

# Leechpool Primary School

## Rectification and Erasure Procedure



### **PARENTAL RIGHTS TO RECTIFICATION AND ERASURE**

#### **The EU General Data Protection Regulation (GDPR)**

The Data Protection Act 2018 (DPA) is the UK's implementation of the General Data Protection Regulation (GDPR) and both came into force on 25<sup>th</sup> May 2018.

The DPA 2018 sets out the framework for data protection law in the UK. It updates and replaces the Data Protection Act 1998.

The DPA sits alongside the GDPR, and tailors how the GDPR applies in the UK.

Everyone responsible for using personal data has to follow the 'data protection principles'.

They must make sure the information is:

- used fairly, lawfully and transparently
- used for specified, explicit purposes
- used in a way that is adequate, relevant and limited to only what is necessary
- accurate and, where necessary, kept up to date
- kept for no longer than is necessary
- handled in a way that ensures appropriate security, including protection against unlawful or unauthorised processing, access, loss, destruction or damage

### **Rights**

The GDPR has strengthened the rights an individual has in respect of the processing of their personal data with regard to the following:

1. To have inaccuracies corrected
2. To have information erased
3. To restrict processing

### **Who can apply?**

The rights granted under the GDPR are the rights of the person whose data is processed. This means that the personal data of a child belongs to the child and not their parents or carers. However, the GDPR does not specify an age at which a child can exercise their own rights.

Request received from a child :-

When a request is received from a child those responsible for responding should take into account whether:

- the child wants their parent (or someone with parental responsibility for them) to be involved in the request; and
- the child properly understands what is involved in making the request and the type of information they will receive.

As a general guide, a child of 12 or older is expected to be mature enough to understand the request they are making.

### **Time limits**

There is no specific time limit identified in the GDPR to comply with these requests, therefore the school should respond within a reasonable time and would suggest that it would be appropriate to respond to the request within one month, to be extended by two months where the request is complex.

## **RIGHT TO HAVE INACCURATE OR INCOMPLETE DATA CORRECTED**

An individual is entitled to have personal data rectified if it is inaccurate or incomplete. Where the school agrees that the record is not accurate, it should be amended.

### **Information shared with third parties :-**

If the School has disclosed the personal data in question to any third parties, the School will inform them of the rectification where possible, unless this is impossible or involves disproportionate effort.

The school have a list of third parties that information is shared with. These are those covered in the Privacy note as well as IT systems such as SIMS [registration and pupil information] and e4education [communication information].

## **What do I do if the school does not agree that the information is inaccurate?**

Inevitably there will be circumstances where there is a conflict between the school and an individual as to what is and is not an accurate record. If it is not possible to agree to how the information is recorded the school should advise the individual that their comments about the accuracy will be placed with the original data so that there is a clear record that there is a dispute about the accuracy.

Where the School declines to take action in response to a request for rectification you will be notified in writing of the reasons why.

## **RIGHT TO HAVE INFORMATION ERASED (also known as 'the right to be forgotten')**

This right enables an individual to make a request to the School for the deletion or removal of personal data where there is no compelling reason for its continued processing.

The right to erasure does not provide an absolute 'right to be forgotten'.

The School mainly processes personal data because it is necessary to comply with legal obligations. In those circumstances, it is highly unlikely the School will be able to agree to permanently erase such data.

### **When does the right to erasure apply?**

An individual can make a request to prevent processing in specific circumstances:

- Where it is no longer necessary in relation to the purpose for which it was originally collected/processed.
- When the information was processed on the basis of the individual's consent and that consent has been withdrawn.
- When the individual objects to the processing and there is no overriding legal obligation or legitimate reason for continuing the processing.
- The personal data was unlawfully processed (ie otherwise in breach of the GDPR).
- The personal data has to be erased in order to comply with a legal obligation.

The School can refuse to comply with a request for erasure where the processing of the data is necessary for the following reasons:

- to exercise the right of freedom of expression and information;
- to comply with a legal obligation or for the performance of a public interest task or exercise of official authority;
- for public health purposes in the public interest;
- archiving purposes in the public interest, scientific research historical research or statistical purposes; or
- the exercise or defence of legal claims.

The most common reason for refusing to erase data will be that you need to comply with a legal obligation for example where you have a statutory obligation such as; safeguarding duties, duties in respect of children with special educational needs or disabilities, duties in respect of the Educational Record.

### **Third parties**

If the School has disclosed the personal data in question to any third parties, the School will inform them of the rectification where possible, unless this is impossible or involves disproportionate effort.

The school have a list of third parties that information is shared with. These are those covered in the Privacy note as well as IT systems such as SIMS [registration and pupil information] and e4education [communication information].

### **Reasons**

Where the School declines to take action in response to a request for rectification you will be notified in writing of the reasons why.

### **RIGHT TO RESTRICT PROCESSING**

In limited circumstances an individual can request that processing of personal data is restricted. When processing is restricted, the school is still permitted to store the personal data, but not further process it. You can retain just enough information about the individual to ensure that the restriction is respected in future.

## **When does the right to restrict processing apply?**

You will be required to restrict the processing of personal data in the following circumstances:

- Where an individual contests the accuracy of the personal data, you should restrict the processing until you have verified the accuracy of the personal data.
- Where an individual has objected to the processing (where it was necessary for the performance of a public interest task or purpose of legitimate interests), and you are considering whether the School's legal obligations, for example your statutory safeguarding duties, override those of the individual.
- When processing is unlawful and the individual opposes erasure and requests restriction instead.
- If you no longer need the personal data but the individual requires the data to establish, exercise or defend a legal claim.

## **Third parties**

If you have disclosed the personal data in question to third parties, you must inform them about any restriction on the processing of the personal data, unless it is impossible or involves disproportionate effort to do so.

The school have a list of third parties that information is shared with. These are those covered in the Privacy note as well as IT systems such as SIMS [registration and pupil information] and eschools [communication information].

## **Lifting a restriction on processing**

Before lifting the restriction on processing, the controller will inform the data subject.

## **Complaints**

If an individual is unhappy with the way their request has been handled, you should first request a review of the decision by contacting the DPO.

If you are not content with the outcome of the internal review, you may apply directly to the Information Commissioner for a decision.

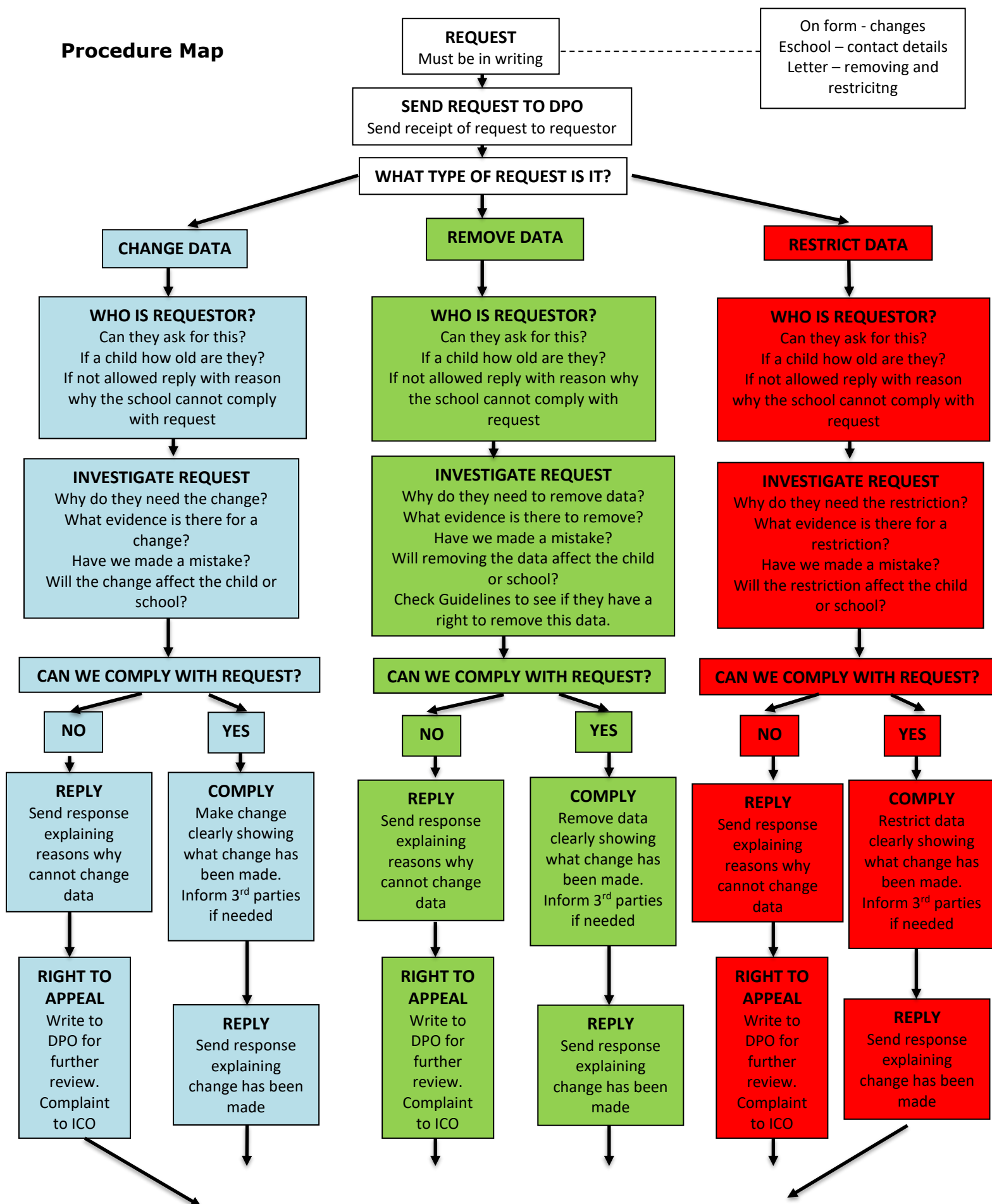
Generally, the ICO cannot make a decision unless they have exhausted your internal review procedure.

The Information Commissioner can be contacted at:

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

# PROCEDURE FOR DEALING WITH REQUESTS FOR:- changes, restricting and removing data.

## Procedure Map



**RECORD**

Record on spreadsheet what has been requested, by whom and outcome