

# SUBJECT ACCESS REQUEST POLICY

**This policy is reviewed every two years**

## History of Document

Issue No	Author/Owner	Date Written	Approved by Trust Board	Comments
1	DPO	June 2018	12 July 2018	1 <sup>st</sup> formal issue

## 1. INTRODUCTION

- 1.1 The Active Learning Trust (“Trust”) collects, uses, shares, reports, retains, processes and deletes/destroys personal information about students, staff, parents or carers, and other individuals who come into contact with the Trust. This information is gathered to enable the Trust to provide education and other associated functions in relation to its employment of staff and duty of care to young people. In addition, there may be a legal requirement to collect and use information to ensure that the Trust complies with its statutory obligations.
- 1.2 Data protection legislation gives individuals (“data subjects”) rights to their personal data including the right to access personal data that an organisation holds about them. When an individual makes a request to view their information it is known as a Subject Access Request (“SAR”).

## 2. PURPOSE OF THE POLICY

- 2.1 The purpose of the Trust’s Subject Access Request Policy (“Policy”) is to outline the framework for receiving and responding to a SAR.
- 2.2 This Policy is based on the Information Commissioner’s Office (ICO) statutory code of practice – “Subject Access Code of Practice – Dealing with requests from individuals for personal information” available at [Code of Practice](#). Such Code has not yet been updated to reflect the GDPR. The ICO is intending to revise this guidance in due course.

## 3. SCOPE

- 3.1 This Policy is intended for anyone who submits SARs to the Trust or responds to SARs on behalf of the Trust.
- 3.2 Personal data is information that identifies an individual and includes information that would identify an individual to the person to whom it is disclosed because of any special knowledge that they have or can obtain<sup>1</sup> such as a name, date of birth, address, NI number, medical information, exam results and an online identifier, such as an IP address. A sub-set of personal data is known as special category personal data. This special category data is information that reveals:
  - 3.2.1 race or ethnic origin;
  - 3.2.2 political opinions;
  - 3.2.3 religious or philosophical beliefs;
  - 3.2.4 trade union membership;
  - 3.2.5 physical or mental health;

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<sup>1</sup> For example, if asked for the number of female employees, and you only have one female employee, this would be personal data if it was possible to obtain a list of employees from the website.

- 3.2.6 an individual's sex life or sexual orientation;
- 3.2.7 genetic or biometric data for the purpose of uniquely identifying a natural person

#### **4. RESPONSIBILITIES**

- 4.1 The Trust Board has ultimate responsibility for setting this Policy.
- 4.2 A Headteacher is responsible for ensuring that the requirements relating to this Policy are adopted and adhered to and is responsible for the day to day management of SAR arrangements. Where the term Headteacher is used this incorporates Executive Headteacher roles where these exist and the Chief Executive Officer of the Active Learning Trust when the statement refers to the central Trust.
- 4.3 Everyone who processes subject access requests must comply with this Policy.
- 4.4 An Information Management & Cyber Security Governance Group reports to the Trust's Senior Leadership Team and monitors actual performance against SAR key performance indicators.
- 4.5 The Trust's Data Protection Officer ("DPO") submits a report on the effectiveness of the Policy to the Trust Board as a minimum on an annual basis.

#### **5. FORMAT OF REQUESTS**

- 5.1 Individuals are requested to complete a SAR form, a copy of which is held on both the Trust's and individual schools' websites. The SAR form is also available in hard copy format from a school's reception. Requests will be accepted in other formats (e.g. verbal) however completion of the SAR form is the Trust's preferred method.
- 5.2 Guidance has been produced how to complete the SAR form and is attached to the SAR form (refer Appendix I).
- 5.3 All requests should be sent to a School Data Controller (usually the school's Headteacher).
- 5.4 An acknowledgement email or letter (if such is required / requested) will be sent to an individual.
- 5.5 Upon receipt of a SAR, a copy will be sent securely to the Trust's DPO who will arrange for it to be recorded in the SAR Log and a reference number issued.

## **6. RECEIPT OF SARs**

- 6.1 If employees e.g. teachers are contacted directly by a parent/carer/child e.g. in the playground at the end of the school day, for their personal data or that of their child held by the school, they should advise the individual to contact the school's Headteacher or Business Manager directly on such matter. They must not provide personal data outside the Trust's agreed policy for processing subject access requests. All subject access requests must be processed by a school's Headteacher or Business Manager in accordance with this Policy and the Trust's written procedures.

## **7. IDENTIFICATION**

- 7.1 Two forms of identification may be requested to check that personal information is being provided to the correct individual. This however isn't always necessary as a staff member may be able to verify the identity of the data subject/requestor. If there is uncertainty about the identity of the individual making the SAR, then additional information may be requested to confirm the individual's identity.
- 7.2 Any individual, including a child or young person with ownership of their own information rights, may appoint another person to request access to their personal data. In such circumstances the Trust must have written evidence that the individual has authorised the person to make the application and the School Data Controller must be confident of the identity of the individual making the request and of the authorisation of the individual to whom the request relates.

## **8. REQUESTS FOR LARGE AMOUNTS OF PERSONAL DATA**

- 8.1 Individuals may be asked to specify the information that a request relates to, if a large quantity of information is processed about an individual, so that the information supplied, is relevant.

## **9. FEES**

- 9.1 No fee will be charged for responding to SARs. However, if many requests are received for the same personal data from the same individual, data protection legislation allows the Trust to charge a reasonable fee based on the administrative cost of providing the information. Individuals will be informed of such charge prior to the personal data being obtained.

## **10. SARs FROM CHILDREN**

- 10.1 SARs submitted by pupils over age 12 (who have capacity in the absence of any disability/Special Educational Needs affecting level of understanding) will be processed. Such child can also nominate another person to exercise rights on their behalf. The Trust will ensure that the child has authorised them to do so. The Trust will consider whether the child is happy that the parent is making the request on their behalf and whether the information should be disclosed direct to the parent or child or both.

10.2 Where a child or young person does not have sufficient understanding to make his or her own request (usually those under the age of 12, or 12 and over but with a special educational need which makes understanding their information rights more difficult), a person with parental responsibility can make a request on their behalf. The School Data Controller must, however, be satisfied that:

10.2.1 the child or young person lacks sufficient understanding; and

10.2.2 the request made on behalf of the child or young person is in their interests.

## **11. REDACTION OF INFORMATION**

11.1 An individual only has the automatic right to access information about themselves, and care needs to be taken not to disclose the personal data of third parties where consent has not been given, or where seeking consent would not be reasonable, and it would not be appropriate to release the information. Particular care must be taken in the case of any complaint or dispute to ensure confidentiality is protected.

11.2 If documents with personal data includes information about someone else, such information will be redacted (information blacked out/removed) before supplying the personal data to the requestor or the Trust may decline to provide it, if disclosing it would 'adversely affect the rights and freedoms of others.' The Trust has issued "How to Redact/Blank Out Guidance" to assist with this task. The Trust will also refer to the ICO's guidance "How to disclose information safely - removing personal data from information requests and datasets - [Guidance](#)

11.3 Where all the data in a document cannot be disclosed, a permanent copy should be made, and the data obscured or retyped if this is more sensible. A copy of the full document and the altered document should be retained, with the reason why the document was altered.

11.4 Before disclosing third party information i.e. that which has been provided by another, such as the Police, Local Authority, Health Care professional or another school, consent should normally be obtained.

11.5 A second person authorised by a Headteacher is required to check that all necessary redactions have been made before disclosure.

11.6 All draft SAR responses and redacted documentation must be sent securely to the Trust's DPO for review prior to their issue by a school to a requestor.

## **12. SAR RESPONSE**

12.1 A written response to a SAR must include the following:

12.1.1 whether personal data about an individual is being processed (and provide copies of documentation if personal data is processed);

12.1.2 the purposes of the processing;

12.1.3 the categories of personal data concerned;

- 12.1.4 the recipients or categories of recipient to whom an individual's personal data have been or will be disclosed;
  - 12.1.5 the envisaged period for which the data will be stored or where that is not possible, the criteria used to determine how long the data are stored;
  - 12.1.6 An individual's rights for their personal data held, which is recorded within a Privacy Notice:
    - 12.1.6.1 the existence of a right to request rectification or erasure of personal data or restriction of processing or to object to the processing
  - 12.1.7 the right to lodge a complaint with the Information Commissioner's Office;
  - 12.1.8 where the personal data are not collected from the individual, any available information as to their source;
  - 12.1.9 the existence of automated decision-making (including profiling); and
  - 12.1.10 details of the safeguards in place for any transfers of their personal data to locations outside the European Economic Area.
- 12.2 SAR responses and redacted documentation may be provided to the requestor at school with a member of staff on hand to help and explain matters if requested, sent by secure email or sent by recorded post. Schools may issue a letter which requires the recipient to sign and return by way of confirming receipt of the documentation.

### **13. RESPONSE TIMEFRAME**

- 13.1 Responses to SARs will be provided without delay and in any event within one month. This period can be extended by a further two months where requests are complex (e.g. those that require a high volume of material or require additional steps to process, such as the need to search for records in multiple locations). If this is the case, individual's will be informed within one month of the receipt of the request with an explanation why the extension is necessary.
- 13.2 Individuals will be made aware that it may be harder to access personal information and respond during summer holidays. Where possible SARs should be sent to the Trust's Data Protection Officer at [dataprotection@activelearningtrust.org](mailto:dataprotection@activelearningtrust.org) during the summer holidays so their receipt can be acknowledged.

### **14. EXEMPTIONS TO ACCESS BY DATA SUBJECTS**

- 14.1 Access to records will be refused in instances where an exemption applies, for example:
  - 14.1.1 information sharing may place the individual at risk of significant harm or jeopardise police investigations into any alleged offence(s);

- 14.1.2 might cause serious harm to the physical or mental health of the pupil or another individual;
  - 14.1.3 would reveal that the child is at risk of abuse, where the disclosure of that information would not be in the child's best interests; and
  - 14.1.4 is contained in adoption or parental order records.
- 14.2 Where a claim to legal professional privilege could be maintained in legal proceedings, the information is likely to be exempt from disclosure unless the privilege is waived.
- 14.3 There are other exemptions from the right of subject access. If the Trust intends to apply any of them to a request, then it will usually explain which exemption is being applied and why.

## **15. AFTER RECEIPT OF PERSONAL DATA**

- 15.1 If after an individual has received the information requested and they believe any of the following, they will be asked to notify the Trust's Data Protection Officer:
- 15.1.1 the information is inaccurate or out of date; or
  - 15.1.2 the Trust should no longer be holding that information; or
  - 15.1.3 the Trust is using an individual's personal information for a purpose of which they were unaware; or
  - 15.1.4 the Trust may have passed inaccurate information about the individual to someone else.

## **16. RETENTION**

- 16.1 SARs and responses will be retained in accordance with the Trust's Records Retention Policy.

## **17. MONITORING**

- 17.1 The Trust's DPO will monitor the effectiveness of this Policy and relevant procedures as part of a Data Protection Annual Monitoring Programme.
- 17.2 All draft SAR responses and redacted documentation must be sent securely to the Trust's DPO for review prior to their issue by a school to a requestor.
- 17.3 Actual performance against SAR key performance indicators will be monitored on a quarterly basis.

## **18. REPORTING**

18.1 The Trust's DPO is responsible for submitting a report on the effectiveness of this Policy on an annual basis and a report of actual performance against key SAR performance indicators on a quarterly basis to the Trust Board.

## **19. REVIEW**

19.1 This Policy will be reviewed every two years by the Trust Board.



# The *Active Learning* Trust

## **SUBJECT ACCESS REQUEST (“SAR”) GUIDANCE**

### **How do I make a Subject Access Request?**

Complete the SAR form and hand or email it to the School Office marked “**Subject Access Request.**” We will accept requests in other formats however this is our preferred method.

We may ask you to provide two forms of identification to check we are providing personal information to the correct person. This however isn’t always necessary and you could simply ask a staff member to verify your identity. If we are uncertain about the identity of the person making the SAR, then we are entitled to request additional information to confirm your identity.

### **Requests for large amounts of personal data**

We may ask you to specify the information the request relates to, if we process a large quantity of information about an individual, so that the information supplied, is relevant.

### **Will I be charged for the information?**

No. However if we receive many requests for the same personal data from the same individual we can charge a reasonable fee based on the administrative cost of providing the information. We would notify you of such charge prior to obtaining the personal data.

### **What will I be advised?**

We will write to you and confirm whether we hold any of your personal data and provide such copies.

We will also advise you of your rights for the personal data held which are recorded within a Privacy Notice.

### **How long will it take?**

We will contact you within a month. We can extend this period by a further two months where requests are complex (e.g. those that require a high volume of material or require additional steps to process such as the need to search for records in multiple locations). If this is the case, we will inform you within one month of the receipt of the request and explain why the extension is necessary.

### **What action can the school take?**

If the personal data includes information about someone else, we will redact that information before supplying the personal data to you or we may decline to provide it, if disclosing it would ‘adversely affect the rights and freedoms of others.’ Where a request is made by email, the information will also be provided via email unless otherwise requested.

**SUBJECT ACCESS REQUEST FORM**

**PLEASE COMPLETE AND RETURN TO THE SCHOOL**

**Section 1 – About you**

<b>Title</b> <i>(please tick)</i>	<b>Mr</b>		<b>Mrs</b>		<b>Miss</b>		<b>Ms</b>		<b>Other</b>	
<b>Full Name</b>										
<b>Relationship with the School</b>	Please select – parent/carer, pupil, employee, governor, volunteer, other (please specify)									
<b>Current Address and Postcode</b>										
<b>Telephone Number</b>										
<b>Email Address</b>										
<b>Preferred method of response – email or hard copy (for collection from the school office)</b>										

**Section 2 – What information are you requesting?**

<p>Please describe the personal information you are requesting</p> <p><i>Insert details of the personal information you want that will help us to locate the specific information. Please be as precise as possible, for example:</i></p> <ul style="list-style-type: none"> <li>• <i>Your personnel file</i></li> <li>• <i>Your child's medical records</i></li> <li>• <i>Your child's behaviour record, held by [insert class teacher]</i></li> <li>• <i>Relevant emails between 'A' and 'B' between [date]</i></li> <li>• <i>CCTV images (if school has such system)</i></li> </ul>
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### Section 3 – Proof of Identity (IF REQUIRED)

Please provide copies of two pieces of identification, one from list A and one from list B below for yourself and indicate which ones you are supplying. These will be securely destroyed after the SAR has been responded to. If we are not satisfied you are who you claim to be, we reserve the right to refuse to grant your request.

**Please DO NOT send any original documents**

#### List A (photocopy of one from below)

#### List B (photocopy of one from below)

Passport	<input type="checkbox"/>	Utility bill showing current home address	<input type="checkbox"/>
Photo driving licence	<input type="checkbox"/>	Credit card statement (no more than 3 months old)	<input type="checkbox"/>
Foreign National Identity Card	<input type="checkbox"/>	Bank statement or Building Society Book	<input type="checkbox"/>
Birth Certificate	<input type="checkbox"/>	Local authority tax bill	<input type="checkbox"/>

### Section 4– Signature

Signature		Date	

If after you have received the information you have requested, you believe that:

- the information is inaccurate or out of date; or
- we should no longer be holding that information; or
- we are using your information for a purpose of which you were unaware; or
- we may have passed inaccurate information about you to someone else.

**PLEASE** notify the Trust’s Data Protection Officer – email [dataprotection@activelearningtrust.org](mailto:dataprotection@activelearningtrust.org)