



Brookfield Primary School

Record of Policy Amendment / History

[illegible]



Brookfield Primary School aims to provide an educational environment of the highest quality in which we will strive to:

- To keep every pupil safe
- Develop effective and enthusiastic learners
- Value the self esteem and maximise the potential of every child
- Promote constructive attitudes and values
- Foster caring relationships in a secure environment
- Work in equal partnership with parents and carers and involve them in their children's learning

SUBJECT ACCESS REQUEST POLICY

POLICY STATEMENT

The Data Protection Legislation is an important mechanism in achieving trust and confidence between the school, their Data Processors and Data Subjects. It gives individuals rights of access to their personal records held by the school. This policy explains how the school aims to fulfil its obligations under the Act.

The school will deal with each subject access request it receives in accordance with provisions of this policy.

DEFINITIONS

'Data' means Personal Data and Special Category Personal Data.

'Data Controller' is the person who or the organisation which determine the purposes for which, and the manner in which, any personal data is processed. They are responsible for establishing practices and policies in line with Data Protection Legislation.

'Data Subject' means all living individuals about whom the school holds Data. A Data Subject need not be a UK national or resident. All Data Subjects have legal rights in respect of their Data and the information that the school holds about them.

'Data Processor' means any person who or organisation which processes Data on behalf of the Data Controller including contractors, and suppliers and any third party whose work involves accessing or otherwise using Data held by the school. Data Processors have a duty to protect the information they process for and on behalf of the school by following this and other school information governance policies at all times.

'Data Protection Legislation' means the General Data Protection Regulation (GDPR) and the Data Protection Act 2018,

'Personal Data' means any information relating to an identified or identifiable natural person (a data subject); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors

specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

‘Processing’ means any activity that involves use of the data. It includes obtaining, recording or holding the data, or carrying out any operation or set of operations on the data such as collection, recording, organisation, structuring, storage, adaption or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction. Processing also includes transferring personal data to third parties.

‘Special Category Personal Data’ means information about a person’s racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, physical or mental health or condition or sexual life, or genetic or biometric data.

‘Social Media’ means websites and applications that enable users to create and share content or to participate in social networking including Facebook, LinkedIn, Twitter, Google, and all other social networking sites, internet postings and blogs. It applies to use of Social Media for school purposes as well as personal use that may affect the school in any way.

‘Subject Access Request’ (SAR) means a request by an individual to the school to Article 15 of the GDPR.

LEGAL FRAMEWORK

Article 15 of the GDPR provides an individual with a right to be informed on request whether or not Personal Data concerning them is being processed and if so to access to the Personal Data and the following information:

1. The purposes of the Processing;
2. The categories of Personal Data concerned;
3. The recipients or categories of recipient to whom the personal data have been or will be disclosed, in particular recipients in third countries or international organisations;
4. Where possible, the envisaged period for which the personal data will be stored, or if not possible, the criteria used to determine that period;
5. The existence of the right to request from the Data Controller rectification or reassurance of Personal Data or restriction of Processing of Personal Data concerning the Data Subject or to object to such Processing;
6. The right to lodge a complaint with the Information Commissioners Office;
7. Where the Personal Data are not collected from the Data Subject, any available information as to the source; and
8. The existence of any automated decision making, together with additional information about such Processing where this is taking place.

Data may be withheld pursuant to a SAR where disclosure may cause serious harm to the Data Subject or any other person. This exemption relates only to health, social care, and education Data.

The school, as appropriate, is also exempt from disclosing third party Personal Data unless the third party has consented to their Personal Data being disclosed or it is reasonable in all the circumstances for the third party’s Personal Data to be disclosed without their consent.

MAKING A SAR TO THE SCHOOL

The School request that any SAR’s is made in writing (preferred method). This will enable the school to properly understand the nature and extend of a SAR and to provide an appropriate and sufficient response. The School will consider ‘in writing’ to include communications by post, fax and email.

SAR's should be sent to the Headteacher, Mrs J Beck or the School Office.

CONFIRMING THE IDENTITY OF THE REQUESTER

In order to minimise the risk of accidentally sending the Personal Data of an individual to a third party and to avoid data breaches, where the school receives a SAR and it is not satisfied as to the identity of the Requester, it will take the steps set out below to satisfy itself as to the identity of the Requester.

In satisfying itself as to the identity of the Requester, the school may ask the individual to verify their identity before responding to the request by asking the Requester to make themselves known at the main school office or sending a certified copy of photographic identification such as a passport or driving licence.

If the school, as appropriate, is not satisfied as to the identity of the Requester, then the SAR will not be complied with, so as to avoid the potential for an inadvertent disclosure of Personal Data resulting in data breach.

SHARING INFORMATION WITH THIRD PARTIES

Data subjects can ask that you share their personal data with another person such as an appointed representative (in such cases you should request written authorisation signed by the data subject confirming which of their personal data they would like you to share with the other person).

Equally if a request is made by a person seeking the personal data of a data subject, and which purports to be made on behalf of that data subject, then a response must not be provided unless and until written authorisation has been provided by the data subject. The school should not approach the data subject directly but should inform the requester that it cannot respond without the written authorisation of the data subject.

If the school is in any doubt or has any concerns as to providing the personal data of the data subject to the third party, then it should provide the information requested directly to the data subject. It is then a matter for the data subject to decide whether to share this information with any third party.

Personal data belongs to the data subject, and in the case of the personal data of a child regardless of their age the rights in relation to that personal data are theirs and not those of their parents. Parents, in most cases, do not have automatic rights to the personal data of their child.

However, there are circumstances where a parent can request the personal data of their child without requiring the consent of the child. This will depend on the maturity of the child and whether the school is confident that the child can understand their rights. Generally where a child is under 12 years of age they are deemed not to be sufficiently mature as to understand their rights of access and a parent can request access to their personal data on their behalf.

In all cases the school will consider the particular circumstances of the case.

SARs MADE BY THIRD PARTIES

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However, there are circumstances where a parent can request the personal data of their child without requiring the consent of the child. This will depend on the maturity of the child and whether the school is confident that the child can understand their rights. Generally where a child is under 12 years of age they are deemed not to be sufficiently mature as to understand their rights of access and a parent can request access to their personal data on their behalf.

In all cases the school will consider the particular circumstances of the case.

CLARIFICATION OF THE REQUEST

Where it is unclear what Data is being sought by way of the SAR, the school will contact the Requester to provide further clarification as to the information being requested.

In clarifying the request, the school, as appropriate, will contact the Requester by telephone, writing or email and ask for additional information to assist in determining whether any Data is being held and, if so locating where that Data is being held.

FEES

The school, as appropriate, will usually deal with a SAR free of charge.

Where the request is considered to be manifestly unfounded or excessive a fee may be requested. Alternatively, as appropriate, may refuse to respond to the request. If a request is considered to be manifestly unfounded or unreasonable the school, as appropriate will inform the requester why this is considered to be the case.

TIME LIMITS

The school, as appropriate, will respond to a SAR promptly and in any event no later than one calendar month from the date of the request, or receipt of appropriate identification or clarification of a request where appropriate.

Where it is not possible to respond within one calendar month, the school will contact the Requester in writing to advise that it will not be possible to respond fully within the one calendar month time scale and provide a new timescale for responding to the SAR.

In relation to complex requests the response period may be extended by two calendar months. What constitutes a complex request will depend on the particular nature of the request. Where a request is considered to be sufficiently complex as to require an extension of the period for response, the Requester will be notified within one calendar month of receiving the request, together with reasons as to why this is considered necessary.

RESPONDING TO A SAR

In responding to a SAR, the school, as appropriate, will search the following databases for the Data of the Data Subject:

- a) Manual and other paper records held by the school
- b) Electronic records including databases and emails including the inbox, outbox subfolders and deleted items.

The school, as appropriate, will consider whether any of the Data held is subject to any of the exemptions set out in the Data Protection Legislation or whether the Data requested should otherwise be withheld.

In so far as the school, as appropriate, is able to disclose then the Requester will be provided with the information as set in the paragraph above.

In responding to a SAR, the school, as appropriate, will, in so far as is reasonable provide the information in the format requested by the Requester and will take reasonable steps to ensure the information can be understood by the average person.

If the school, as appropriate, does not hold any Data of the Requester, it will respond to the SAR to this effect.

In responding to a SAR, the school, as appropriate will only provide third party Personal Data in accordance with this policy.

Where any of the exemptions in the Data Protection Legislation apply in relation to Data held by the school, it will not disclose that Data to the Requester.

If Personal Data is withheld the pursuant to an exemption then where appropriate the Requester will be informed in writing that Data has been withheld due to the application of an exemption, set out the nature of the exemption and give reasons as to why the school considers that the exemption applies.

Where the school receives a SAR and some Data is exempt from disclosure and others not, where practicable the school, will redact the information which is exempt from disclosure and provide the remainder to the Requester.

If it is not possible for the exempt information to be redacted then, where possible, the unreacted information will be extracted and forwarded to the Requester.

Where the school cannot provide the Data requested in a permanent format, necessary arrangements will be made for the Requester to inspect the Data being processed.

THIRD PARTY INFORMATION

Where the school receives a SAR and the Data of the Requester contains the Personal Data of a third party, the school will not disclose the third party's Personal Data unless the third party consents to the disclosure or it is reasonable in all the circumstances to disclose the Personal Data of third party without their consent.

In determining whether it is reasonable in all the circumstances to disclose third party Personal Data in responding to a SAR, the school will consider the following:

- a) Any duty of confidentiality owed by the school to the third party.
- b) The steps taken in trying to obtain the consent of the third party.
- c) Whether the third party is capable of providing consent for their Personal Data to be released.
- d) Any express refusal of the third party to not disclose their Personal Data.
- e) Whether any of the third party Personal Data is already known by the Requester.
- f) The circumstances which gave rise to the request.

DISPROPORTIONATE EFFORT

The school may decide not to provide Data pursuant to a SAR if to do so would involve a disproportionate effort.

In determining whether responding to a SAR will involve disproportionate effort, the school will consider the time, costs and any technical expertise required to respond to the SAR.

Where responding to the SAR will involve a disproportionate effort the school will consider refusing to deal with the request unless the Requester amends his request, for example by providing search terms in order to narrow the scope of that request.

REPEATED REQUESTS

If the school cannot limit the number of SARs which can be made by an individual, however, where there has been no reasonable interval between a previous request and the new request to the school may refuse to respond to the Requester.

In determining whether a request has been made a reasonable interval, the school will consider the following:

- a) Whether any new Data about the Data Subject has been Processed by the school and how often any Data being Processed is altered.
- b) The nature of the Data being requested, including the Data's sensitivity.
- c) Whether any processing is likely to cause harm to the Requester in Processing the Data.

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

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

COMPLAINTS

If a Requester is unhappy with the way the school has handled their request they should contact the Chair of Governors Mr Andy Brickles.

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

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

MONITORING AND REVIEW

This policy will be reviewed annually by the DPO at the school.

SUBJECT ACCESS REQUEST FLOWCHART

