

# Our Lady of Mercy Catholic Education Trust



## St Anthony's Girls' Catholic Academy

<b>Policy type:</b>	<b>M.A.T.</b>
<b>Policy:</b>	<b>Subject Access Requests</b>
Ratified by MAT Directors:	December 2019
Head Teacher signature:	<i>M. Shepherd.</i>
Chair of Directors signature:	<i>Shepherd.</i>
Review Date:	December 2020
Ownership:	J.Liddell (Company Secretary)

## **St. Anthony's Girls' Catholic Academy**

### **Subject Access Requests (SAR) – Stakeholder information**

#### **1. Can an individual request information or data that a School/College holds about them?**

Yes. Every individual has the right to make a Subject Access Request ("SAR") to a Data Controller about Personal and/or Sensitive Data held about them and, if so, what it is, its source (if known), why it is being processed and to whom the data is or may be disclosed.

#### **2. What form does a SAR have to take?**

In order for a SAR to be valid:

- it should be made in writing
- it must relate to a living person (a request cannot be made on behalf of a dead employee/student).
- the SAR need not expressly state that it is a request for information being made under the DPA.
- the individual making the SAR need not state the reason for making the request, neither are they required to disclose what they intend to do with the information once it has been provided.

#### **3. What if a SAR is made using social media – can it be a valid request?**

- it is recognised that using, for example, a Facebook page or a Twitter account may not be the most effective way of delivering a SAR so that the organisation can identify it as being a SAR and process it accordingly, SAR's made in this way are perfectly valid (provided they meet the other eligibility criteria) and should be complied with.

- the organisation needs to verify the Data Subject's identity which may not be possible effectively via social media (see Section 4).

#### **4. What duties must the Data Controller comply with before responding to a SAR?**

- The Data Controller is under a duty to verify the Data Subject's identity where it receives a SAR.
- Obviously, if the request has come from an employee or student, verification of identity will not usually be an issue.
- However, if a SAR is made by a solicitor, for example, the Data Controller must first verify that the solicitor is authorised to make the SAR on behalf of the Data Subject (the solicitor should provide an original written, signed authority from the client). Failure to do so, and where the request for information is complied with (either in whole or in part), may result in the Data Controller being in breach of the DPA.
- The Data Controller may request payment of a fee up to the value of £10.00.
- Traditionally the Data Controller has been able to delay responding to the SAR until such time that the payment is made, however, whilst it is still permissible to do so, this is likely to be revoked in the future and is, in any event, frowned upon by the ICO.

#### **5. How long does the Data Controller have to respond to a SAR?**

- The Data Controller has up to 40 calendar days to comply with the SAR.
- This may be extended where, for example, extra time is needed to collate information being held by a third party e.g. outsourced HR or payroll. I

- In all cases, it is prudent to respond to the SAR to acknowledge receipt of it and to provide the Data Subject with a time frame for dealing with the request which should ideally state whether it will exceed the 40 day limit.

**6. Can a School/College amend/delete the information?**

- Once a SAR has been received a school/college must not amend or delete the recorded information.

**7. Is there any guidance to assist a School/College in responding to a SAR?**

- The ICO issues detailed guidance from time to time and their website is very useful.

**8. Are there any limitations to the rights of a Data Subject to access information held about them?**

There are certain circumstances where a Data Subject is not entitled to access information being held about them and, where such information is requested, the Data Controller may lawfully refuse to comply with a SAR for such information.

For example:

- Confidential References - a reference in respect of education, training and/or employment which is given in confidence by an employer to a third party is not required to be provided to the Data Subject where they make a SAR in respect of such reference. The Data Subject would need to make a SAR to the third party who received the reference. This exception clearly only applies to references given and not to references received.

- Management Planning - personal Data processed for the purpose of assisting the Data Controller in the conduct of any business or other activity is exempt from the SAR where to provide the information requested would prejudice the conduct

of that business or other activity e.g. an employee cannot use a SAR to gain access to certain data if their employer is carrying out a redundancy exercise and disclosure of that information to the employee would prejudice the redundancy exercise.

- Legal Professional Privilege - information that is passed between the employer and their legal advisor for the dominant purpose of giving or receiving legal advice is exempt from being accessed by the Data Subject. Legal Professional Privilege exemption will not apply to legal advice/information which has been provided by the advisor to the employer and then shared by the employer with other staff members and/or third parties.

## **9. Policy Responsibility**

This policy is the responsibility of the Company Secretary