RUSSET HOUSE SCHOOL

Subject Access Request policy and Procedure

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1. Introduction

1.1 The school is required under the Data Protection Act 2018 and UK General Data Protection Regulation (UK GDPR), to provide individuals or an approved representative, with a copy of personal information held about them. This type of request is called a Subject Access Request, (SAR) which provides an individual the 'right of access' to request personal information about themselves or another living individual. The legislation noted is referred to in the policy as simply "the legislation".

The school is required to ensure that appropriate controls are implemented and maintained in relation to the processing of SARs, in accordance with the requirements of the DPA, to ensure that the right of access to information by staff and customers can be fully exercised.

1.2 This document provides a framework for the school staff to meet legal and corporate requirements in relation to information requests that fall within the scope of the DPA legislation.

1.3 The Policy applies to all personal information created, received, used and stored as a record, by the school, irrespective of where or how it is held.

1.4 It must be noted that the legislation is a '**legal**' requirement and the School can be fined or reprimanded for non-compliance or breaches relating to this type of request. Individuals may also be prosecuted where data is not processed in accordance with the School's procedures.

1.5 This policy **must** be read in conjunction with the school's Data Protection Policy.

2 Aim of the Policy

2.1 The aim of this document is to clarify the school's legal obligations and requirements for the processing of SARs and to ensure that all such requests: - :

- Are processed according to the current guidelines
- Are managed under a defined framework for processing SARs

2.2 The school will actively seek to meet its obligations and duties in accordance with the legislation and in so doing, will not infringe upon the rights of its employees, customers, third parties or others.

3 Scope

3.1 The scope of this policy is to outline measures to demonstrate compliance in line with the legislation set out in the introduction.

3.2 The policy governs the requesting of personal information (only) held on record by the school, about an individual or another third party (if they have authority, consent or responsibility for i.e., a child if they are formerly recognised as having parental responsibility and meets the relevant age requirement.) The

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request can relate to personal information held within records by any part of the school.

3.3 This policy does not apply to requests relating to access to information about deceased individual, as they are not alive or classified as being an identifiable person (i.e., a 'data subject'). Requests relating to deceased individuals are governed by the Freedom of Information (FOI) Act 2000.

3.4 This policy does not apply to any request that is not made by, or on behalf of, the data subject. This type of request, which includes sharing data between organisations, is dealt with under locally agreed procedures and/or Information Sharing Protocols.

4 Related Acts

Data Protection Act 2018

The Data Protection Act 2018 (DPA) governs how information about people (Personal Data) should be handled. It also gives rights to individuals whose data is held. The Act is enforced by the Information Commissioner's Office, (ICO).

The UK General Data Protection Regulation, UK GDPR

The UK General Data Protection Regulation, (UK GDPR), is a modified version of the EU regulation (GDPR) that is applied in the UK, following Brexit. These regulations support the Data Protection Act.

Freedom of Information Act 2000 (FOI)

This Act extended some of the provisions of the Data Protection Act to govern structured and non-personal information held by public authorities including schools. It also made it a criminal offence to alter, deface, block, erase, destroy or conceal information with the intention of preventing disclosure of information, when a request has been made.

The Adoption and Children Act 2002

This Act restates and amends the law relating to adoption, and access to information which would enable an individual to obtain a certified copy of their birth records.

5 Individual's Right to Access information

5.1 This right to access personal information is a basic principle of the legislation. It is most often used by individuals who want to see a copy of the information an organisation holds about them. However, the right of access goes further than this, and an individual who makes a **written** request, is entitled to the following [see UK GDPR Article 15 for full details]:

- Be told whether any personal data is being processed;

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- give a description of the personal data, the reasons it is being processed, and whether it will be given to any other organisations or people;
- told how long it will be retained for;
- given details of their rights under the law
- given a copy of the information comprising the data (if it has been determined that they are permitted to view the data);
- given details of the source of the data (where this is available); and
- given details of any automated decision making or profiling.

5.2 Further information about Subject Access Requests can be found on the Information Commissioner's Office (ICO) website.

5.3 The School cannot charge a fee for SARs, unless they are clearly excessive, manifestly unfounded (formerly known as vexatious) or the requester requires additional copies. The School should seek guidance from the Data Protection Officer, (DPO), if they are considering applying a charge for responding to a SAR.

6 Who can make a Subject Access Request?

6.1 All individuals have the right of access to personal information held about them. This includes the individuals to whom the record relates (e.g. children, their parent), or any other individual who is referred to directly in that file.

6.2 An individual is not usually entitled to know what is recorded about another individual without their consent. This type of request relates to third-party data.

6.3 A third-party (a representative or other authorised/approved individual or organisation) may act on behalf of the data subject, in the circumstances below. The following represent examples of typical third-party requests:

- An adult acting on behalf of a child (who is under the age of 13 years old) e.g. a parent or carer with parental responsibility
- An adult acting on behalf of another person without capacity e.g. carer or advocate
- An adult acting on behalf of another adult who has capacity and has provided consent to request the data e.g. a Carer or legal representative such as a Solicitor

6.4 In some circumstances the requests may be combined. e.g. a Solicitor acting on behalf of a parent who is acting on behalf of a child. A key principle of the law is that the data subject is the owner of their data, even if they are a child. This means that a child can make a SAR regardless of their age.

6.6 A child should be consulted about any request that relates to the release of their data, if they are considered to have good understanding and judgement of their rights. Children who are 13 years old and over, are

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generally defined as ‘Gillick competent’, being able to demonstrate a level of maturity and understanding and awareness about the consequences of their decisions”. In this instance, they should be asked if they are happy for the school, to release their data without the need to also seek the consent of their parent/s, (even if their parent/s have parental responsibility.)

6.7 Although parents, guardians or equivalent, who have parental responsibility or equivalent, do not need to formerly seek the consent of their children; it is good practice and courteous to consult them.

6.8 Third parties requiring access to personal information about a child must seek the consent of the parents (with parental responsibility) or those with legal guardianship, of the child. Unless, the disclosure is required in line with a court order, a legitimate or vital interest that overrides this consent.

6.9 Other types of third-party requests, which are not made on behalf of the data subject, are dealt with under the Data Protection Policy and in sections below. This includes data sharing between organisations and from the police (‘schedule 2: police disclosure requests’).

7 Deciding if it is a Subject Access Request (SAR)

7.1 School staff will need to determine whether a person’s request will be treated as a routine enquiry or as a subject access request. Any written enquiry that asks for personal information that the school holds about the person making the request, can be construed as a subject access request, but in many cases, there will be no need to treat it as such.

7.2 If the request relates to general information that is processed by the school as part of the general running, operation or functioning of the school, then the response should be treated as such. Examples of such requests might be:

- “I’ve lost the login details for the school site; can you send me a new password to my email?”

- “How many payments did I make into my school dinners account last month?”

The following are likely to be treated as formal subject access requests.

- “Please send me a copy of my staff records.”
- “I have a right to see all the notices issued to my child for discipline issues for the last three years. Please send copies to me.”
- “I am a Solicitor acting on behalf of my client and request a copy of his school records. An appropriate authority is enclosed.”

7.3 If there is any doubt about how to respond to the request or the specific information that the requester requires, then the school should go back to

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the individual or their representative to request clarification. The clock will stop at this point and will not recommence until the requester provides the relevant clarification. For example, if a SAR was received on 02/12/24 but the school requested clarification from the requester on 04/12/24 but only received the feedback (the clarification from the requester), 3 days later (on 06/12/24) then the clock would recommence at that point (06/12/24), leaving until 27/12/24 to respond, the remainder of the 'month'.

7.4 When responding to a request for personal information in any situation, staff must ensure that they check that the identity of the person is genuine. Note that if there is no doubt as to identity of the requester e.g. it is a face-to-face request from a member of staff, or the email used is the same one as logged on the school database as the primary contact, it is not necessary to request identification documentation to verify the requesters identity.

8 Third-party Requests

8.1 Where the school receives a request from a third-party (e.g. a family member or a representative/solicitor acting on behalf of an individual (formerly known as the 'data subject'), information can only be released where the data subject has given consent. The consent must be in writing with a signed letter of authority/letter from the data subject.

Schools should verify the identity of the requester even if it is received from a 'trusted' third-party e.g. an approved Solicitor. The school should check the Solicitor's credentials by conducting a search of the Solicitors Regulatory Authority (SRA), check the solicitor register to avoid potentially fraudulent requests.

8.2 If you have any concerns or doubts about the identity of the requester, you can consult the DPO. If a request is made by a third-party over the phone, where the data subject is not present, and there is any doubt about the identity of the caller, staff should advise the third-party to put the request in writing and send it to the school on their headed paper (if the request is from a public/private organisation), with signed consent from the third-party; clearly stating what information is required and the purpose for which it is required.

8.3 The school can then properly consider the request, assessing whether it is necessary to consult the data subject, it if is feasible and/ or, necessary to do so. They should then only provide the information that is necessary to meet the requirements of the request.

8.4 The school has one month to respond to a SAR however, if an exemption applies i.e. the request is complex (requires additional time to collate, extensive data retrieval) , then the period of responding can be extended by two additional months (after the end of the month after receipt of the original SAR.

9 Members of Parliament or Elected Councillors

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9.1 Where the school receives a request for information from a Member of Parliament or a Councillor, and where the MP/Councillor represents the ward in which the data subject lives, it is generally accepted that they are acting on behalf of, and with the consent of their constituents. Written consent therefore of the data subject may not always be provided or be practical in these circumstances.

9.2 Members are their own data controllers and have to ensure that the person they are supporting has provided the necessary identification before information is supplied to them and have the authority to act as a third-party representative on behalf of someone else, if relevant.

9.3 Members would be required to declare that they are the ward representative and that they are requesting the information in the context of a request received by a data subject.

9.4 Where there is no reason to believe that the request is not genuine, it would be permissible to release information to the MP or Councillor. It would be good practice however, in these cases, for staff to telephone the data subject to confirm that a request has been received and to obtain verbal consent to release the information in order to aid the MP or Councillor to carry out their official duties of representing their constituents. A record of consent should be maintained.

9.5 Where highly sensitive data that is special category (personal data) (see UK GDPR Article 9) is being released or requested, it will be necessary and good practice for staff to seek written consent from the data subject (this will also provide an audit trail of decision-making.)

9.6 Staff should obtain advice from the Data Protection Officer, DPO if there is any doubt as to whether a request should be processed. A good practice e-guidance note on the release of information to Councillors can be obtained from the Information Commissioners website using the following link. (Guidance for the use of personal data by elected representatives in carrying out constituency casework | ICO

10 Health, Safety and Welfare of Data Subjects

10.1 Personal data should only be disclosed over the telephone in emergencies (e.g. to the Police, Social Services, Medical Professional etc), where the health, safety or welfare of the data subject would or is at risk. This enables the disclosure of data where there is a vital interest to release it.

10.2 If data has to be disclosed by telephone, it is good practice to ask the third party for their switchboard number and to call them back via this number (requesting them by their name). If in doubt, get advice from a senior member of staff.

11 Disclosure to the Police and Law Enforcement Agencies

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11.1 The Data Protection Act includes exemptions which allow personal data to be disclosed to law enforcement agencies, without the consent of the individual, (who is the subject of the data), and regardless of the purpose for which the data was originally gathered. In particular, personal data may be released if: -

- failure to provide the data would prejudice the **prevention or detection of crime**, the **apprehension or prosecution of offenders**, or the **assessment or collection of any tax or duty.**
- failure to provide the information would **put vulnerable individuals at risk**
- the information is required for **safeguarding national security**.

11.2 Normally, requests for information under the crime/tax exemption will be made by the Police, but it may also involve requests from other organisations that have a law enforcement role such as Department of Works and Pensions (DWP) Benefit Fraud Section.

11.3 Requests should be submitted by officers who have a substantive rank of at least Detective Constable (DC) or above

11.4 It should be noted however, that the School is under no obligation to provide information to a law enforcement agency. Law enforcement agencies must submit a request for disclosure via a schedule 2: police disclosure form, which should outline:-

- a sufficient explanation about why the information is necessary, to the extent that not providing it may prejudice an investigation.
- Confirmation of the less intrusive enquires they pursued prior to submitting the disclosure request
- Confirmation of how receipt of the information would assist to prove or disprove the allegation/ investigation.
- Confirmation of how receipt of the information would assist the police to identify and/or apprehend an offender.
-

This will provide evidence of justification and an audit trail of the basis for decision making, ultimately satisfying the school that the disclosure of the information is necessary. We need to ensure that the information is being provided to a genuine and properly authorised investigation.

11.5 If we are not satisfied that there are valid grounds for releasing the information, the legislation does not oblige us to release information, neither does the exemption require the school to disclose all personal information, in all circumstances. Key questions to ask are:

1) Am I sure the person is who they say they are? (for this reason, particular care should be taken if the request is made over the telephone). You should always **ask for the request to be made by email or in writing on headed paper if a solicitor, or via a DPA, Schedule 2 Police Disclosure Request form, etc.**

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2) Is the person asking for information to prevent or detect a crime or catch or prosecute an offender? Is there a risk to a vulnerable individual?

3) If I do not release the personal information, will this significantly harm any attempt by the police to prevent crime or catch a suspect? (The risk must be that the investigation may very well be impeded).

4) If I do decide to release personal information to the police, what is the minimum I should release for them to be able to do their job?

You should consult the DPO if in doubt, when reviewing a request for information.

12 Releasing information to the Police, is a complex area, if in doubt, seek guidance from the Data Protection Officer. Further guidance can be obtained the ICO website: Sharing personal data with law enforcement authorities | ICO

12.1 **Do not be bullied into disclosing data** if you have any doubt as to the validity of the request. Either ask the third party to submit the request in writing and/or or refer the request to senior staff. **If in doubt, always ask your Manager, Head Teacher or your Data Protection Officer for advice and support.**

12.2 Requests from the Police or other law enforcement agencies will usually be classified as OFFICIAL-SENSITIVE and **must not** include the data subject's name when logging the case in systems. These records will need to be maintained under the OFFICIAL-SENSITIVE classification requirements within the respective business area.

13 Requests from Third Parties that should be refused

13.1 Requests from agencies such as an Estate Agent, debt recovery firm, landlord etc seeking information about a person who is being pursued for legal action must be refused, unless the consent of the data subject has been obtained. They should be informed that personal information will only be provided under the direction of a court order.

14 Data Protection Officer

14.1 The Data Protection Officer (DPO) can be contacted for advice about Subject Access Requests. The DPO may also receive SARs which will be passed directly unto the school for handling.

15 Training and awareness

13.1 **All school employees** have a responsibility to ensure that they and the staff they manage have undertaken the corporate Data Privacy and

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Information Security training, and have sufficient awareness of the legislation, so that they are able to comply with the requirements.

13.2 All staff undertaking the processing of SARs must ensure that they follow the policies and procedures outlined in this document.

13.3 Managers should encourage and make time for their staff to attend any further Data Privacy and Information Security training or awareness opportunities that may arise.

16 Supporting Policies

This policy should be read in conjunction with the following policies and procedures:

- Data Protection Policy
- Freedom of Information Policy
- Security Incident Reporting/Cyber and Information Security Policy/TBC

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Appendix 1

Procedure for dealing with Subject Access Requests

1. Introduction

1.1 The school is required under the legislation to provide an individual with a copy of personal information held about them following a request from the individual, where deemed pertinent to do so, along with some legally mandated information about the processing. This is known as the right of subject access and such a request is referred to as a Subject Access Request (SAR).

1.2 All SARs should be made in **writing,** unless done as business as usual. If the request is made verbally, staff should provide advice and assistance to the individual. Note that a SAR application is valid, as long as a sufficient description of the information required is submitted along with the appropriate and verified ID (see Section 2.4). There is no obligation for the applicant to complete any forms that the school creates for its convenience.

1.3 A request for information can arrive in any part of the organisation, and must be dealt with locally, by those authorised to process SARs. All SAR requests must be logged with the School Business Manager for tracking and compliance purposes, but they are NOT responsible for fulfilling the requests (they will co-ordinate the collection of information and then the response will be issued by the Head Teacher). An audit trail of all documentation must be maintained with relevant teams/departments. All requests should be acknowledged within 5 days (see template letter below in Appendix 2).

1.4 In many cases a Freedom of Information (FOI) request is received by the FOI Lead Officer, which subsequently turns out to be a SAR on closer inspection of the request (as the requester requires personal data). The FOI Lead Officer will need to pass the request to the respective SAR officer as appropriate.

1.5 Subject Access Requests received centrally by the Data Protection Officer (DPO) will be passed to the school for appropriate processing.

1.6 The timescale within which requests must be resolved is **1 Calendar Month** from receipt of the request and provision of suitable ID (if required).

2. Procedures for dealing with an initial request

2.1 The ‘Access to Personal Information (Subject Access) Application Form’ can be used to obtain all the necessary information described in this section. This can be found in Appendix 2. Note that we CANNOT mandate this form – if we receive the required information, we must fulfil the SAR.

2.2 On receiving a request for information, it must be established whether the individual asking is the data subject or a third party.

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2.3 If the request is from the data subject, the following must be in place before any information is disclosed:

- A record of the request – verbal requests can be made, so we may need to make the record
- proof of identity of the requester if not clearly known
- sufficient details to locate the information

The time to respond does not start until these are in place.

2.4 If the request is from a verified Solicitor or elected member, 2.6 does not apply.

2.5 Photocopies of the following are acceptable as proof of identity:

- Passport
- Driving Licence
- Two different utility bills and/or bank statements, from within the past 3 months
- Verification by a staff member who has been working with that individual. This verification should be recorded on the corporate SAR system.
- For children, a birth certificate or order showing that the person applying has parental responsibility.

2.6 Individuals are required to detail the specific information that they are seeking access to, although they can also simply request “all data”. However, this may lead to a need for the school to seek further clarification, if it is not clear which information the requester requires. The timescale (allocated time for responding) will stop whilst clarification is being sought.

2.7 Requests for further information and suitable IDs should be sought within five working days after receiving the original SAR, so as to avoid unnecessary delays.

3. Requests on behalf of children

3.1 A parent does not have an automatic right to information held about their child. The right belongs to the child, and the parent acts on their behalf, providing the parent has Parental Responsibility. Once the child reaches sufficient maturity, the child can exercise their own right, and the parent must act with the child's consent.

3.2 Where parents have separated, consideration should be given to the ‘best interests’ of the child in releasing information to the requesting parent.

3.3 In England and Wales, the age at which the child reaches sufficient maturity is judged to be the age of 13, but this may vary according to factors particular to that child. The test is “Gillick competence” i.e. the child is able to understand the issues and risks.

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For a child insufficiently mature the following is required:

- the request in writing
- proof of identity of the requester (adult)
- proof of the responsibility of the adult for the child
- proof of identity of the data subject (child)
- sufficient details to locate the information

For a child sufficiently mature the following is required:

- the request in writing
- proof of identity of the requester (adult)
- proof of child's consent for the adult to access their information
- proof of identity of the data subject (child)
- sufficient details to locate the information

4. Requests on behalf of adults

4.1 For an adult acting on behalf of an adult without capacity the following is required:

- the request in writing
- proof of identity of the requester (adult)
- proof that the requester may act on behalf of the data subject
- proof of identity of the data subject (in some circumstances)
- sufficient details to locate the information

Please see the Mental Capacity Act 2005 for more information on assessing capacity and who may act on behalf on an individual who lacks capacity.

For an agent acting on behalf of an adult with capacity the following is required:

- the request in writing
- proof of identity of the requester - if a Solicitor, a letter on headed paper will normally be sufficient
- written consent of the data subject
- sufficient details to locate the information

Important note
Where a third party is asking for information on behalf of the data subject, the best interests of the data subject should be paramount when considering the information for release.

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5. Procedure for providing information

5.1 Information should generally be provided to the subject via the same medium used for the request unless the requestor asks otherwise i.e. if the request has been submitted via email, then the response should also be issued by email (digitally)

5.2 Managers must ensure that a member of staff examines the information to establish whether it is necessary to withhold or redact any information, prior to the disclosure of the information. If anything of concern is identified, they should consult the DPO who will take into account their views when assessing the information that they are considering releasing.

5.3 Any information falling under an exemption will need to be either removed or redacted. This will be by blanking out the information. The minimum of information will be removed.

5.4 Where information has been withheld, in most cases the requester will be provided with a letter/email explaining what has been withheld and why. It will also include details of how to complain to the School, DPO and ICO.

5.5 In some circumstances, confirming or denying that a particular piece of information is held, may result in release of information that should be withheld (e.g. explaining that information is being withheld because it relates to a criminal investigation, would reveal that an investigation has taken place or is underway, perhaps prejudicing that investigation, or on occasions where no data is held; but to confirm this, may help limit searches for an individual). In these and other circumstances it may be necessary to refuse to confirm or deny that the information is held. A 'neither confirm nor deny' response should not be taken as an indication that the information requested is or is not held by the school.

5.6 Where the information cannot be easily understood without explanation, supporting information should also be provided. A record of what has been provided and withheld, with reasons, will be kept by the school.

5.7 The legislation gives a right to a copy of the information in permanent form, and in easily accessible electronic format. A copy of the information will be provided unless the requester agrees otherwise or it would involve disproportionate effort.

5.8 The information provided must also include (references are to the UK GDPR):

(a) the period for which the personal data will be stored, or if that is not possible, the criteria used to determine that period.

(b) the existence of the right to request from the controller access to and rectification or erasure of personal data or restriction of processing concerning the data subject or to object to processing as well as the right to data portability.

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(c) where the processing is based on point (a) of Article 6(1) or point (a) of Article 9(2), the existence of the right to withdraw consent at any time, without affecting the lawfulness of processing based on consent before its withdrawal.

(d) the right to lodge a complaint with a supervisory authority.

(e) whether the provision of personal data is a statutory or contractual requirement, or a requirement necessary to enter into a contract, as well as whether the data subject is obliged to provide the personal data and of the possible consequences of failure to provide such data.

(f) the existence of automated decision-making, including profiling, referred to in Article 22(1) and (4) and, at least in those cases, meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject.

5.9 The requester may be offered the opportunity to view the information on school premises in the presence of a relevant school staff member who is able to give appropriate support.

5.10 Where a requester views the information by appointment they should be attended by a member of staff responsible for the information.

5.11 If the amount of information is large, the school will consider whether it would involve disproportionate effort to provide copies. If so, the requester will be offered an appointment to view only, but be given the facility to copy information when they attend. An alternative is to ask the requester to refine the request further.

5.12 If the personal data is “manual unstructured” (i.e. not filed by reference to the data subject and would require searching) the school may refuse requests where it would exceed the appropriate limit (i.e. 18 hours of work) to locate, retrieve and extract the information.

5.13 When providing the information, the school will consider the needs of the requester including facilities for translation or providing the information in another accessible format.

5.14 The information should be transferred to the requester in a secure manner, for example by secure email, recorded or special delivery or hand delivery or collection.

Important note

Schools are required to respond to requests within 1 month from receipt (even if the request is received during school holiday.)

If the school, at any point during the 1 month, establishes that it will not be possible to process the request during this timeframe e.g. due to staff resources, access to other resources; then it is possible for the school to apply an extension of up to 2 months. (Schools can consult the DPO for further guidance.)

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6. Using the information whilst a SAR is being processed

6.1 Personal information may be used as normal while an access request is being processed. Routine amendments may be made.

6.2 It is a criminal offence to alter, deface, block, erase, destroy or conceal information with the intention of preventing disclosure of information when a request has been made. This offence can be committed by the school or any member of staff and is punishable on summary conviction by a fine.

7. Complaints

7.1 Complaints about the school's processing of personal data will be dealt with in accordance with the school's complaints procedure.

7.2 The Data Protection Officer is responsible for advising on and adjudicating complaints. Individuals do have a right to request that the Information Commissioner make an assessment of compliance of particular circumstances:

The Information Commissioner's Office,
Wycliffe House,
Water Lane,
Wilmslow,
Cheshire,
SK9 5AF

8. Releasing and withholding personal information

8.1 **Information about members of staff or others acting in a professional capacity**

The information requested will normally include mentions of members of staff or other professionals involved with the individual. This may include records of attendance at meetings, email exchanges, reports written and decisions taken. The names of the professionals involved will normally be released. The exceptions are where:

- the member of staff may be endangered by release of the information
- the information relates to the private life of the member of staff (rather than the professional life). This includes home addresses and telephone numbers.

If there is any doubt, please advise the DPO of any concerns you have.

8.2 **Information about all other third-party individuals (including relatives or carers)**

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Information about non-professionals will normally be withheld, unless there is reason to believe that the other person would be content for it to be released.

The following will be considered:

- Any views the third party has given about sharing their information, including any consents or refusal of consents
- The expectations of the third party about what might happen to their information
- Whether the third party is capable of consent
- Any duty of confidentiality owed to the third party

A professional's judgement may be sought as it will be based on recent contact with the data subject and third party.

Where there is no recent professional involvement with the data subject the decision will be taken based on the content of the information held.

In certain cases, it may be appropriate to write to the third party asking for consent.

8.3 **Deceased individuals are still owed a duty of confidentiality.**

Information about deceased individuals cannot be processed via a Subject Access Request as their information is no longer considered to be personal data.

However, even after an individual has deceased, there may still be a need to uphold their right to confidentiality, even after death; meaning that the release of their information would be a breach of confidentiality.

8.4 **Legal Advice**

This includes legal advice from the Council's Legal Services or any other legal professional acting on the school's behalf.

The principle is based upon the need to protect a client's confidence that any communication with his/her professional legal adviser will be treated in confidence and not revealed without consent. This is to ensure there is the greatest chance that justice is administered to the client.

There are two categories of legal professional privilege:

1. Advice privilege – where no litigation is contemplated or pending
2. Litigation privilege – where litigation is contemplated or pending. Litigation is the taking of a legal action by one party against another in which an issue is being taken to a court of law for a judge or magistrate to decide.

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If a file contains legal advice, the client concerned should be consulted to find out whether they consider legal professional privilege applies to the information.

If legal professional privilege does apply to the information, this information can only be released if the client agrees to waive the privilege.

8.5 Information contained in social care records – serious harm arising from releasing

Information contained in Social Care Records may be withheld if releasing it would 'be likely to prejudice the carrying out of social work by reason of the fact that serious harm to the physical or mental health or condition of the data subject or any other person would be likely to be caused.'

8.6 Criminal investigations

Information may be withheld if releasing it would be likely to prejudice the prevention or detection of crime or apprehension or prosecution of offenders.

In particular any information obtained from the police who are using it for this purpose, will be withheld.

In the case of doubt over a particular piece of information, the police will need to be consulted.

9. Definitions

Personal data is defined as data relating to a living individual who can be identified from:

The data and other information, which is in the possession of, or is likely to come into the possession of the data controller. This includes an expression of opinion about the individual and any indication of the intentions of the data controller, or any other person in respect of the individual.

A **Data Subject** is an individual who is the subject of the data.

A **Data Controller** is an organisation, e.g. the school, or person that determines the purposes for which and the manner in which any personal data are to be processed.

A **Data Processor** is any person (other than an employee of the Data Controller, but including a legal person such as a limited company) who processes personal data on behalf of the Data Controller e.g. out-sourced work.

Processing means obtaining, recording, viewing, holding or carrying out any operation on data and includes organisation, alteration, retrieval, disclosure and destruction of the data.

A Third party is any individual who is not the data subject.

Subject access right

An individual is entitled to

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- be informed of what information a data controller holds about that individual
- be informed of the reasons for processing
- be informed of those to whom it is disclosed
- have access to the personal information held

An individual is entitled to receive a copy of the information held, in a permanent format, unless the effort involved is disproportionate or the individual agrees otherwise.

Redaction means removing or blacking out information from a document in order to withhold a piece of information.

Legal professional privilege is defined as the right of the individual or entity to consult lawyers about their legal position and to have the privacy of those consultations respected. In most circumstances such information is privileged from disclosure.

The **Caldicott Guardian** is a senior manager with responsibility for overseeing the arrangements for the use and sharing of service user personal and sensitive information.

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Appendix 2

SAR Application Form

THE DATA PROTECTION ACT

SUBJECT ACCESS REQUEST APPLICATION FORM

Under the Data Protection Act and the UK General Data Protection Regulation, individuals are granted the right to access personal data that is held about themselves. Access may be granted directly to the individuals or to someone acting on their behalf with their written authority (e.g. close relative, solicitor).

In order that we can respond to your Subject Access Request, please complete the form below or send a request in writing stating what personal data you wish to access. The information is required to enable the school to satisfy the legal requirements placed upon it to confirm your identity and to ensure that sufficient details are supplied to locate the data. You will see that certain documents will need to accompany this application.

On receipt of this form or a request in writing and suitable ID, we will respond to you within 1 calendar month.

Please be aware you may be required to produce one of the following as **proof of identity** before we will proceed with your request:

- Current Passport (or photocopy)
- Current Driving Licence (or photocopy)
- A combination of two different utility bills and/or bank statements no more than 3 months old

Other kinds of identity may be acceptable. These will be reviewed by our Data Protection Officer to confirm.

How we use your information

The information you give us will be used to progress your request and for related administrative purposes. All you information is treated with respect and in accordance with the legislation. If you are making this request on behalf of someone else, we may undertake checks with other agencies and other adults who have responsibility for this person to determine your right of access to the information. If you would like more information, please see our website at <SCHOOL WEBSITE>

Subject Access Request Guidance and Checklist:

REQUESTING YOUR OWN INFORMATION

You will need to include:	✓
The request in writing (email or via customer platform is acceptable)	
Proof of your identity	
Sufficient details to locate the information	

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REQUESTS ON BEHALF OF CHILDREN

A parent does not have an automatic right to information held about their child. The right belongs to the child, and the parent acts on their behalf, providing the parent has Parental Responsibility. Once the child reaches sufficient maturity, the child can exercise their own right, and the parent must act with the child's consent.

Where parents have separated, consideration should be given to the 'best interests' of the child in releasing information to the requesting parent.
In England and Wales, the age at which the child reaches sufficient maturity is judged to be the age of 13, but this may vary according to factors particular to that child.

For a child sufficiently mature/over 13 you will need to complete the Application Form and SECTION A of the Proof of Consent Form.

You will need to include:	✓
The request in writing	
Proof of identity of the requester (adult)	
Proof of the child's consent for the adult to access their information	
Proof of identity of the data subject (child)	
Sufficient details to locate the information	
Proof of the responsibility of the adult for the child	

For a child insufficiently mature/under 13 you will need to complete the Application Form and SECTION B of the Proof of Consent Form.

You will need to include:	✓
The request in writing	
Proof of identity of the requester (adult)	
Proof of identity of the data subject (child)	
Sufficient details to locate the information	
Proof of the responsibility of the adult for the child	

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REQUESTS ON BEHALF OF ADULTS

For an adult acting on behalf of another adult <u>without capacity</u> you will need to complete the Application Form and SECTION B of the Proof of Consent Form.

You will need to include:	✓
Proof of identity of the requester (adult)	
Proof that the requester may act on behalf of the data subject	
Proof of identity of the data subject (adult without capacity)	
Sufficient details to locate the information	

For an adult acting on behalf of an adult <u>with capacity</u> you will need to complete the Application Form and either SECTION A or SECTION C of the Proof of Consent Form.

You will need to include:	✓
The request in writing	
Proof of identity of the requester – if a solicitor, a letter on headed paper will normally be sufficient	
Proof that the requester may act on behalf of the data subject	
Proof of identity of the data subject	
Sufficient details to locate the information	

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Personal Information - Subject Access Request Form

Your
Name…….

Home
Address……..…….

……

……

……..

Contact No.....

Email address …….

Any other names you are/were known by ……..
(if relevant)

Name of person whose records you want to see (**if different from above**)

……

Address if different from above
……..……

……

……

……..

Contact No .....

Email address …….

Any other names the person is/was known by…….……..

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Are you (or the person whose records you want to see) **currently** in contact with the school?

Yes ☐ No ☐

If **yes**, what is the name and address of the person you are in contact with?

……

……

……

……

……..

……..

If **no**, please can you give us details of where you* lived when you were in contact with the school:

……

……..

……..

……..

……..

……..

*or the person whose records you want to see

This is a CONTROLLED document. Any printed copy must be checked against the current electronic version prior to use.

I would like

☐ a copy of my information to be sent to my address by ordinary post

☐ to come in and view/collect my information/file with a staff member present if appropriate

☐ my information emailed to me*. My email address is

……

*The school takes no responsibility for personal information transmitted via email, as this is not a completely secure method of exchange/transfer. Paper files will be scanned and sent electronically.

This is a CONTROLLED document. Any printed copy must be checked against the current electronic version prior to use.

I would like to see

☐ information relating to social care services

☐ information relating to education provision

☐ other

Please describe the personal data you require access to together with any other relevant detail that will assist in identifying this data.

Examples:

- **if data is only required from a particular department or a selected number of departments then please indicate this in the space below**
- **detail any reference / account numbers you are aware of**
- **define whether the data required is for the current period or if historical indicate time span required**

……

……

……

……

……

……

……

……

……

……

……

This is a CONTROLLED document. Any printed copy must be checked against the current electronic version prior to use.

Declaration

I wish to see my own records and enclose a copy/s of appropriate identification*

*Please be aware you will be required to produce one of the following as **proof of identity** before we will proceed with your request

Current Passport (or photocopy)

Current Driving Licence (or photocopy)

A combination of two different utility bills and/or bank statements no more than 3 months old

Verification by a school officer who has been working with you (this will be recorded on your file)

Signed …….

Date …….

If you are acting on behalf of another person, please complete the relevant Section of the attached Proof of Consent Form:

Complete **Section A** if you are acting on behalf of someone else **OR**

Complete **Section B** if you are acting on behalf of a child under 12 or an adult who lacks capacity.

OR Complete **Section C** if you are a legal representative

This is a CONTROLLED document. Any printed copy must be checked against the current electronic version prior to use.

Proof of Consent Form (Subject Access Request)

One section of this form must be completed if you are undertaking a subject access request on behalf of someone else.

Section A

To be completed when acting on behalf of an adult or young person

I am undertaking this subject access request on behalf of:

……
(Insert name of individual whose personal information you wish to see)

My relationship to them is:

……
(e.g. partner, parent, legal guardian, main carer, advocate, etc.)

I enclose the following form of identification:

……

……
(e.g. copy of your passport, driving licence, combination of utility bills and/or bank statements)

Declaration

I, the data subject, confirm that I am happy for

……

to undertake this subject access request on my behalf

Signed ……

Date……

If you are carrying out a Subject Access Request on behalf of a child of 12 or over, they will need to sign the above declaration to confirm they are happy for you to act on their behalf.

This is a CONTROLLED document. Any printed copy must be checked against the current electronic version prior to use.

Section B

To be completed when acting on behalf of a child **under** 12, **or** an adult who lacks capacity

I am undertaking this subject access request on behalf of:

……
(Insert name of individual whose personal information you wish to see)

My relationship to them is:

……
(e.g. parent, legal guardian, main carer, advocate etc.)

I enclose either a copy of

☐ their birth certificate to confirm they are under 12 years

or

☐ my personal Welfare Power of Attorney for the subject

I enclose the following form of identification:

……

……
(e.g. copy of your passport, driving licence, combination of utility bills and/or bank statements)

Declaration

I confirm I am the subject's main carer.

Signed ……

Date ……

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Section C

If you are a legal representative undertaking a subject access request on behalf of a client, they will need to complete this section on the form to show they are happy for you to do this.

……
(Insert the name of the legal representative)

of
……
(Insert the name of the legal firm)

has permission to undertake this subject access request on my behalf. I also enclose a copy of the following form of ID to confirm my identity as the subject

……

……
(e.g. copy of your passport, driving licence, combination of utility bills and/or bank statements)

Name ……

Signed……...

Date ……..

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Please return the completed form and documents to <u>one</u> of the following addresses:-

Russet House School **11 Autumn Close** **Enfield** **EN1 4JA**	**Russet House School, Data** Protection Officer, London Borough of Enfield, P.O. Box 54, Civic Centre, Silver Street Enfield, Middlesex EN1 3XF

On receipt of this form and suitable ID, we will respond to you within 1 calendar month.

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Appendix 3

Standard Letters

STANDARD LETTER 1
ACKNOWLEDGEMENT

Dear
Re: Subject Access Request

I am writing to acknowledge your request for information dated xxxxxxx.

We are dealing with your request and will be in contact with you again.

Yours

[signatory]

This is a CONTROLLED document. Any printed copy must be checked against the current electronic version prior to use.

STANDARD LETTER 2
FURTHER INFORMATION REQUIRED FROM APPLICANT

Dear
Re: Subject Access Request

Thank you for your information request dated xxxxxx.

Unfortunately, you have provided insufficient detail to allow me to process your request. Could you please give me a better description so that I can give you the information you want.

To assist you I am enclosing a copy of a suitable form for you to use, which is also available on the website.

I look forward to your response. In the meantime, your request has been put on hold. If I do not hear from you within 30 days of the date of this letter, I will assume that you no longer want this information and I will therefore take no further action.

If you have any complaints in respect of your information request, please write to the Head teacher at the above address. If your complaint is not resolved to your complete satisfaction, you have the right to apply to the Data Protection Officer or the Information Commissioner's Office for a decision.

Yours

[signatory]

This is a CONTROLLED document. Any printed copy must be checked against the current electronic version prior to use.

STANDARD LETTER 3
REQUEST FOR INFORMATION TO BE PROCESSED AS A SUBJECT ACCESS REQUEST

Dear
Re: Request for information

I am writing to acknowledge your request for information dated xxxxx .

The information you have requested is classified as personal information under the Data Protection Act 2018 and we will be dealing with your request as a Subject Access Request rather than a Freedom of Information Request.

In order for us to supply the information you have requested, you will need to provide us with the necessary identification. To assist you I am enclosing a copy of a suitable form for you to use, which is also available on the website.

I look forward to your response. In the meantime, your request has been put on hold. If I do not hear from you within 30 days of the date of this letter, I will assume that you no longer want this information and I will therefore take no further action.

If you have any complaints in respect of your information request, please write to the head teacher at the above address. If your complaint is not resolved to your complete satisfaction, you have the right to apply to the Data Protection Officer or the Information Commissioner's Office for a decision.

Yours

[signatory]

This is a CONTROLLED document. Any printed copy must be checked against the current electronic version prior to use.

STANDARD LETTER 4
INFORMATION NOT HELD

Dear
Re: Subject Access Request

Thank you for your information request dated xxxxxxx.

The school does not hold the information that you have requested.

If you have any complaints in respect of your information request, please write to the Head teacher at the above address. If your complaint is not resolved to your complete satisfaction, you have the right to apply to the Data Protection Officer or the Information Commissioner's Office for a decision.

Yours

[signatory]

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STANDARD LETTER 5
THIRD PARTY CONSULTATION NOTIFICATION TO APPLICANT

Dear
Re: Subject Access Request

Thank you for your information request dated xxxxxxx.

The information you want is subject to an exemption for information supplied in confidence and I need time to consult third parties before I can consider releasing it.

I will write to you again before (date).

If you have any complaints in respect of your information request, please write to the Head teacher at the above address. If your complaint is not resolved to your complete satisfaction, you have the right to apply to the Data Protection Officer or the Information Commissioner's Office for a decision.

Yours

[signatory]

This is a CONTROLLED document. Any printed copy must be checked against the current electronic version prior to use.

STANDARD LETTER 6
THIRD PARTY CONSULTATION NOTIFICATION TO <u>CONSULTEE</u>

Dear
Re: Subject Access Request

We have received a request for information under the Data Protection Act from (name/details).

Information that we believe to be relevant to the request and which we need to consider for release to the applicant includes documentation that you have previously provided to us.

This information may be subject to third party duty of confidentiality, and we would be grateful for your views on the potential disclosure of it to the applicant. You will be aware that the school is under a legal obligation to respond to requests for information within 1 month and in view of this if I do not hear from you within 14 days, I will assume that you have no objections to the disclosure of the information.

The school will take any views that you express into consideration, but will not automatically withhold information unless there are clear legal grounds to do so.

** In order to assist you in responding to this letter the information that you provided is attached (electronic or hard copy, edited/redacted as necessary).
OR
** In order to assist you in responding to this letter a brief summary of the information that you provided is detailed below.

Yours

[signatory]

***** Delete as appropriate***

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STANDARD LETTER 7
REQUESTED FORMAT UNAVAILABLE

Dear
Re: Subject Access Request

Thank you for your information request dated xxxxxxx.

The school does hold the information that you have requested but, unfortunately, we are unable to provide it in the format that you require. As an alternative, I have enclosed (a paper copy/an English version on paper/etc.) of the information and hope that this satisfactorily meets your requirements.

Please contact me again if you require any further assistance with your request and I will do my best to provide relevant help and advice.

If you have any complaints in respect of your information request, please write to the Head Teacher at the above address. If your complaint is not resolved to your complete satisfaction, you have the right to apply to the Data Protection Officer or the Information Commissioner's Office for a decision.

Yours

[signatory]

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STANDARD LETTER 8
FEE LIMIT EXCEEDED

NOTE – CONSULT DPO BEFORE USING AS THERE MAY BE SPECIAL CIRCUMSTANCES. IT IS RARE FOR A FEE TO BE EXCEEDED AND THE GDPR DOES NOT ALLOW CHARGING EXCEPT IN UNUSUAL CIRCUMSTANCES

Dear
Re: Subject Access Request

Thank you for your information request dated xxxxxxx.

Unfortunately, I have estimated that the time it will take to undertake the necessary search, retrieval and preparation work that will enable us to respond to the request you have made will exceed the fee limit as set out in the Fee and Appropriate Limit Regulations. Therefore, the school is not obliged to provide a response.

For information purposes, the fee limit is set down by regulation and in this case, this equates to a maximum of 18 hours' of search and retrieval time.

However, you should be advised that a modified request will be given due consideration provided the work involved does not, again, exceed the fee limit. Any modification to your request will be treated as a new request for the purposes of the Data Protection Act.

Please contact me again if you require any further assistance on this matter and I will do my best to provide relevant help and advice.

If you have any complaints in respect of your information request, please write to the Head Teacher at the above address. If your complaint is not resolved to your complete satisfaction, you have the right to apply to the Data Protection Officer or the Information Commissioner's Office for a decision.

Yours

[signatory]

This is a CONTROLLED document. Any printed copy must be checked against the current electronic version prior to use.

STANDARD LETTER 9
FULL REFUSAL NOTIFICATION

Dear
Re: Subject Access Request

Thank you for your information request dated xxxxxxx.

Your request has been given careful consideration. However, the school is not able to give you the information because it is exempt from disclosure. I have set out the reasons for this decision below.

Exemption Description	**Reason / Explanation**

If you have any complaints in respect of your information request, please write to the Head Teacher at the above address. If your complaint is not resolved to your complete satisfaction, you have the right to apply to the Data Protection Officer or the Information Commissioner's Office for a decision.

Yours

[signatory]

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STANDARD LETTER 10
PART DISCLOSURE/PART REFUSAL NOTIFICATION

Dear
Re: Subject Access Request

Thank you for your information request dated xxxxxxx.

After giving careful consideration to your request I am able to respond in part by providing you with some of the information you are seeking.

I have enclosed a copy of the information I am able to supply in respect of the aspect of your request.

The school is not able to give you the rest of the information because it is exempt from disclosure. I have set out the reasons for this decision below.

Exemption Description	**Reason / Explanation**

If you have any complaints in respect of your information request, please write to the Head Teacher at the above address. If your complaint is not resolved to your complete satisfaction, you have the right to apply to the Data Protection Officer or the Information Commissioner's Office for a decision.

Yours

[signatory]

This is a CONTROLLED document. Any printed copy must be checked against the current electronic version prior to use.

STANDARD LETTER 11
REPEATED NOTIFICATION

Dear
Re: Subject Access Request

Thank you for your information request dated xxxxxxx.

The Council is not prepared to respond to this request on the grounds that you have previously requested and been supplied with the same or similar information.

If you have any complaints in respect of your information request, please write to the Head Teacher at the above address. If your complaint is not resolved to your complete satisfaction, you have the right to apply to the Data Protection Officer or the Information Commissioner's Office for a decision.

Yours

[signatory]

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