

# Leechpool Primary School

## Parental Rights Procedure



### **PARENTAL RIGHTS TO DATA**

#### **Educational Record**

Under the Education (Pupil Information) (England) Regulations 2005 (The Regulations) the governing body of a maintained school must make a pupil's educational record available for inspection for the parent, free of charge, within 15 school days of a written request or provide copies for a fee to cover disbursements.

#### Who can apply?

The meaning of parent is wider than the definition of who has parental responsibility. Parent means the biological parent, a person with parental responsibility or someone who has care of the child. Therefore, where a child is living with grandparents, the grandparents have a right to see the child's educational record even though they may not have parental responsibility.

#### What is the Educational Record?

This covers information that comes from a teacher or other employee of a local authority or school, the pupil or a parent, and is processed by or for the school's governing body or teacher (except for information the teacher has solely for their own use). So it will cover information such as the records of the pupil's academic achievements as well as correspondence from teachers, local education authority employees and educational psychologists engaged by the school's governing body. It may also include information from the child and from a parent. Information provided by the parent of another child would not form part of a child's educational record.

#### What are the time limits?

Requests for information in the educational record must be responded to within 15 school days (not including weekends or holidays).

#### Can a child veto the parent's right to access the education record?

No however in exceptional cases a pupil may assert his Right to Privacy in Article 8 European Convention on Human Rights, in which case the school must balance these rights when deciding whether or not to disclose.

#### What information can a School withhold?

Information about another person should not be disclosed unless the other person gives their permission, or it is reasonable in the circumstances to provide the information without their permission. This includes information about the other parent.

A school must not communicate anything to the parent which it could not communicate to the pupil himself under the DPA/GDPR.

There are certain circumstances where the school can withhold an educational record; for example, where the information might cause serious harm to the physical or mental health of the pupil or another individual.

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The request for access would also be denied if it would mean releasing examination marks before they are officially announced.

Legal advice is exempt from disclosure in response to a sir.

### What about school reports?

Every parent is entitled to receive an annual report in respect of his or her child. Parents also have the right to make arrangements to discuss the content of the report with the child's teacher.

This right remains even if a child no longer lives with the parent. In exceptional cases a pupil may assert his/her Right to Privacy in Article 8 European Convention on Human Rights, in which case the school must balance these rights when deciding whether or not to disclose the annual report to the parent.

When a child reaches 18 and is not proposing to leave school by the end of the school year to which the report relates, the head teacher should give the report to the pupil himself and to the parent if the head teacher considers there to be special circumstances which make it appropriate.

In respect of any pupil who has ceased to be of compulsory school age and is proposing to leave or has left the school, the head teacher should give the school leaver's report to the pupil concerned.

### **Right to have inaccuracies corrected**

Individuals are entitled to in certain circumstances to have personal data rectified if it is inaccurate or incomplete.

Leechpool have a process in place to update and change any personal data that is inaccurate. See procedure below.

### **Right to have information erased**

The right to erasure is also known as 'the right to be forgotten'. This right enables a request to be made 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.

Leechpool have a process in place to deal with requests. See procedure below.

### **Right to restrict Processing**

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In limited circumstances you 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.

Leechpool have a process in place to deal with requests. See procedure below.

### **Requests for personal data / Subject Access Request**

#### **What are the timescales for dealing with requests?**

The time limit for Subject Access Requests (SAR's) under the DPA is 'within one month of receipt of the request.'

That period may be extended by two further months where necessary, taking into account the complexity and number of requests. The School must inform the Data Subject of any such extension within one month of receipt of the request, together with the reasons for the delay.

Where the data subject makes the request by electronic means, the information shall be provided by electronic means where possible, unless otherwise requested by the data subject.

#### **Who has parental responsibility and therefore can request his/her child's personal data?**

- The natural mother.
- The natural father if:
  - he was married to the mother when the child was born; or
  - married the mother after the child was born; or
  - appears as the father on the birth certificate and the birth was registered after 1 December 2003; or
  - he has signed a PR agreement with the mother(evidenced by a form provided by a solicitor, signed by both parents and witnessed by an Officer of the Court); or
  - he has obtained a PR order; or
  - he has obtained a residence order or child arrangement order.
  - He has been appointed as the child's guardian on the death of the natural mother.
- A step-parent if he/she has signed a PR agreement or obtained a PR order.
- Same-sex partners will both have parental responsibility if they were civil partners at the time of the treatment, eg donor insemination or fertility treatment.
- Same-sex partners who aren't civil partners-the 2nd parent may acquire parental responsibility by either:
  - Court order or by making a parental responsibility agreement
  - Becoming a civil partner of the other parent and making a parental responsibility agreement or jointly registering the birth
- An individual with a residence order or a Child Arrangement Order which identifies who the child lives with for the child.
- An individual who has legally adopted the child.
- An individual who has a Special Guardianship Order for the child
- A local authority under a care order
- A person who has an emergency Protection Order.

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### At what age can a child make their own Subject Access Request?

The GDPR does not specify an age at which a child can make their own request for access to their information. When a request is received from a child for access to their own information, 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.

### When is a pupil's consent needed before disclosure to a parent?

When a child is able to make his/her own subject access request (see above)

### Can any other information be withheld?

- a. Information about another person (including a parent) should not be disclosed without written consent of that person.
- b. Information about the data subject where:
  - information might cause serious harm to the physical or mental health of the pupil or another individual;
  - the disclosure would reveal a child is at risk of abuse;
  - information contained in adoption and parental order records
  - information given to a court in proceedings under the Magistrates' Courts (Children and Young persons) Rules 1992;
  - copies of examination scripts
  - providing examination marks before they are officially announced.
  - legal advice which is protected by legal professional privilege.

### Can a fee be charged?

Schools can charge the following fees for subject access requests:

Number of pages	Maximum fee	Number of pages	Maximum fee
1-19	£1	100-149	£10

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20-29	£2	150-199	£15
30-39	£3	200-249	£20
40-49	£4	250-299	£25
50-59	£5	300-349	£30
60-69	£6	350-399	£35
70-79	£7	400-449	£40
80-89	£8	500+	£50
90-99	£9		

### **Disclosure to other agencies**

#### Requests from police/fraud office

Disclosure of personal data to the police is permitted where it is necessary for the prevention or detection of crime, the apprehension or prosecution of offenders or the assessment or collection of any tax or duty or similar. The police should be able to show that if the school does not disclose the information, the above purposes would be prejudiced. The police should make the request in writing on headed paper and the school will check that the individual making the request is indeed from the police/ fraud office. The sort of information the police usually require is the current address of a child's parents.

#### Court orders for disclosure

The School will refer such requests to the Legal Services Unit at West Sussex County Council. Such request may come from the Police, the Crown Prosecution Service, Defence Solicitors and individuals.

#### Education agencies

Disclosing data to education agencies is covered in the school's Privacy Notice.

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**PROCEDURE FOR DEALING WITH REQUESTS FOR:- Education Record, Personal Data, Subject Access and requests from other agencies**

## Procedure Map

