

Statutory requests for information

Version 1: June 2018
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Approved by: Standards, Staffing and Curriculum
Next review: June 2019

Purpose

This policy is used for managing requests for information to comply with the Freedom of Information Act 2000 (FOI), the Environmental Information Regulations (EIR), and from 25th May 2018 the General Data Protection Regulations 2016. This policy will also include the procedure for responding to Subject Access Requests (SAR).

Principles

For all types of request for Information:

1. We must correctly identify the law which applies to the information being requested and manage the request in compliance with that law. Follow guidance and training to correctly identify whether the request should be handled under FOI, EIR or GDPR.
2. Information should be released unless there a strong legal justification for withholding it. The Acts are intended to make us more accountable to the public, to make our processes more transparent, and to encourage the public to trust us.
3. Whenever we refuse to provide information, we must clearly and fully explain the reasons why. We will not be obliged to provide all or part of the information requested if a legal justification applies. Ensure the employee making decisions about what can be released and drafting the response has access to legal guidance in order to make the response full and compliant with the law.
4. We must provide advice and assistance to people making a request. The Acts require us to assist requestors, especially where we may be considering refusing a request, in guiding the public on how to clarify or re-scope their request to achieve the best outcome. Discuss the likely response with the requestor if their request is likely to be refused and explain options that would help them receive as useful a response as possible within the limits of the law. Although we should not ask requestors what they intend to do with the information they have requested, we can explain what we do hold and what is likely to be disclosable to them.
5. We must always try to reply as quickly as possible, but always within the legal deadline. The laws provide statutory deadlines for responding to a request; FOI & EIR – 20 working days, GDPR from May 2018 – 20 working days. We must record performance against the statutory deadlines to ensure we are aware of how well we are complying with the law and to help make changes to processes if necessary.
6. All employees must promptly provide all relevant information to a request co-ordinator if asked for it. In order to comply with regulator and corporate targets for fulfilling requests, all employees have a role to play in making information relevant to the request available promptly so that a response can be drafted within the timescale. Make sure the information you manage is accessible and well structured so that you can retrieve it quickly when requested.
7. If we decide to charge for information, we must do so in accordance with a published policy. The law requires us to make clear the basis for charging to ensure that charges are fair and un-obstructive. We must tell requestors whether a charge applies before we provide the information. It is not lawful to charge for information without a published policy explaining the basis for arriving at a fee. In the absence of a published policy, charges are not made.

8. Where reasonable and practical, we must provide the information in the format requested by the applicant. We may refuse unreasonable demands and charge in certain cases, but in principle the requestor should be able to receive information in the way they specify. There must be strong prohibitive reasons not to provide information in a format that is within our ability to provide. Conversion to a new format is however different to having to significantly edit and rearrange information to make it legible in the format requested. Under the latter circumstances, a refusal may be valid but advice should be sought if unsure.
9. When we respond to a request, we must tell the requestor about our internal review process. It is a requirement of the act to have an internal review process. Where a requestor expresses dissatisfaction, this must be treated as a complaint. The ICO requires us to complete the internal review process before it will accept an escalation of a complaint to their office. We choose to manage complaints (known as Internal Reviews) within 20 working days. Where a simple error has been made in the response it may be that the issue can be resolved informally. If not, then a full review of how the request was handled is required. This must be undertaken by an employee who was not involved in drafting or approving the original request, although the employee drafting the response may discuss how the original request was handled with those involved.
10. When responding to a complaint, we must advise the requestor that they may complain to the ICO if they remain unhappy with the outcome. Ensure that the contact details for the ICO are provided to the requestor on any response documentation and explain when it is appropriate to escalate a complaint the ICO in order to make requestors aware of their rights.

Procedures for responding to subject access requests made under the GDPR 2016

Rights of access to information

There are two distinct rights of access to information held by schools about pupils.

1. Under the GDPR Act 2016 any individual has the right to make a request to access the personal information held about them.
2. The right of those entitled to have access to curricular and educational records as defined within the Education Pupil Information (Wales) Regulations 2004.

These procedures relate to subject access requests made under the GDPR Act 2016.

Actioning a subject access request

1. Requests for information must be made in writing, which includes email, and be addressed to the Headteacher. If the initial request does not clearly identify the information required, then further enquiries will be made.
2. 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
 - utility bills with the current address
 - Birth / Marriage certificate
 - P45/P60
 - Credit Card or Mortgage statement

This list is not exhaustive.

3. Any individual has the right of access to information held about them. However with children, this is dependent upon their capacity to understand (normally age 12 or above) and the nature of the request. The Headteacher should discuss the request with the child and take their views into account when making a decision. A child with competency to understand can refuse to consent to the request for their records. Where the child is not deemed to be competent an individual with parental responsibility or guardian shall make the decision on behalf of the child
4. The school may make a charge for the provision of information, dependent upon the following:
 - 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.
5. The response time for subject access requests, once officially received, is 20 working days. However the 20 days will not commence until after receipt of fees or clarification of information sought.
The period of compliance can be extended by a further two months where requests are complex or numerous. If this is the case, you must inform the individual within one month of the receipt of the request and explain why the extension is necessary.
6. The GDPR Act 2016 allows exemptions as to the provision of some information; **therefore all information will be reviewed prior to disclosure**.
7. Third party information is that which has been provided by another, such as the Police, Local Authority, Health Care professional or another school. Before disclosing third party information consent should normally be obtained. There is still a need to adhere to the 20 day statutory timescale.
8. Any information which 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.
9. If there are concerns over the disclosure of information then additional advice should be sought.
10. 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.
11. 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.
12. 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. The views of the applicant should be taken into account when considering the method of delivery. If postal systems have to be used then registered/recorded mail must be used.

Complaints

Complaints about the above policy should be made to the I.E.B/Chairperson of the Governing Body who will decide whether it is appropriate for the complaint to be dealt with in accordance with the school's complaint procedure.

Complaints which are not appropriate to be dealt with through the school's complaint procedure can be dealt with by the Information Commissioner. Contact details of both will be provided with the disclosure information.

Breach Statement

Breaches of Information Policies 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.

Contacts

If you have any queries or concerns regarding these policies/procedures then please contact Mr S Cox, Headteacher.

Signed: 
Head Teacher

Dated: 11th June 2018

Signed: 
Chair of Governors

Dated: 11th June 2018

Updated June 2018

