Cranham Church of England (VA) Primary School

Subject Access Request Policy and Procedure

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Ratified by: Governing Body on		Next Review:

Equality Impact Assessment (EIA) Part 1: EIA Screening

Policies, Procedures or Practices		Date	
EIA CARRIED OUT BY:		EIA APPROVED BY:	

Groups that may be affected:

Are there any concerns that the policy could have a different impact on any of the following groups? (please tick the relevant boxes)	Existing or potential adverse impact	Existing or potential for positive impact
Age (young people, the elderly: issues surrounding protection and welfare, recruitment, training, pay, promotion)		
Disability (physical and mental disability, learning difficulties; issues surrounding access to buildings, curriculum and communication).		
Gender Reassignment (transsexual)		
Marriage and civil partnership		
Pregnancy and maternity		
Racial Groups (consider: language, culture, ethnicity including gypsy/traveller groups and asylum seekers		
Religion or belief (practices of worship, religious or cultural observance, including non-belief)		
Gender (male, female)		
Sexual orientation (gay, lesbian, bisexual; actual or perceived)		

Any adverse impacts are explored in a Full Impact Assessment.

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1. The UK General Data Protection Regulation

The UK General Data Protection Regulation (UK GDPR) regulates the processing of 'personal data'.

Personal data is information that relates to a living individual which allows that individual to be identified from that information (or that information with other information likely to come into the organisation's possession).

Cranham CofE Primary is a Data Controller as it determines the purposes, and the way in which personal data is processed.

The UKGDPR provides individuals with certain rights, one of which enables individuals to find out what personal data is held, why it is held and who it is disclosed to. This right, is commonly known as subject access, and is set out in Article 15 of the UK GDPR. Individuals may exercise the right by making a 'subject access request' (SAR).

2. What is a subject access request?

A subject access request (SAR) is simply a request made by or on behalf of an individual for the information which he or she is entitled to ask for under Articles 12 and 15 of the UK GDPR. The request does not have to be in any particular form, nor does it have to include the words 'subject access' or make any reference to the UK GDPR.

These requests are most often made by individuals who want to see a copy of the information an organisation holds about them. However, except where an exemption applies subject access entitles an individual to be:

- told whether any personal data is being processed;
- given a description of the personal data, the reasons it is being processed, and whether it will be given to any other organisations or people;
- given details of the source of the data (where this is available).

The right of access, commonly referred to as subject access, gives individuals the right to obtain a copy of their personal data, as well as other supplementary information. If the request is made electronically, the information should be provided in a commonly used electronic format, subject to secure transfer of that format.

Formal requirements

A subject access request (SAR) can be made verbally or in writing. The school has a Subject Access Request Form and a Data Protection Policy, both of which are available from our website.

Although, the form may make it easier for an individual to ensure they include all the information to action a subject access request there is no requirement for them to use this form. Requests may also be received via email, fax, letter etc. Adults and children who can understand their subject access rights can apply to the school for their personal information. The form also allows official representatives to apply on behalf of vulnerable or less able applicants (see section on requests made on behalf of others and requests for information about children).

To avoid personal data about one individual being sent to someone who is not entitled to it, the school need to be satisfied that they know the identity of the applicant. Enough information should be requested to confirm the individual's identity, however this must be reasonable especially in situations where the individual is known to the school through ongoing contact.

Subject access requests to the school are free under UK GDPR.

The statutory response time is one month for all data controllers, however this can be extended for further two months where the request is complex.

3. Subject Access Procedures

When a SAR is received which meets the requirements above, the one month response begins to run. This one month deadline is set by the UK GDPR, however in all cases the school should respond promptly.

On receipt of subject access request, it may be more appropriate for staff members to try to satisfy the request informally in person or by telephone, perhaps when individuals are requesting copies of documents which have previously been provided or should have been provided.

Before responding to a subject access request, staff may ask the applicant for information that is reasonably required to find the personal data that they are seeking. Staff are not required to comply with the request until this information is received, however there shouldn't be an unreasonable delay in seeking clarification.

Upon receipt of a subject access response, an individual may wish to contact the school. If they remain dissatisfied following this they may also contact the Information Commissioner's Office at any time if they are not satisfied with their response, or the way their request has been handled, although they may ask the school to resolve these concerns directly in the first instance.

A detailed record of the contents of subject access replies should be kept for 7 years. This record should include the information that was disclosed, and where necessary the exemptions that were used where information was not provided.

4. Requests made on behalf of others

The UK GDPR does not prevent an individual making a subject access request via a third party. Often, this will be a solicitor acting on behalf of a client. In these cases, you need to be satisfied that the third party making the request is entitled to act on behalf of the individual, but it is the third party's responsibility to provide evidence of this entitlement. This might be a written authority or might be a more general power of attorney.

When a SAR is received from a Law firm, staff must ensure that the request letter confirms that the school will not be a party to the claim. If the school is a party, the matter should be sent directly to the Risk Management & Insurance Team for their advice. The request letter must also include a signed consent or release form from the client. The information disclosed should be exactly as outlined in the client's consent form. Information must not be released without the client's consent form.

5. Requests for information about children

Pupils attending any type of school have a right of access under the UK GDPR to their own information.

A parent can access all the other information about their child if their child is unable to act on their own behalf or gives their permission. As a general guide, a child of 12 or older is expected to be mature enough to make this kind of request.

Even in instances where a child is too young to understand the implications of a subject access request, it is important to remember that it is still fundamentally their right, rather than anybody else's, to access this information.

You may allow a parent to exercise the right of access on behalf of a child provided that the child has authorised this, or it is clearly in the best interests of the child.

Parents have an independent right of access to their child's educational record, under separate education regulations. 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. 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.

A request for an educational record must receive a response within 15 school days. The school can charge what it costs to supply a copy of the information. It is free for a parent to **view** the educational record.

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

6. Exemptions

Some types of personal information are exempt from the right of subject access. Information may be exempt because of its nature or because the effect that its disclosure would have. There are also restrictions where this would involve disclosing information about another individual (third parties).

If third parties are included in material to be released, a balancing of interests between the applicant and the third party should be carried out. The third party's views on the release of this information to the applicant may be sought. Decisions about disclosing third party information should be made on a case by case basis. It may be necessary to seek legal advice where appropriate.

We will not disclose information if it:

- Might cause serious harm to the physical or mental health of the pupil or another individual

- Would reveal that the child is at risk of abuse, where the disclosure of that information would not be in the child's best interests
- Is contained in adoption or parental order records
- Is given to a court in proceedings concerning the child

7. School Office visits

Applicants may, in some circumstances, visit the school offices to view the information they have requested. If this is to occur, the Head teacher must first view the documents and consider whether the information can be released or whether an exemption may apply. The applicant should also be accompanied by an appropriate member of staff so that information can be explained and clarified. Office visits should be carried out within the statutory time limit and the visit documented. A reference should be kept on file to the information that was viewed.