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# ACCESS TO PERSONAL DATA FILES POLICY

**Etwall Primary School**

**Date: February 2018**

**ACCESS TO PERSONAL DATA FILES POLICY**

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## **1. Introduction**

The School recognises the rights and expectations of employees that the information kept about them is accurate, relevant and safe from improper disclosure.

In accordance with the Data Protection Act 1998 (Section 7), the School supports the principle of personal data files being available for inspection by employees and that they can receive a copy of the contents of their file within 15 working days.

## **2. Access Requests**

Requests for access to personal files, either electronic or paper, may come from the following sources:

- Employees wanting to view their own file
- Previous employees wanting to view their own file
- Third parties who have written agreement from the data subject
- Auditors and appointed officers carrying out investigations under Financial Regulations or other School (& Council, for relevant schools) procedures

Specific groups of staff have access to the relevant parts of the electronic employee record and paper files to legitimately carry out their duties. These groups of staff include managers, human resources, legal, occupational health and health and safety officers. In addition the employee has access to parts of their own electronic record.

### ***Request Process***

- An access request should be made on the form 'Request to Access a Personal Data File' (Appendix A) which should be submitted to the Headteacher, who will co-ordinate arrangement of the required access. The legal minimum requirement is that the request is made in writing so an access request need not be on the pro forma.
- The more specific the access request can be, the more beneficial that is to all parties in meeting the request quickly and efficiently.

Following the request from an employee, within 15 working days the School will have;

- Located the requested personal data and made arrangements to give access to inspect the file (electronic and paper)
- Made sure that only the information requested is available to the employee
- Ensured that the employee is accompanied by an appropriate staff member when inspecting their file.
- Allowed the employee to be accompanied by a trade union representative or colleague
- Provided the employee, on request, with a copy of the personal data required

Where legitimate requests for access are made by persons who do not have prescribed access rights, for example auditors, access would be provided through agreement with the Headteacher.

### **3. Amendment Rights**

An employee objecting to information held on or missing from their personal data files should initially discuss any amendments or omissions with their line Manager/Headteacher.

Managers/Headteachers should comply with reasonable requests for alterations. However changes should not be made that are open to challenge or dispute and should only be made on verifiable errors of fact. Managers/Headteachers should ensure that any alterations meet the requirements of the Data Protection Act, taking advice from their HR provider if necessary.

Where there is a difference of opinion between a manager/Headteacher and employee, the manager may consider allowing an employee to place a note on file to record his or her own views or opinion about an item of information. Alternative courses of action are for the employee to approach the Information Commissioner or to use the School's Grievance Procedure.

Requests for amendments should be responded to within 10 working days of receipt, and should always be undertaken by the manager/Headteacher. Responses to employees should indicate what action management will take, if any, together with the detailed reasons for any partial or non-compliance.

### **4. Medical Records**

Occupational Health reports, which have been written to the Headteacher about an individual employee, will be available for access from the employee's personal file.

If however, an employee wishes to have access to their occupational health file, a written request should be made to Occupational Health – the procedure followed will then be the same as for any other access request.

Access to Occupational Health records would be denied only when disclosure 'would be likely to cause serious harm to the physical or mental health or condition of the data subject or any other person' – Data Protection (Subject Access Modification Health) Order 2000.

### **5. Employment References and Third Party Information**

The School receives requests from third parties i.e. references for other employment, credit references and solicitors acting on behalf of employees.

## **References**

Outgoing references, and those for internal transfers, will be open to inspection on request by the employee.

References from outside the School are requested on the understanding that they will be open to inspection on request, in line with the Data Protection Act and the School's Recruitment and Selection Procedure. On request, access should be given to the employee to inspect a reference.

If a referee external to the school provides a reference in confidence and disclosure will reveal the author's identity, the consent of the author must be obtained before disclosure.

If consent is denied the school must assess how reasonable it is to respect the referee's wishes. *(Detailed advice on this situation can be obtained from Children's Services HR Advice & Guidance Team or Legal Services, for schools purchasing the traded service. The advice will be based on the Information Commissioner's Office, 'Subject Access Code of Practice')*

## **Other Third Party Requests**

The School will only release information to a third party with written consent from the employee. All responses from the School will be sent to the employee to forward back to the third party.

Any request for access to personal data where the identity of third parties may be revealed will not be disclosed. If however, the identity of the third party can be concealed, the data can be disclosed without consent.

## **6. Content of an Employee Record**

Managers/Headteachers are advised to review the contents of employee records held by them on a regular basis and to dispose of any unnecessary or inappropriate information. For further guidance, those purchasing the Local Authority HR Advice and Guidance service, may request to view Derbyshire County Council's HR retention schedule.

## **7. Areas of Non-Access/Withholding information**

The School reserves the right to withhold;

- Information in the case of unreasonably regular requests – a request can be refused if there is not a reasonable interval between requests and the

information has not changed. Only new information needs to be supplied if there is a small interval and information has changed

- Information given by a third party in confidence where permission is not given to disclose
- Any information where disclosure would also reveal information about another identifiable person and the other person's consent has not been obtained
- Legal advice
- School negotiations with an employee
- Information that may cause serious harm to the data subject or someone else

## REQUEST TO ACCESS A PERSONAL DATA FILE

Under the Data Protection Act 1998, employees have the right to see information about them held by this organisation and to have a copy of that information. The information provided on this form will allow us to obtain the requested personal data quickly and thoroughly.

### Details of Person Requesting Information

Full Name:
Payroll Number or National Insurance Number:
Address:
Home Telephone number:
E-mail address:
<b>If this is a third party request please provide proof of your entitlement to act on behalf of the data subject. i.e. power of attorney, letter from person etc.</b>

### Name of Person Whose Data You Are Requesting to Access

Full Name:
DOB:
NI Number:
Payroll Number:
Address:

Please state in the box below what information you would like to see i.e. whole personal file, all information relating to health from date to date etc. It would be helpful if you can be as specific as possible about what information you require.

**Proof of Identity**

This must be provided for the person about whom information is required (Section A) AND the person making the request (Section B) if they are different. Proof of identification can be by driving licence or passport.

**Declaration**

Please note it is a criminal offence to attempt to obtain another person's personal information by deception. The personal information you provide on this form will only be used by this organisation for the purpose of locating any data to which you are requesting access. It will only be kept for the period specified in our retention policy.

..... confirm that the information given on this form is true. I understand that it may be necessary for me to provide more information to locate the correct records.

PRINT NAME:

.....

SIGNATURE: .....

DATE: .....

***Please submit this form to the Headteacher .....***

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**To be completed by authorised person processing the request**

Please tick the box to confirm the following

Tick	Action undertaken
	The identity of the above individual requesting access to this file for review was verified. This file was reviewed in my presence and I verify that no documents were altered, added, or removed from the file.
	The identity of the above individual requesting access to this file for review was verified. I made the allowable copies and submitted them to the employee and I verify that no documents were altered, added, or removed from the file.
	The identity of the third party request was verified. I made the allowable copies and submitted them to the employee to forward onto the third party. I verify that no documents were altered, added, or removed from the file.

Signature of Person completing Access Request: .....
Print Name of Person Undertaking Access Request: .....
Date ____/____/____