



## Five Rivers Multi Academy Trust

### Procedures for responding to subject access requests made under the Data Protection Act 1998

#### Rights of access to information

Under the Data Protection Act 1998 there are two distinct rights of access to information held by academies about pupils:

- a) Any individual has the right to make a request to access the personal information held about them. (A parent/guardian may also make a request to access the personal information held about a child – see sections b & c below);
- b) The right of those entitled to have access to curricular and educational records as defined within the Education Pupil Information (Wales) Regulations 2004.

#### Actioning a subject access request

- a) Requests for information must be made in writing; which includes email, and be addressed to the Principal/Head of School of the academy in question. If the initial request does not clearly identify the information required, then further enquiries will be made.
- b) In all cases, the identity of the requester must be established before the disclosure of any information. If the request is made by a parent/guardian on behalf of the child, then checks should also be carried out regarding proof of relationship to the child. Evidence of identity can be established by requesting production of:
  - passport
  - driving licence
  - utility bill with the current address
  - birth / marriage certificate
  - P45/P60
  - Credit card or mortgage statement

*NB this list is not exhaustive.*
- c) Any individual has the right of access to information held about them. However, with children, this is dependent upon their capacity to understand (normally age 12 or above) and the nature of the request. The Principal/Head of School should discuss the request with the child and take their views into account when making a decision. A child with competency to understand can refuse to consent to the request for their records. Where the child is not deemed to be competent an individual with parental responsibility or guardian shall make the decision on behalf of the child.
- d) The academy may make a charge for the provision of information, dependent upon the following:

- i. Should the information requested contain the educational record then the amount charged will be dependent upon the number of pages provided;
  - ii. Should the information requested be personal information that does not include any information contained within educational records, schools can charge up to £10 to provide it;
  - iii. If the information requested is only the educational record, viewing will be free, but a charge not exceeding the cost of copying the information can be made by the Principal/Headteacher.
  - iv. The response time for subject access requests, once officially received, is 40 days **(not working or academy days but calendar days, irrespective of academy holiday periods)**. However, the 40 days will not commence until after receipt of fees or clarification of information sought.
  - v. The Data Protection Act 1998 allows exemptions as to the provision of some information; therefore, **all information will be reviewed prior to disclosure**.
  - vi. Third party information is that which has been provided by another party, such as the Police, Local Authority, healthcare professional or another school / academy. Before disclosing third party information, consent should normally be obtained. There is still a need to adhere to the 40-day statutory timescale.
  - vii. Any information which may cause serious harm to the physical or mental health or emotional condition of the pupil or another should not be disclosed, nor should information that would reveal that the child is at risk of abuse, or information relating to court proceedings.
  - viii. If there are concerns over the disclosure of information, then additional advice should be sought. If anyone requests personal data who has no right to it, then the request will be refused and the grounds stated (contravention of the Data Protection Act).
  - ix. Persistent or unreasonable requests: the Data Protection Act does not limit the number of subject access requests an individual can make to any organisation. However, it does allow some discretion when dealing with requests that are made at unreasonable intervals. The Act says that you are not obliged to comply with an identical or similar request to one you have already dealt with, unless a reasonable interval has elapsed between the first request and any subsequent ones.
- e) Where redaction (information blacked out/removed) has taken place then a full copy of the information provided should be retained in order to establish, if a complaint is made, what was redacted and why.
- f) Information disclosed should be clear, thus any codes or technical terms should be clarified and explained. If information contained within the disclosure is difficult to read or illegible, then it should be retyped.
- g) Information can be provided at the academy with a member of staff on hand to help and explain matters if requested, or provided at face to face handover. The views of the applicant should be considered when considering the method of delivery. If postal systems have to be used, then registered/recorded mail must be used.

## Complaints

- a) Complaints about the above procedures should be made to the Chair of the Trust Board, who will decide whether it is appropriate for the complaint to be dealt with in accordance

with the Trust's or the academy's complaint procedure. Complaints which are not appropriate to be dealt with through the Trust's/academy's complaints procedure can be dealt with by the Information Commissioner. Contact details of both will be provided with the disclosure information.

## **Contacts**

- a) If you have any queries or concerns regarding these policies / procedures please contact the Principal/Head of School of the academy in question.
- b) Further advice and information can be obtained from the Information Commissioner's Office, [www.ico.gov.uk](http://www.ico.gov.uk) or telephone 0303 123 1113.

**Principals/Heads of School are responsible for ensuring the subject access procedure is displayed on academy websites.**