before it is sent to them.

4.3 A pupil, member (or ex member) of staff, a volunteer or someone acting on their behalf, may make a SAR in respect of personal data held about that individual by the school.

4.4 There are two distinct rights to information held about pupils by school. They are:

- the pupil's right of subject access under the DPA; and
- the parent's right of access to their child's 'educational record'.
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(Please note: in England, Wales and Northern Ireland this right of access is only relevant to maintained schools - not independent schools, academies or free schools.)

4.5 *Timescales for returning SAR*

- a request to see (or have copies of) all personal data relating to a child / member of staff / volunteer must be responded to within 1 month.

## **5. Resourcing**

### **5.1 Log Requests**

5.11 The Business Manager will log the details of Subject Access Requests onto the SAR Tracker and assign each request with a reference number.

### **5.2 Accept Requests**

5.21 Before a request is accepted, the Business Manager will ensure the request states what information is required:

5.22 Two forms of identification of the data subject have been provided (one with current name and address, one with current name and date of birth):

5.23 If the applicant is a third party acting on behalf of the Data Subject, they will also need to ensure the following has been provided:

- One form of identification to prove who the requestor is. This only applies to private individuals like relatives, friends, etc., not someone working in a professional capacity, i.e. solicitor.

5.24 Proof of parental responsibility. This only applies if the applicant is requesting data about their child. This should be the child's birth certificate, adoption certificate or passport.

5.25 Signed letter of consent / power of attorney to allow disclosure of personal data to be made to someone other than the Data Subject.

### **5.3 Fee**

5.31 Rushey Mead Primary School does not charge for any Subject Access Requests.

### **5.4 Acknowledge the request**

5.41 If all the relevant information, ID and necessary documents have been provided, the request will be logged as open and an acknowledgement sent to the applicant to confirm the one-month deadline and to include the deadline date.

5.42 However, if any information is outstanding (i.e. identification documents), the Business Manager will log the request as pending and contact the applicant / requestor to confirm what is needed and that the request will be closed if there is no response within 90 days.

### **5.5 Closing requests**

5.51 The Business Manager will close a pending request if no reply is received from the applicant regarding any query by Rushey Mead Primary School (e.g. proof of ID) or the SAR is withdrawn by the applicant.

### **5.6 Record Keeping**

5.61 The Business Manager will log key details of the request on the SAR Tracker to make it easy to see progress, including correspondence with the applicant and recording any disclosure concerns.

5.62 The key emails and documents relevant to the request will be kept in sub-folders in the Subject Access mailbox, identified by a SAR reference number.

5.63 Rushey Mead Primary School will keep a copy of the response and decisions about disclosure until the end of the financial year + 3 years in line with the current retention schedule.

### **5.7 Apologies for late responses**

5.71 The Business Manager will contact the applicant if a response is likely to be later than the one-month limit. Contact is preferably by telephone first, followed by an email or letter.

## **6. Processing SARs**

### **6.1 Assess requests**

6.11 When a member of staff receives a request from a member of staff/parent/member of the public, the school should be able to start searching for and gathering the data being requested immediately.

6.12 However, if the request is unclear, or the school requires more information to make a reasonable and meaningful search (i.e. date of birth, key dates, previous addresses, etc.), then inform the Headteacher or Business Manager as soon as possible for them to consider changing the request to pending so that they may contact the applicant for further information. Contact is preferably by telephone first, followed by an email or letter.

6.13 If you receive a request directly from a pupil, parent, employee or other applicant, send the request straightaway to the Headteacher or Business Manager, who will log and acknowledge the request before any work is carried out.

#### 6.2 *Search for and gather information*

6.21 Staff identified by the Headteacher are responsible for searching and gathering the information being requested.

6.22 If personal data is held, it is recommended that a copy is made (electronic or paper) so that it can be checked to make sure it is relevant to the request and any redactions made before it is disclosed. **Never redact original documents.**

#### 6.3 *Check the information*

6.31 The Headteacher or Business Manager will check the personal data to make sure the data is about the data subject and / or if any exemptions apply, for example it contains data that cannot be disclosed because it identifies someone else or for legal, social care, health, or other reasons.

6.32 Deciding if information needs to be redacted can be difficult. For example, a document containing the name (s) of another person means you need to consider the following factors:

- The importance of the information to the applicant.
- Is the personal data generally known by the applicant already?
- Has the third party consented to the disclosure?
- Is it reasonable to disclose the personal data without consent?
- Do we owe any duty of confidentiality to the third party?
- Is the third-party capable of giving consent?
- Has the third party expressed any concern about disclosing their information?
- Is there any duty of confidentiality owed to the third-party (e.g. doctor, employer, solicitor, carer etc.)?
- Is there any harm to the applicant or the third party if the information is disclosed?

#### 6.4 *Ask for advice*

6.41 Rushey Mead Primary School can ask members of the team at BLS (acting as their Data Protection Officer) for help and advice if they have concerns about disclosing, redacting or withholding information. If there is a legal case open or pending, the council's legal services team will also need to be consulted.

#### 6.5 *Redact and withhold data*

6.51 The Headteacher or Business Manager will redact the copy of the data, not the original data.

6.52 There are several ways to redact documents, but the following is recommended:

- Get a hard copy of the data.
- Highlight the text that you intend to redact.
- Check with someone else if you need to, to confirm potential redactions.
- Scan the documents into PDF.
- Save the electronic redacted version (in case you need to reverse the redactions).
- Print a copy of the document to send to the applicant. Don't send them a digital copy of the redacted document because the redactions can be reversed. If necessary, scan the newly created redacted paper copy and then convert this into PDF before sending electronically.

6.53 Rushey Mead Primary School must document the reasons why it has redacted or withheld data and then record this on the SAR Tracker before it is sent to the applicant/data subject.

- 6.54 The applicant has the right to challenge any redactions and can ask the Information Commissioner's Office (ICO) to investigate further. The ICO has the authority to demand to see both the redacted and original versions.
- 6.55 It is recommended that the subject's hard copy is stamped / watermarked 'Data Subjects Copy' before it is released. This may help identify the source of any further disclosure of the information, should the need arise later.
- 6.6 *Send response*
- 6.61 The Headteacher or Business Manager will send the response to the applicant.
- 6.62 The Headteacher or Business Manager will document if the response is going to be later than the month with a reason why and a projected response date.
- 6.7 *Complaints or concerns*
- 6.71 A complaint about any response to a SAR will be logged and managed by the Headteacher or Business Manager, in line with the school's complaints procedure.
- 6.72 Examples of a SAR complaint that concern personal data are:
- That it is being held or used without the knowledge or consent of the data subject.
  - That it is being held for too long or not long enough,
  - That it is being shared inappropriately, not being accurate or not being given within statutory times.
- 7. Headteacher/Business Manager**
- 7.1 Will:
- Own the SAR process.
  - Own the Subject Access Request Tracker and provide guidance for its use.
  - Produce guidance to help people make a SAR and publish it on the internet and make it available in hard copy.
  - Produce a Model Letter to help with letters to applicants.
  - Provide advice and guidance to staff about disclosure and redactions.
  - Oversee the redactions being carried out to ensure they are carried out in line with the law.
  - Seek guidance and assistance from the DPO when required.
  - Handle all ICO correspondence.
  - Produce performance reports for the Governors.
  - Provide advice and support in regard to data protection-related complaints.
  - Escalate any serious concerns about the subject access process or performance to the Headteacher and DPO.
- 8. The Data Protection Officer**
- 8.1 Will:
- Help ensure Rushey Mead Primary School understands and complies with this SAR policy.
  - When required contribute to the development and implementation of information-related policies and procedures like this SAR policy.
  - Support the Headteacher and Business Manager when handling SARs.
- 9. Escalation**
- 9.1 Comments or feedback about this standard operating procedure can be sent to the Headteacher and/or Governors.

### Subject Access Requests

#### Introduction

Under the UK GDPR, children and staff have the right to access their personal data. This is done by means of a data Subject Access Request (SAR).

A subject access request does not have to follow a specific formula; if a parent or staff member makes a verbal request for information that the school might hold on them, this is a Subject Access Request.

In the first instance it is helpful to discuss with the person making the request, what information they are seeking. This initial conversation will give you an opportunity to explore and understand what the person is looking for and why.

#### Guidance for staff on responding to a subject access request

##### What must I do?

- On receipt of a subject access request you must forward it immediately to the Headteacher/Business Manager.
- We must correctly identify whether a request has been made / ensure that it is not being confused with the rights that people must request information under the Freedom of Information Act 2000.
- The Headteacher/Business Manager will direct staff to locate and supply information relating to a SAR and staff must make a full exhaustive search of the records to which they have access.
- All the information that has been requested must be provided unless an exemption can be applied.
- We must respond within one calendar month after accepting the request as valid.
- Subject Access Requests must be undertaken free of charge to the requestor.
- Where a requestor is not satisfied with a response to a SAR, Rushey Mead Primary School must manage this in accordance with our complaints policy.

##### Things to consider with a request.

If we receive a request, we need to ensure we understand what information is being requested and if the school holds that information.

The Data Protection Act permits and encourages us to clarify with the requester what information they need. They must supply their address and valid evidence to prove their identity. Rushey Mead Primary School accepts the following forms of identification:

- Passport or Photocard Driving Licence
- Official document (e.g. utility bill or bank statement) sent to the addressee, showing the requester's name and current address. This document should be less than three months' old. It is acceptable for this document to be in electronic format.

Depending on the degree to which information is organised and structured, you will need to search the following non-exhaustive areas: emails (including archived emails and those that have been deleted but are still recoverable), Word documents, spreadsheets, databases, systems, CCTV, removable media (for example, memory sticks, floppy disks, CDs), tape recordings, paper records in relevant filing systems etc. which you are responsible for or owns.

You must not withhold information because you believe it will be misunderstood; instead, you should provide an explanation with the information. You must provide the information in an "intelligible form", which includes giving an explanation of any codes, acronyms and complex terms. The information must be supplied in a permanent form except where the person agrees or where it is impossible or would involve undue effort. You may be able to agree with the requester that they will view the information on screen or

inspect files on our premises. You must redact any exempt information from the released documents and explain why that information is being withheld.

By ensuring that the Headteacher/Business Manager has logged the request, we can ensure that we respond within the statutory timescales.

As the time for responding to a request does not stop during the periods when the school is closed for the holidays, we will attempt to mitigate any impact this may have on the rights of data subjects to request access to their data by implementing a holding letter.

When responding to a complaint, we must advise the requester that they may complain to the ICO if they remain unhappy with the outcome.

**Please note**

Parent requesting letters for home office or benefits (DWP) purposes are **not** SARs. These letters are confirming a child's attendance. The letters are only confirming FACTUAL information for a third party. Follow the school protocol for this type of request.

**Subject Access Request Form (Written or verbal)**

**Reporting form**

<b>Name of staff who took the initial request</b>		
<b>Date of request</b>		
<b>Name of subject</b>		
<b>Please indicated if the subject is at the school or not</b>	<b>Currently at the school</b>	<b>Not currently at the school</b>
<b>If the subject is no longer at the school, please provide the date when the subject was at the school.</b>		
<b>Summary of the request</b>		
<b>Additional information, which is relevant to the request</b>		
<b>Who's has the responsibility of responding</b>		
<b>Reported to the Headteacher/Business Manager</b>	<b>Date</b>	
<b>Any other further actions</b>		
<b>Response completed</b>	<b>Date</b>	