HUNTERS HALL PRIMARY SCHOOL

SUBJECT ACCESS REQUEST POLICY

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Controlled Document

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3	23/08/2023	Data Protection Enterprise Ltd www.dataprotectionenterprise.co.uk	Policy Review

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1. INTRODUCTION

The GDPR and DPA 2018 gives individuals the right of access to their personal information held by Hunters Hall Primary School ('the School'). Subject Access is a fundamental right for individuals, but it is also an opportunity for the School to provide excellent customer service by responding to Subject Access Requests (SARs) efficiently and transparently and by maximising the quality of the personal information you hold. This Policy explains how the School will fulfil its obligations under the Act.

The Act works in two ways. Firstly, it states that anyone who processes personal information must comply with the principles (Article 5(1) of the GDPR), which make sure that personal information is:

a) processed lawfully, fairly and in a transparent manner
b) collected and processed for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes
c) adequate, relevant, and limited to what is necessary for the purpose
d) accurate and kept up to date
e) not kept for longer than is necessary and subject to appropriate technical and organisation measures to safeguard the rights and freedoms of individuals
f) processed in a manner that ensures appropriate security of personal data, including protection against unauthorised or unlawful processing; and

Article 5(2) adds that 'the controller shall be responsible for, and be able to demonstrate compliance with Article 5(1) ('accountability') and;

Secondly, it provides individuals with important rights (Articles 13 and 14):

1) Right to be informed
2) Right of access
3) Right to rectification
4) Right to erasure (right to be forgotten)
5) Right to restrict processing
6) Right to data portability
7) Right to object
8) Rights related to automated decision making including profiling

2. POLICY STATEMENT

The School regards the Act as an important mechanism in achieving an honest, safe and open relationship with its students and employees.
Subject access is most often used by individuals who want to see a copy of the information the School holds about them. However, subject access goes further than this and an individual is entitled to be:

- Told whether any personal data is being processed;
- Given a description of the personal data, the reasons it is being processed, and whether it will be given to any other organisations or people;
- Given a copy of the personal data; and
- Given details of the source of the data (where this is available)

An individual can also request information about the reasoning behind any automated decisions taken about him or her, such as a computer-generated decision for assessment of performance at work.

The aim of this policy is to ensure that the School complies with its legal obligations under the UK General Data Protection Regulation and Data Protection Act 2018 and can evidence that the School have done so. It also aims to ensure that the School:

- Have robust processes in place for dealing with SARs, saving time and effort;
- Increase levels of trust and confidence by being open with individuals about the personal information the School hold;
- Improve the transparency of the School activities in line with public policy requirements.

This policy should be read in conjunction with the Subject Access Request Procedure.

3. SCOPE

This Policy outlines how an applicant can make a request for their personal information under the Act and how it will be processed.

This is not a legal document. It does not confer rights nor override any legal or statutory provisions which either require or prevent disclosure of personal information.

This document considers the key features of the Act and outlines how the School will take steps to ensure compliance in relation to requests for personal information.

Requests for access to the records of people who are deceased are not within scope of this Policy as the Act only applies to the data of living individuals. Such requests will be treated as requests for access to information under the Freedom of Information Act or as miscellaneous requests, depending on the nature of the data and the reason the data is being requested.

4. WHAT IS THE SCHOOL'S GENERAL POLICY ON PROVIDING INFORMATION?

The School welcome the rights of access to information that are set out in the GDPR and DPA. The School are committed to operating openly and to meeting all reasonable requests for information that are not subject to specific exemptions in the Act.

It is the responsibility of every member of staff acting for or on behalf of the School. Subject Access Requests fall within the data protection statutory framework and the ability to identify and appropriately handle a request for information is considered to be part of every employee's role.

Your primary responsibility is to ensure that Subject Access Requests are in the first instance directed to the School's Data Protection Officer. It is important that requests are processed as soon as they are received to assist in meeting the statutory deadline.

5. HOW CAN AN INDIVIDUAL MAKE A SUBJECT ACCESS REQUEST?

A Subject Access Request is a request for personal information (known as personal data) held about you by the School. Generally, you have the right to see what personal information the School hold about you, you are entitled to be given a description of the information, what the School use it for, who the School might pass it onto, and any information the School might have about the source of

the information. However, this right is subject to certain exemptions that are set out in the GDPR and DPA.

Where possible a Subject Access Request should be made in writing via email to dpo@hunters-hall.bardaglea.org.uk or by post to the Data Protection Officer at the School address.

Individuals may make a Subject Access Request verbally or using the School Facebook page or Twitter account, but this is not recommended.

Individuals may also make a verbal Subject Access Request, but it is recommended that even if made verbally it is followed up in writing to provide an audit trail of the request and to ensure there is no misunderstanding on the information required.

The School may require you to complete a request form to ensure the School have all the details the School need to locate the information you require but the School will not use this as a way of extending the time limit for responding.

6. WHAT DO THE SCHOOL DO WHEN THE SCHOOL RECEIVE A SUBJECT ACCESS REQUEST?

Checking of Identity

6.1 The School will first check that the School have enough information to be sure of your identity.

6.2 If the person requesting the information is a relative/representative of the individual concerned, then the relative/representative is entitled to personal data about themselves but must supply the individual's consent for the release of their personal data. If you have been appointed to act for someone under the Mental Capacity Act 2005, you must confirm your capacity to act on their behalf and explain how you are entitled to access their information.

If you are the parent/guardian of a young person under 13, the School will need to consider:-

- Where possible, the young person's level of maturity and their ability to make decisions
- The nature of the personal data
- Any court orders relating to parental access or responsibility that may apply
- Any duty of confidence owed to the students or young person
- Any consequences of allowing those with parental responsibility access to the student's or young person's information, particularly important if there have been allegations of abuse or ill treatment
- Any detriment to the students or young persons if individuals with parental responsibility cannot access this information; and
- Any views the students or young person has on whether their parents should have access to information about them

6.3 Should you make a data Subject Access Request but you are not the data subject, you must stipulate the basis under the GDPR that you consider makes you entitled to the information.

Collation of information

6.4 The School will check that the School have enough information to find the records you requested. If the School feel the School need more information, then the School will promptly ask you for this. The School will gather any manual or electronically held information and identify any information provided by a third party or which identifies a third party.

6.5 When responding to a Subject Access Request that involves providing information that relates both to the individual making the request and to another individual the School do not have to comply with the request if to do so would mean disclosing information about another individual who can be identified from that information, except where:

- The other individual has consented to the disclosure; or
- It is reasonable in all the circumstances to comply with the request without that individual's consent

The School may sometimes be able to disclose information relating to a third party and the decision will be on a case by case basis. The decision to disclose will be based on balancing the data subject's right of access against the third party's individual rights in respect of their own personal data. If the third-party consents to disclosure, then it would be unreasonable not to do so. However, if there is no consent, the School will decide whether it is 'reasonable in all the circumstances' to disclose the information and will consider the following:-

- Is there any duty of confidentiality owed to the third-party;
- Any steps the School have taken to try and obtain third-party consent;
- Whether the third-party is capable of giving consent; and
- Any stated refusal of consent by the third-party.

6.6 Before sharing any information that relates to third parties, the School may anonymise information that identifies third parties not already known to the individual and edit information that might affect another party's privacy. The School may also summarise information rather than provide a copy of the whole document.

Issuing the School response

6.7 Once any queries around the information requested have been resolved, copies of the information in a permanent form will be sent to you except where you agree, where it is impossible, or where it would involve undue effort. In these cases, an alternative would be to allow you to view the information on screen at the School.

6.8 The School will explain any complex terms or abbreviations contained within the information when it is shared with you.

7 WILL THE SCHOOL CHARGE A FEE?

The GDPR does not allow the School to charge a fee. However, the School can charge a 'reasonable fee' when a request is manifestly unfounded or excessive, particularly if it is repetitive or when further copies are requested.

Where a request relates to 'unstructured person data' the School is not required to comply with the request if it estimates that the cost of doing so would exceed £450 (Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulation 2004)

8 HOW LONG DOES THE SCHOOL HAVE TO RESPOND TO A SUBJECT ACCESS REQUEST?

A request for a student's educational record must be provided within 15 school days from when the School have received all the information necessary to identify you, to identify the information requested, to provide you with the information or to provide an explanation about why the School are unable to provide the information.

Requests for non-educational records must be responded to within one calendar month. However, it may not be possible to comply with this outside of school term dates due to school closure and access to the information not possible, but the School will make every effort to respond within one calendar month wherever possible.

9 ARE THERE ANY GROUNDS THE SCHOOL CAN RELY ON FOR NOT COMPLYING WITH A SUBJECT ACCESS REQUEST?

Previous request

If you have made a previous Subject Access Request, the School must respond if a reasonable interval has elapsed since the previous request. A reasonable interval will be determined upon the nature of the information, the time that has elapsed, and the number of changes that have occurred to the information since the last request.

Exemptions

The Act contains a number of exemptions to the School duty to disclose personal data. The School must consider whether it is possible to comply with the SAR without revealing information that relates to and identifies a third-party individual or any other exempt information.
Examples of third party information that cannot be shared routinely without specialist consideration are:

- Safeguarding concerns which may contain information about multiple young persons including siblings and estranged parents
- Files containing legally privileged information
- Files containing advice from relevant professionals such as doctors, police or probation services
- Employee files containing information identifying managers or colleagues who have contributed to (or are discussed in) that file.

Special consideration should be given to sharing this type of information.
Special rules apply to Subject Access Requests relating to information about the outcome of academic examinations. This applies to requests for examination scripts, marks or markers' comments.

Information comprising the answers given by a student during an examination is exempt from the right of subject access. A Subject Access Request cannot be used to obtain a copy of a student's examination script.

10 WHAT IF YOU IDENTIFY AN ERROR IN THE SCHOOL RECORDS?

If the School agree that the information is inaccurate, the School will correct it and where practicable, destroy the inaccurate information. The School will consider informing any relevant third party of the correction.

If the School do not agree or feel unable to decide whether the information is inaccurate, the School will make a note of the alleged error and keep this on file.

11 THE SCHOOL COMPLAINTS PROCEDURE

If you are not satisfied by the School actions, you should firstly contact the School's Data Protection Officer.

The School will deal with any written complaint about the way a request has been handled and about what information has been disclosed.

The Data Protection Officer can be contacted by email: info@dpenterprise.co.uk

If the School refuses to disclose information in response to a Subject Access Request, the School may offer the applicant an opportunity to appeal the initial decision. If the applicant believes that an error has been made in the response to their Subject Access Request they are able to appeal the School's decision by seeking an internal review.

Once an appeal has been received the complainant will receive an acknowledgement receipt and the request and response to it will be reconsidered.

The applicant will be notified of the outcomes of the internal review as soon as possible. All internal reviews should be concluded within 20 working days.

If an applicant's appeal is successful, they will receive the information they requested as soon as possible. If the appeal is unsuccessful the School will provide an explanation of the findings and supply further information on how to take the matter further.

12 COMPLAINING TO THE INFORMATION COMMISSIONER

If you remain dissatisfied with the outcomes of the School's decisions, you have the right to refer the matter to the Information Commissioner. The Information Commissioner will make an initial assessment of the case before carrying out an investigation. The Information Commissioner has

written guidance notes for applicants on how to complain and published it on their website, www.ico.gov.uk

13. POLICY REVIEW

The DPO is responsible for monitoring and reviewing this policy. In addition, changes to legislation, national guidance, codes of practice or commissioner advice may trigger interim reviews.

14. LINKS WITH OTHER POLICIES

This Subject Access Request policy is linked to the School:

- Data Protection Policy
- Freedom of information Policy
- Security Incident and Data Breach Policy
- Records Retention and Deletion Policy
- Information Sharing Policy
- Information Security Policy

The Information Commissioner also provides a free helpdesk that can be used by anyone and a website containing a large range of resources and guidance on all aspects of Information Law for use by organisations and the public. See www.ico.org.uk