

Nascot Wood Infant and Nursery School



Subject Access Requests Policy (SAR)

Adopted by Governing Body on 24th May 2018

Signed: [Chair of Governors] Date:

Signed: [Headteacher] Date:



NASCOT WOOD INFANT AND NURSERY SCHOOL

SUBJECT ACCESS REQUEST POLICY



1. Policy Statement

- 1.1. The Data Protection Legislation is an important mechanism in achieving School and confidence between the School, their Data Processors and Data Subjects. It gives individuals rights of access to their personal records held by the School and the School. This policy explains how the school aims to fulfil its obligations under the Act.
- 1.2. The school will deal with each subject access request it receives in accordance with the provisions of this policy.

2. Definitions

- 2.1 *"The School"* means Nascot Wood Infant and Nursery School.
- 2.2 *"Data"* means Personal Data and Special Category Personal Data.
- 2.3 *"Data Controller"* is the person who or the organisation which determine the purposes for which, and the manner in which, any personal data is processed. They are responsible for establishing practices and policies in line with Data Protection Legislation.
- 2.4 *"Data Subject"* means all living individuals about whom the School holds Data. A Data Subject need not be a UK national or resident. All Data Subjects have legal rights in respect of their Data and the information that the School holds about them.
- 2.5 *"Data Processor"* means any person who or organisation which processes Data on behalf of the Data Controller including contractors, and suppliers and any third party whose work involves accessing or otherwise using Data held by the School. Data Processors have a duty to protect the information they process for and on behalf of the School by following this and other school policies at all times.
- 2.6 *"Data Protection Legislation"* means the General Data Protection Regulation (GDPR) and the Data Protection Act 2018.
- 2.7 *"Personal Data"* means any information relating to an identified or identifiable natural person (a data subject); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.
- 2.8 *"Processing"* means any activity that involves use of the data. It includes obtaining, recording or holding the data, or carrying out any operation or set of operations on the data such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction. Processing also includes transferring personal data to third parties.
- 2.9 *"Special Category Personal Data"* means information about a person's racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, physical or mental health or condition or sexual life, or genetic or biometric data.
- 2.10 *"Social Media"* means websites and applications that enable users to create and share content or to participate in social networking including Facebook, LinkedIn, Twitter, Google+, and all other social networking sites, internet postings and blogs. It applies to use of Social Media for School purposes as well as personal use that may affect the School in any way.
- 2.11 *"Subject Access Request"* ("SAR") means a request by an individual to the School pursuant to Article 15 of the GDPR.

3. Legal Framework

- 3.1 Article 15 of the GDPR provides an individual with a right to be informed on request whether or not Personal Data concerning them is being processed and if so to access to the Personal Data and the following information:
 - 3.1.1 the purposes of the Processing;
 - 3.1.2 the categories of Personal Data concerned;
 - 3.1.3 the recipients or categories of recipient to whom the personal data have been or will be disclosed, in particular recipients in third countries or international organisations;

- 3.1.4 where possible, the envisaged period for which the personal data will be stored, or if not possible, the criteria used to determine that period;
 - 3.1.5 the existence of the right to request from the Data Controller rectification or erasure of Personal Data or restriction of Processing of Personal Data concerning the Data Subject or to object to such Processing;
 - 3.1.6 the right to lodge a complaint with the Information Commissioner's Office;
 - 3.1.7 where the Personal Data are not collected from the Data Subject, any available information as to the source; and
 - 3.1.8 the existence of any automated decision making, together with additional information about such Processing where this is taking place.
- 3.2 Data may be withheld pursuant to a SAR where disclosure may cause serious harm to the Data Subject or any other person. This exemption relates only to health, social care, and education Data.
- 3.3 The School, as appropriate, is also exempt from disclosing third party Personal Data unless the third party has consented to their Personal Data being disclosed or it is reasonable in all the circumstances for the third party's Personal Data to be disclosed without their consent.

4. Making a SAR to the School and the School

- 4.1 The School request that any SARs are made in writing. This will enable the School to properly understand the nature and extent of a SAR and to provide an appropriate and sufficient response. The School and the School consider 'in writing' to include communications by post, fax, and email and on Social Media sites to which the School and the School subscribe.
- 4.2 SARs should be sent to the contact details in Appendix 1.
- 4.3 SARs made via Social Media will be responded to by post unless the Requester indicates that they would prefer to receive the response by email.

5. Confirming the identity of the Requester

- 5.1 In order to minimise the risk of accidentally sending the Personal Data of an individual to a third party and to avoid data breaches, where the School receives a SAR and it is not satisfied as to the identity of the Requester, it will take the steps set out at 5.2 below to satisfy itself as to the identity of the Requester.
- 5.2 In satisfying itself as to the identity of the Requester, the School may ask the individual to verify their identity before responding to the request by asking the Requester to attend a specified place or sending a certified copy of photographic identification such as a passport or driving licence.
- 5.3 If the School or the School, as appropriate, is not satisfied as to the identity of the Requester then the SAR will not be complied with, so as to avoid the potential for an inadvertent disclosure of Personal Data resulting in a data breach.

6. Sharing Information with Third Parties

- 6.1 Data subjects can ask that their personal data with another person such as an appointed representative (in such cases written authorisation signed by the data subject confirming which of their personal data they would like to be shared with the other person is requested).
- 6.2 Equally if a request is made by a person seeking the personal data of a data subject, and which purports to be made on behalf of that data subject, then a response must not be provided unless and until written authorisation has been provided by the data subject. The School will not approach the data subject directly but will inform the requester that it cannot respond without the written authorisation of the data subject.
- 6.3 If the School is in any doubt or has any concerns as to providing the personal data of the data subject to the third party, then it will provide the information requested directly to the data subject. It is then a matter for the data subject to decide whether to share this information with any third party.
- 6.4 Personal data belongs to the data subject, and in the case of the personal data of a child regardless of their age the rights in relation to that personal data are theirs and not those of their parents. Parents, in most cases, do not have automatic rights to the personal data of their child.
- 6.5 However there are circumstances where a parent can request the personal data of their child without requiring the consent of the child. This will depend on the maturity of the child and whether the School is confident that the child can understand their rights. Generally where a child is under 12 years of age they are deemed not to be sufficiently mature as to understand their rights of access and a parent can request access to their personal data on their behalf.

6.6 In all cases the School will consider the particular circumstances of the case, and the above are guidelines only.

7. SARs made by third parties

- 7.1 Data subjects can ask that the School to share their personal data with another person such as an appointed representative (in such cases the School will request written authorisation signed by the data subject confirming which of their personal data they would like the School to share with the other person).
- 7.2 Equally if a request is made by a person seeking the personal data of a data subject, and which purports to be made on behalf of that data subject, then a response will not be provided unless and until written authorisation has been provided by the data subject. The School will not approach the data subject directly but will inform the requester that it cannot respond without the written authorisation of the data subject.
- 7.3 If the School is in any doubt or has any concerns as to providing the personal data of the data subject to the third party, then it will provide the information requested directly to the data subject. It is then a matter for the data subject to decide whether to share this information with any third party.
- 7.4 Personal data belongs to the data subject, and in the case of the personal data of a child regardless of their age the rights in relation to that personal data are theirs and not those of their parents. Parents, in most cases, do not have automatic rights to the personal data of their child.
- 7.5 However there are circumstances where a parent can request the personal data of their child without requiring the consent of the child. This will depend on the maturity of the child and whether the School is confident that the child can understand their rights.
Generally where a child is under 12 years of age they are deemed not to be sufficiently mature as to understand their rights of access and a parent can request access to their personal data on their behalf.
- 7.6 In all cases the School will consider the particular circumstances of the case, and the above are guidelines only.

8. Clarification of the Request

- 8.1 Where it is unclear what Data is being sought by way of the SAR, the School will contact the Requester to provide further clarification as to the information being requested.
- 8.2 In clarifying the request, the School will contact the Requester by telephone, writing or email and ask for additional information to assist in determining whether any Data is being held and, if so, locating where that Data is being held.

9. Fees

- 9.1 The School will usually deal with a SAR free of charge.
- 9.2 Where the request is considered to be manifestly unfounded or excessive a fee may be requested. Alternatively the School may refuse to respond to the request. If a request is considered to be manifestly unfounded or unreasonable the School will inform the requester why this is considered to be the case.

10. Time Limits

- 10.1 The School will respond to a SAR promptly and in any event no later than one calendar month from the date of the request or receipt of appropriate identification or clarification of a request where appropriate.
- 10.2 Where it is not possible to respond within one calendar month, the School will contact the Requester in writing to advise that it will not be possible to respond fully within the one calendar month time scale and provide a new timescale for responding to the SAR.
- 10.3 In relation to complex requests the response period may be extended by two calendar months. What constitutes a complex request will depend on the particular nature of the request. Where a request is considered to be sufficiently complex as to require an extension of the period for response, the Requester will be notified within one calendar month of receiving the request, together with reasons as to why this is considered necessary.

11. Responding to a SAR

- 11.1 In responding to a SAR, the School will search the following databases for the Data of the Data Subject:
 - (a) Manual and other paper records held by the School or the School.
 - (b) Electronic records including databases and emails including the inbox, outbox, subfolders and deleted items.

- 11.2 The School will consider whether any of the Data held is subject to any of the exemptions set out in the Data Protection Legislation or whether the Data requested should otherwise be withheld.
- 11.3 In so far as the School is able to disclose then the Requester will be provided with the information set out at paragraph 3.1 above.
- 11.4 In responding to a SAR, the School will in so far as is reasonable provide the information in the format required by the Requester and will take reasonable steps to ensure the information can be understood by the average person.
- 11.5 If the School does not hold any Data of the Requester, it will respond to the SAR to this effect.
- 11.6 In responding to a SAR, the School will only provide third party Personal Data in accordance with paragraph 14 of this policy.
- 11.7 Where any of the exemptions in the Data Protection Legislation apply in relation to Data held by the School it will not disclose that Data to the Requester.
- 11.8 If Personal Data is withheld pursuant to an exemption then where appropriate the Requester will be informed in writing that Data has been withheld due to the application of an exemption, set out the nature of the exemption and give reasons as to why the School considers that that exemption applies.
- 11.9 Where the School receives a SAR and some Data is exempt from disclosure and others not, where practicable the School will redact the information which is exempt from disclosure and provide the remainder to the Requester.
- 11.10 If it is not possible for the exempt information to be redacted then, where possible, the unreacted information will be extracted and forwarded to the Requester.
- 11.11 Where the School cannot provide the Data requested in a permanent format, necessary arrangements will be made for the Requester to inspect the Data being processed.

12. Third Party Information

- 12.1 Where the School receives a SAR and the Data of the Requester contains the Personal Data of a third party, the School will not disclose the third party's Personal Data unless the third party consents to the disclosure or it is reasonable in all the circumstances to disclose the Personal Data of third party without their consent.
- 12.2 In determining whether it is reasonable in all the circumstances to disclose third party Personal Data in responding to a SAR, the School will consider the following:
 - a. Any duty of confidentiality owed by the School to the third party.
 - b. The steps taken in trying to obtain the consent of the third party.
 - c. Whether the third party is capable of providing consent for their Personal Data to be released.
 - d. Any express refusal of the third party to not disclose their Personal Data.
 - e. Whether any of the third party Personal Data is already known by the Requester.
 - f. The circumstances which gave rise to the request.

13. Disproportionate Effort

- 13.1 The School may decide not to provide Data pursuant to a SAR if to do so would involve a disproportionate effort.
- 13.2 In determining whether responding to a SAR will involve disproportionate effort, the School will consider the time, costs and any technical expertise required to respond to the SAR.
- 13.3 Where responding to the SAR will involve a disproportionate effort, the School will consider refusing to deal with the request unless the Requester amends his request, for example by providing search terms in order to narrow the scope of that request.

14. Repeated Requests

- 14.1 The School cannot limit the number of SARs which can be made by an individual, however where there has been no reasonable interval between a previous request and the new request the School may refuse to respond to the Requester.
- 14.2 In determining whether a request has been made at a reasonable interval, the School will consider the following:
 - a. Whether any new Data about the Data Subject has been Processed by the School and how often any Data being Processed is altered.
 - b. The nature of the Data being requested, including the Data's sensitivity.

c. Whether any processing is likely to cause harm to the Requester in Processing the Data.

14.3 If the School does not intend to deal with the request on grounds that a reasonable interval has not passed since the previous request, it will inform the Requester of this in writing within the time limit set out in paragraph 11 above.

14.4 Where additional copies are requested of information then the School may charge a reasonable fee based on administrative costs.

15. Complaints

15.1 If a Requester is unhappy with the way the School has handled their request they should contact Patrick Aikman at dpo@nascotwoodinfants.herts.sch.uk

15.2 If on a review the Requester is still unhappy with the way their SAR has been dealt with, they can contact the Information Commissioner by telephone on 0303 123 1113 or by writing to

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

16. Monitoring and Review

16.1 This policy will be reviewed by the Data Protection Officer of the school every 4 years or earlier if required and may be subject to change.

May 2018

APPENDIX 1

CHECKLIST FOR SCHOOLS

Following receipt of a subject access request ('SAR'), schools should use the following checklist as a guide:

A. Subject Access Requests Checklist	
Inform data subjects of their right to access data in your privacy notice and provide an easily accessible mechanism through which such a request can be submitted (e.g. a dedicated email address). You cannot insist that people use this method or refuse to respond if they send a request using a different method. Consider any steps you can take to mitigate any risk to the school/academy if the timescales for responding to a subject access request includes the school holidays.	
Make sure a SAR policy is in place within the [school / academy trust] and that internal procedures on handling of SARs are accurate and complied with. Include, among other elements, provisions on; <ul style="list-style-type: none"> a. Responsibilities (who, what) b. Timing c. Changes to data d. Handling requests for rectification, erasure or restriction of processing. 	
Ensure personal data is easily accessible at all times in order to ensure a timely response to SARs and that personal data on specific data subjects can be easily filtered. Ensure staff are trained to extract reports from SIMs following receipt of a SAR.	
B. Steps to take following receipt of a SAR	
Verify whether you are controller of the data subject's personal data. If you are not a controller, but merely a processor, inform the data subject and refer them to the actual controller.	
Verify the identity of the data subject; if needed, request any further evidence on the identity of the data subject. If the request is from a parent for their child's data, consider whether the pupil has sufficient maturity to exercise their own rights (usually from the age of 13). If so, establish whether the pupil gives their consent to their personal data being disclosed to the parent. Establish whether there are any court orders in place. [For maintained schools only - Also consider whether the request falls within the remit of the Education (Pupil Information) (England) Regulations 2005.]	
Verify the access request; is it sufficiently substantiated? Is it clear to the data controller what information is requested? If not, request additional information.	
Ensure data will not be changed as a result of the SAR. Routine changes as part of the processing activities concerned are permitted.	
Verify whether the data requested also involves data on other data subjects and check if this data needs to be redacted before the requested data is supplied to the data subject if the other data subjects have not consented to the supply of their data as part of the SAR. Consider whether any other exemptions apply to the data and have particular regard to whether any safeguarding concerns could arise if the information is disclosed. Seek further advice if you are in any doubt.	

C. Responding to a SAR	
<p>Make sure to respond to a SAR within one calendar month after receipt of the request:</p> <ul style="list-style-type: none"> a. If more time is needed to respond to complex requests, an extension of another two months is permissible, provided this is communicated to the data subject in a timely manner within the first month; b. If you do not take action on the request of the data subject, inform the data subject on this decision without delay and at the latest within one month of receipt of the request. 	
<p>If a SAR is submitted in electronic form, any information should preferably be provided by electronic means as well.</p>	
<p>If data on the data subject is processed, make sure to include as a minimum the following information in the SAR response:</p> <ul style="list-style-type: none"> a. the purposes of the processing; b. the categories of personal data concerned; c. the recipients or categories of recipients to whom personal data has been or will be disclosed, in particular in third countries or international organisations, including any appropriate safeguards for transfer of data, such as Binding Corporate Rules or EC model clauses; d. where possible, the envisaged period for which personal data will be stored, or, if not possible, the criteria used to determine that period; e. the existence of the right to request rectification or erasure of personal data or restriction of processing of personal data concerning the data subject or to object to such processing; f. the right to lodge a complaint with a supervisory authority (i.e. the ICO); g. if the data has not been collected from the data subject: the source of such data; h. the existence of any automated decision-making, including profiling and any meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject. 	
<p>Provide a copy of the personal data undergoing processing (subject to any exemptions which entitle you to withhold personal data). This should be provided in a commonly used electronic form if the data subject has submitted the SAR electronically.</p>	

Guidance for staff on responding to a subject access request

What must I do?

1. On receipt of a subject access request you must **forward** it immediately to Patrick Aikman (DPO)
2. We must correctly **identify** whether a request has been made / ensure that it is not being confused with the rights that people have to request information under the Freedom of Information Act 2000.
3. Any employee who receives a request to locate and supply information relating to a SAR must make a full exhaustive **search** of the records to which they have access.
4. All the information that has been requested must be **provided** unless an exemption can be applied.
5. We must **respond** within one calendar month after accepting the request as valid.
6. Subject Access Requests must be undertaken **free of charge** to the requestor
7. Line managers must ensure that the staff they manage are **aware** of and follow this guidance.
8. Where a requestor is not satisfied with a response to a SAR, the School must manage this in accordance with its complaints policy.

How must I do it?

1. We must ensure a request has been received in writing where a data subject is asking for sufficiently well-defined personal data held by the School relating to themselves.
2. The Act permits and encourages us to clarify with the requestor what information they need. They must supply their address and valid evidence to prove their identity. The School accepts the following forms of identification (* These documents must be dated in the past 12 months, +These documents must be dated in the past 3 months):
 - Current UK/EEA Passport
 - UK Photocard Driving Licence (Full or Provisional)
 - Firearms Licence / Shotgun Certificate
 - EEA National Identity Card
 - Full UK Paper Driving Licence
 - State Benefits Entitlement Document*
 - State Pension Entitlement Document*
 - HMRC Tax Credit Document*
 - Local Authority Benefit Document*
 - State/Local Authority Educational Grant Document*
 - HMRC Tax Notification Document
 - Disabled Driver's Pass
 - Financial Statement issued by bank, building society or credit card company+
 - Judiciary Document such as a Notice of Hearing, Summons or Court Order
 - Utility bill for supply of gas, electric, water or telephone landline+
 - Most recent Mortgage Statement
 - Most recent Council Tax Bill/Demand or Statement
 - Current Council Rent Card
 - Current Council Tenancy Agreement
 - Building Society Passbook which shows a transaction in the last 3 months and your address
3. 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 your area is responsible for or owns.
4. 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.
5. By ensuring that the [DPO] has logged the request, we can ensure that we respond within the statutory timescales.
6. 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 the following measures: [LIST ANY MEASURES].
7. When responding to a complaint, we must advise the requestor that they may complain to the ICO if they remain unhappy with the outcome.

APPENDIX 3

Sample letters responding to a Subject Access Request

The letters below are samples and do not cover every eventuality to reflect local circumstances nor have they been drafted or tailored for your school's specific needs so they should not be relied on as legal advice to be applied to any particular set of circumstances. You should ensure that they are tailored to reflect the context under which the subject access request has arisen and seek legal advice if required.

All letters must include the following information:

- a. the purposes of the processing;
- b. categories of personal data concerned;
- c. the recipients or categories of recipients to whom personal data has been or will be disclosed, in particular in third countries or international organisations, including any appropriate safeguards for transfer of data, such as Binding Corporate Rules or EC model clauses;
- d. where possible, the envisaged period for which personal data will be stored, or, if not possible, the criteria used to determine that period;
- e. the existence of the right to request rectification or erasure of personal data or restriction of processing of personal data concerning the data subject or to object to such processing;
- f. the right to lodge a complaint with a supervisory authority;
- g. if the data has not been collected from the data subject: the source of such data;
- h. the existence of any automated decision-making, including profiling and any meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject.

A. Replying to a subject access request providing the requested information

"[Name] [Address]

[Date]

Dear [Name of data subject]

Data Protection Act 2018 subject access request

Thank you for your letter of [date] making a data subject access request for [subject]. We are pleased to enclose the information you requested.

[Include 1(a) to (h) above.]

[Copyright in the information you have been given belongs to the School or to another party. Copyright material must not be copied, distributed, modified, reproduced, transmitted, published (including published on the Internet or an intranet), or otherwise made available in whole or in part without the prior written consent of the copyright holder.]

Yours sincerely"

B. Release of part of the information, when the remainder is covered by an exemption

"[Name] [Address] [Date]

Dear [Name of data subject]

Data Protection Act 2018 subject access request

Thank you for your letter of [date] making a data subject access request for [subject]. To answer your request we asked the following departments to search their records for information relating to you:

- [List the areas]

I am pleased to enclose [some/most] of the information you requested. [If any information has been removed] We have removed any obvious duplicate information that we noticed as we processed your request, as well as any information that is not about you. You will notice that [if there are gaps in the document] parts of the document(s) have been redacted. [OR if there are fewer documents enclose] I have not enclosed all of the information you requested. This is because [explain why it is exempt].

[Include 1(a) to (h) above.]

[Copyright in the information you have been given belongs to the School or to another party. Copyright material must not be copied, distributed, modified, reproduced, transmitted, published (including published on the Internet or an intranet), or otherwise made available in whole or in part without the prior written consent of the copyright holder.]

Yours sincerely"

C. Replying to a subject access request explaining why you cannot provide any of the requested information

"[Name] [Address]

[Date]

Dear [Name of data subject]

Data Protection Act 2018 subject access request

Thank you for your letter of [date] making a data subject access request for [subject].

I regret that we cannot provide the information you requested. This is because [explanation where appropriate].

[Include 1(a) to (h) above if appropriate.]

Yours sincerely"

D. Replying to a subject access request explaining why you have only sent some of the requested references

"[Name] [Address]

[Date]

Dear [Name of data subject]

Data Protection Act 2018 subject access request

Thank you for your letter of [date] making a data subject access request for the references we received in connection with your [job/course] application.

I enclose [whichever reference can be disclosed]. However, I have not provided [a copy/copies] of [one/some] of the references you requested because [one of your referees/ your referees] withheld consent to disclose [it/them].

[Include 1(a) to (h) above.]

[Copyright in the information you have been given belongs to the School or to another party. Copyright material must not be copied, distributed, modified, reproduced, transmitted, published (including published on the Internet or an intranet), or otherwise made available in whole or in part without the prior written consent of the copyright holder.]

Yours sincerely"