



Subject Access Rights and Subject Access Requests (SAR)

Under both the Data Protection Act 1998 (DPA) and from 25 May 2018 the General Data Protection Regulations (GDPR) all 'data subjects' have the right to know what personal data is being held about them and used by organisations, for what purpose, where it came from and who else may have access to it.

The definition of personal data is broad and includes correspondence, emails, minutes, reports, results, databases, lists and expressions of opinion. At Milton Abbey the school has close relationships with its pupils and parents and so a good deal of personal data of this kind will be accumulated over the career of a pupil at the school.

Usually, individuals are also entitled to a 'permanent copy' of the personal data held. In practice, this involves considerable effort and can sometimes result in delicate or embarrassing disclosures and difficult decisions around the application of appropriate exceptions. Only repetitious requests, without allowing a reasonable time since the previous SAR, can be safely ignored.

How to recognise a valid SAR

SARs must be made in writing but do not have to refer to the DPA, GDPR or use any technical jargon of the law of personal data, provided that it is clear that the individual making the request wishes to access information that the school is holding about them.

SARs do not have to be made to any specific individual and can be addressed to any member of staff. Therefore it is important that all staff are able to identify a SAR if received. SARs can also be made by any means (provided it is in writing), including the through school's website or Facebook page.

The school is entitled to request any information reasonably required to confirm the identity of the originator of the request or to clarify what data is being sought (if not a full SAR) before formally responding to the request.

SARs being made by a third party

Provided the school is satisfied that the third party is genuinely acting on the individual's behalf (for example their solicitor or a family member) the school is obliged to respond to SARs made by a third party. However, children have exactly the same rights as adults and if the SAR is made on behalf of a pupil the school is entitled to ask for signed consent from the pupil before disclosing the data to the third party.

Time limits for compliance

Under GDPR, responses to SARs must be made within one calendar month of receipt. If the school takes longer to respond this would be in breach of the legislation.

What data should be included?

All electronic systems under the school's control which may include personal devices or email accounts where used on school business (eg peripatetic music teachers or governors).

Any paper records that form part of a filing system as defined by the GDPR.

What information has to be disclosed?

SARs only provide access to the individual's own personal data. This includes anything that relates to them or allows that individual to be identified by it (this includes nicknames, job titles, ID numbers, and so on).

Personal data that has been archived, copied to back up or 'deleted' (in so much as a backup still exists or where emails are still stored in the 'deleted mail' folder) must be included in the response.

It may be necessary to include personal devices within the SAR if the school has good reason to believe that a device is holding relevant personal data (for teaching staff or governors who use their personal email for school business).

What if the information identifies other people?

Where personal data about the person making the SAR also includes personal data about another person (third party), the school is not obliged to disclose this mixed data in response to the SAR unless the third party has consented, or it is reasonable to disclose without consent. The school must disclose as much of the personal data of the requestor as possible without unreasonably identifying a third party. This means that the school must make reasonable efforts to redact data belonging to third parties when responding to SARs.

Exceptions to Subject Access Rights

Information may be exempt from disclosure only if:

- It is legally privileged
- It records the intentions of the school in negotiations with the individual making the SAR
- It consists of confidential references given by the school (but does not apply to confidential references received by the school)
- It consists of exam or test answers or exam results before the allotted publication time
- It is held for purposes of management planning (eg redundancy planning)
- It would prejudice the prevention and detection of crime if disclosed
- It might cause serious harm or distress in limited social work contexts

Consequences of Non-Compliance with a SAR

Individuals who are unsatisfied with the school's response to a SAR may complain to the Information Commissioner's Office (ICO) which will generally investigate the complaint and give its view on whether the school has complied with the law.

Individuals may also make an application to court to enforce their request which is at the court's discretion.

What are the formalities of disclosing the data?

Data must be delivered in a format in which it is intelligible to the individual. In practice, every effort must be made by the school to ensure that the data is delivered by a safe and secure means in order to avoid any security breaches. The suitability of delivery method will depend on the sensitivity, volume and nature of the data.

If you receive a subject access request

Contact the school's Data Protection Compliance Lead (DPCL) or in their absence, the Senior Information Risk Owner (SIRO) immediately in order to initiate the process. Remember, the 30 day countdown begins the date that the SAR was received by the school.

The contact details of the DPCL and SIRO are as follows:

DPCL: Mira Samadi Email: mira.samadi@miltonabbey.co.uk Tel: Ext 246 / 01258 881858

SIRO: Juilan Litchfield Email: julian.litchfield@miltonabbey.co.uk Tel: Ext 831 / 01258 881 831

Once the DPCL or SIRO have been notified, the individual will receive acknowledgement of their request confirming receipt and the date by which their data will be provided. If there is a delay in dealing with the request for any reason, the school will contact the individual to explain the reason and expected date for the response.

What other information the response will contain

Responses to SARs will contain all the personal data about the individual making the request.

The response will also include an explanation of the searches that have been made in order to locate and obtain the data so that the individual can understand whether they have received all the information to which they are entitled.

Record Keeping

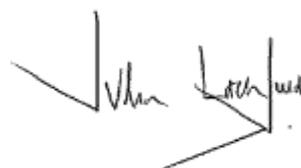
The school will log receipt of all SARs and monitor the progress as the SAR is processed.

The log will include copies of information supplied in response to the SAR together with copies of any material withheld together with the explanation why this information was not included in the reply.

A standard checklist will include all the relevant departments within the school from which the personal data has been obtained and will form the coversheet of each SAR file.

Further Reading

Please refer to the ICO's Subject Access Code of Practice available at <https://ico.org.uk/media/for-organisations/documents/2014223/subject-access-code-of-practice.pdf>

A handwritten signature in black ink, appearing to read 'Julian Litchfield', with a stylized flourish at the end.

Julian Litchfield FCIPD

Bursar

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