

# **Salendine Nook High School (Academy)**

## **Subject Access Request Policy (Non-Statutory)**

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<b>Approved by SLT:</b>	<b>15.12.22</b>
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## About this policy

- 1.1 The right of access, commonly referred to as Subject Access Requests (SARs) gives individuals the right to confirmation as to whether Salendine Nook High School (Academy) High School (Academy) is processing their personal data and provide a copy of it, as well as other supplementary information, as set out in Article 15 of the UK General Data Protection Regulation (UK GDPR).
- 1.2 The UK GDPR defines personal data as any information relating to an identified or identifiable natural person, who can be identified directly or indirectly in particular by reference to an identifier such as a name, identification number, location data or online identifier, to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.
- 1.3 The UK GDPR defines special category personal data as personal data which reveals racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health and data concerning a natural person's sex life or sexual orientation.
- 1.4 In respect of a Subject Access Request, a child may exercise the right of access, on their own behalf if they are competent to do so. Competence is assessed depending on the level of understanding of the child (a child will not be considered competent if it is evident that they are acting against their own best interest).
- 1.5 If a child is too young to understand the implications of their rights, then a parent, guardian, or appointed official may exercise the right of access on the child's behalf (when it is evident that the child does not have sufficient understanding to exercise the rights themselves, or that it is evident that this is in the child's best interest).

## SCOPE

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- 2.1 This policy applies to all staff and individuals who handle personal data on behalf of Salendine Nook High School (Academy) High School (Academy), whether employed on a full time, part time, temporary or permanent basis and includes contractors and third parties.
- 2.2 This policy covers all personal data held and processed by Salendine Nook High School (Academy) High School (Academy) and applies to both automated personal data and to manual filing systems where personal data is accessible according to specific criteria.

- 2.3 This policy refers to Salendine Nook High School (Academy) High School (Academy)'s legal and statutory obligations, including the data protection principles, data subjects' rights and the legal basis for processing personal data.
- 2.4 This policy is to be read in conjunction with Salendine Nook High School (Academy) High School (Academy)'s other policies and procedures which relate to data protection.

## **PURPOSE**

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- 3.1 The purpose of this policy is to convey Salendine Nook High School (Academy)'s commitment to comply with the provisions of the data protection legislation, in particular, UK General Data Protection Regulation (GDPR) and the Data Protection Act 2018 (DPA 2018).
- 3.2 Salendine Nook High School (Academy)'s policy in relation to the remaining rights that data subjects have under the UK GDPR are set out in the Individuals' Rights Policy.
- 3.3 This document sets out Salendine Nook High School (Academy)'s policy for responding to data subjects making SARs under the UK GDPR and provides a guide to staff on how to recognise and action them.
- 3.4 It seeks to ensure that all staff have a clear understanding of the legal requirements, the risk of non-compliance and Salendine Nook High School (Academy)'s expectations in relation to the processing of SARs.
- 3.5 The Information Commissioner's Office (ICO) has issued guidance on how to process SARs. Salendine Nook High School (Academy) recognises the importance of this and is committed to following it, together with the associated checklists.

## **ROLES AND RESPONSIBILITIES**

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- 4.1 Everyone working for or on behalf of Salendine Nook High School (Academy) has a responsibility to adhere to the data protection legislation. This means that, whilst the governing board have overall responsibility for data protection, each individual member of staff also has a responsibility to comply.

### **All employees**

- 4.2 Every member of staff and every contractor each have a responsibility to adhere to the relevant data protection provisions when dealing with SARs. Failure to comply could lead to a breach of the legislation with formal action being taken against, not just Salendine Nook High School (Academy) but the individual(s) as well.

- 4.3 Salendine Nook High School (Academy) must ensure that all staff are provided with appropriate and relevant training to ensure that they are able to recognise SARs when received by Salendine Nook High School (Academy).

#### **Senior Leadership**

- 4.4 The senior leadership are responsible for ensuring that the necessary objectives and plans for compliance with the data protection provisions are established and reviewed annually during management reviews.
- 4.5 They must also ensure that roles and responsibilities are defined, and appropriate training is arranged and provided all staff, in particular, those that will be directly handling SARs.

#### **Data Protection Manager (DPM)**

- 4.6 The DPM (Director of Finance & resources) has responsibility for dealing with the day-to-day data protection issues and for processing SARs, in consultation with the Data Protection Officer (DPO), where necessary.

#### **Governing Body**

- 4.7 Salendine Nook High School (Academy) governing body has overall responsibility for data protection compliance. That said, as mentioned above, it is the responsibility of all employees and contractors to handle information and personal data lawfully.

#### **Data Protection Officer (DPO)**

- 4.8 The DPO reports directly to the board.

The DPO for Salendine Nook High School (Academy) is:

Nigel Gooding  
Data Privacy Advisory Service  
[dpo@dataprivacyadvisory.com](mailto:dpo@dataprivacyadvisory.com)  
0203 3013384

- 4.9 The DPO is responsible for monitoring compliance with the data protection legislation by:
- Checking processing activities;
  - Providing on-going advice;
  - Issuing recommendations;
  - Ensuring data protection awareness training is provided;
  - Ensuring Data Protection Audits are carried out, where necessary;
  - Advising on Data Privacy Impact Assessments (DPIAs) and monitoring performance;

- Acting as the contact point for Data Subjects and assisting with Data Subject Requests;
- Assisting in dealing with personal data breaches and
- Acting as the contact point for the supervisory authority, ICO.

## **DATA PROTECTION PRINCIPLES**

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5.1 Salendine Nook High School (Academy) will ensure that SARs are processed in accordance with the data protection principles as set out in Article 5 of the UK GDPR. This provides that personal data shall be:

- Processed lawfully, fairly and in a transparent manner in relation to the data subject ('lawfulness, fairness and transparency');
- Collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes ('purpose limitation');
- Adequate, relevant, and limited to what is necessary in relation to the purposes for which they are processed ('data minimisation');
- Accurate and, where necessary, kept up to date ('accuracy');
- Kept for no longer than is necessary for the purposes for which it was obtained ('storage limitation');
- Processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction, or damage, using appropriate technical or organisational measures ('integrity and confidentiality').

## **PROCEDURES**

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### **6.1 What is a SAR?**

A SAR is a request made by an individual for the information that Salendine Nook High School (Academy) holds about them. Under the UK GDPR, all individuals are entitled to make requests for their own personal data. They do not need to give a reason for making the request or for requiring the information. However, they are not entitled to information about anyone else (unless they are acting on behalf of that person and appropriate authority has been provided – see below).

### **6.2 Requests by a Third Party**

A third party may make a SAR on behalf of someone else. *(For example, a solicitor may make a SAR on behalf of their client (the data subject) or a carer may make a SAR on behalf of someone, for example, if the data subject lacks the legal capacity because of their age or their mental health, to make it themselves).* Salendine Nook High School (Academy) will need to satisfy itself that the third party is authorised to represent the data subject by insisting upon a copy the Power of Attorney or other evidence to support the assertion that the third party is acting in a genuine capacity.

### 6.3 **Requests by Children**

A child is entitled to make a SAR, if they are mature enough to understand their rights. The age of maturity in relation to SARs in the United Kingdom is 13 years. The child must also be to demonstrate a level of understanding that would deem them competent. Where a child is not competent, a parent may request the data on the child's behalf.

### 6.4 **How should a SAR be made?**

A SAR can be made verbally or in writing. The request does not have to be made in a particular way and can be made in person, by telephone, letter, e-mail or even social media. (The information sent in response should not be sent via social media). The request does not have to quote the words "Subject Access Request" or make any reference to the UK GDPR and does not have to be addressed to a DPO or the DPM. In some instances, an individual may quote the incorrect legislation such as, the Freedom of Information Act 2000 (FOIA). However, if it is clear that the individual is making a SAR, it should be treated as such. Once it is established that a SAR has been made, it should be forwarded to the DPM immediately, as there are strict time limits to adhere to.

### 6.5 **Assisting an individual to make a SAR**

Under the UK GDPR, Salendine Nook High School (Academy) has an obligation to "facilitate" a data subject to make a SAR. Therefore, staff should be able to advise a data subject how to make a SAR, who to send it to and how soon they can expect to receive a response.

Staff should advise that:

- The SAR needs to be made verbally or in writing;
- It should be processed within one month, but the data subject will be advised within one month if any further time is needed; and
- A SAR in writing should be sent to:
  - Salendine Nook High School (Academy), New Hey Road, Huddersfield, West Yorkshire, HD3 4GN

### 6.6 **Checking identity**

Salendine Nook High School (Academy) is entitled to ask for proof of identity before taking any action on a SAR. Bearing in mind the high number of people Salendine Nook High School (Academy) deal with, it is best practice to ask for proof of identity. However, Salendine Nook High School (Academy) may wish to waive this requirement if the data subject is well known to them, such as when a request is made by a member of staff.

## 6.7 **Time limits**

The SAR must be acknowledged, as soon as possible, and the information requested must be provided to the data subject (unless an exemption applies) without undue delay and, in any event, within one month of receipt of the request. The time starts from the date all the information needed from the data subject in order to start processing the request is received (i.e.: once ID has been produced, if requested). The data subject may complain to the ICO or apply to a Court if they do not receive a response within the one-month period.

6.8 However, the time limit of one month can be extended by a further two months, where necessary, if the request is complex. Best practice would be to ask the data subject to be specific about the information they require in order to narrow the search and therefore the time taken to formulate the response. However, the data subject is under no obligation to provide any specific criteria and is entitled to ask for all the information Salendine Nook High School (Academy) holds about him/her. If an extension of time is required, Salendine Nook High School (Academy) must advise the data subject within one month of receipt of the request, together with reasons for the delay.

## 6.8 **Complaint to ICO and Judicial Remedy**

If Salendine Nook High School (Academy) decides not to action a SAR, the data subject must be informed of this decision within one month of receipt of the request and the reason for taking this decision. (See below for reasons not to action a SAR). In these circumstances, Salendine Nook High School (Academy) must also advise the data subject of their right to make a complaint to the ICO and to apply to the Courts for a judicial remedy. In order to make a complaint to the ICO, the data subject needs to contact:

The Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF  
Telephone: **0303 123 1113**  
Email: [casework@ico.org.uk](mailto:casework@ico.org.uk)

## 6.9 **Fees**

Salendine Nook High School (Academy) is obliged to provide one copy of the information requested under a SAR free of charge. However, if more than one copy is requested, Salendine Nook High School (Academy) may make a reasonable administration charge for the additional copies.

Furthermore, the UK GDPR provides that if SARs are “manifestly unfounded or excessive”, Salendine Nook High School (Academy) may:

- Charge a reasonable administration fee; or
- Refuse to act on the SAR.

In the above circumstances, it will be for Salendine Nook High School (Academy) to prove that the SAR is “manifestly unfounded or excessive”.

Care must be taken if refusing to process the SAR on the grounds that it is “manifestly unfounded or excessive” as Salendine Nook High School (Academy) will need to demonstrate to the data subject why this is the case and be prepared to fully explain the position to the ICO. Staff at Salendine Nook High School (Academy) should consult their DPM and/or their DPO on this.

#### **6.10 Means of Responding**

A copy of the information should be supplied in a format agreed with the data subject. If the data subject makes the request by email or other electronic means, Salendine Nook High School (Academy) should respond electronically, unless the data subject requests a response by a different method.

#### **6.11 What information needs to be provided?**

The UK GDPR provides that, when responding to a SAR, the information needs to be provided in a concise, transparent, intelligible and easily accessible form, using clear and plain language. Therefore, the covering letter needs to be written in plain English, any codes or complex terms need to be explained and photocopied documents must be clear.

When making a SAR, a data subject is also entitled to obtain the following from Salendine Nook High School (Academy):

- a) The purpose of processing; (i.e.: what the personal information is being used for);
- b) A description of the personal information concerned;
- c) Who the information has been or will be shared with;
- d) The retention period for the personal information;
- e) The existence of the data subject’s rights relating to rectification, erasure, restriction, portability and objection in relation to their personal information;
- f) Their right to lodge a complaint with the ICO;
- g) The source of the information, if it was not collected directly from the data subject;
- h) The existence of automated decision making; and
- i) If their personal information is being or has been transferred outside the UK and/or the EEA, the safeguards in place in respect of this.

The response to the data subject must take account of all of the above.

#### 6.12 Exemptions

When preparing the response to a SAR, checks need to be made to ensure that only the information the data subject is entitled to is disclosed. In particular, if documents which Salendine Nook High School (Academy) propose to disclose contain information, not only about the data subject but about others, careful thought needs to be given to how the response will be prepared, as the UK GDPR states that the information provided under a SAR should not adversely affect the rights and freedoms of others.

6.13 In the above situation, Salendine Nook High School (Academy) should consider the following:

- Is it possible to comply with the request without revealing information that relates to a third party?
- Consider what information the data subject may already have or may be able to obtain that may identify a third party.

6.14 Where it is not possible to remove third party identifiers Salendine Nook High School (Academy) must consider the following:

- Has the third party consented to the disclosure?
- If not, is it reasonable, considering all the circumstances, to comply with the request without the consent of the third party?

6.15 In deciding what is reasonable in relation to disclosing information about third parties Salendine Nook High School (Academy) should consider the following:

- Any duty of confidence owed to the third party;
- Any action taken to try to obtain consent;
- Whether the third party is capable of giving consent; and
- Any express refusal of consent from the third party.

6.16 Salendine Nook High School (Academy) should make a record of the decision in relation to whether or not information about a third party is to be disclosed and the reasons for reaching this decision.

6.17 Also, Salendine Nook High School (Academy) need to consider whether any exemptions apply, such as

- Crime prevention and detection, including for taxation purposes;
- Information covered by legal professional privilege or litigation privilege; and

- Any other exemptions.

There are numerous exemptions in addition to those mentioned above. Salendine Nook High School (Academy) staff will need to consult their DPM and/or DPO in relation to the application and interpretation of the exemptions.

#### 6.18 **Preparing the response**

If Salendine Nook High School (Academy) does not hold the information requested, the data subject must be informed in writing, as soon as possible, but in any case, within one month of receiving the request.

### **LOGGING OF REQUESTS**

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Under the UK GDPR, controllers of personal information need to comply with the Accountability Principle. This means that controllers need to prove that they are complying with the UK GDPR. As a controller, **Salendine Nook High School (Academy)** needs to demonstrate that it is adhering to the law. In view of this, it is essential that a log of all SARs is maintained, detailing:

- Date received;
- Date response due (within one calendar month unless complex);
- Applicant's contact details;
- Information requested;
- Exemptions applied in respect of information not to be disclosed;
- Details of decisions to disclose third party information without consent from the third party;
- Details of information to be disclosed and the format in which they were supplied; and
- When and how the response was supplied e.g., Paper copy and postal method used to send them.

### **RISKS OF NON-COMPLIANCE**

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- 8.1 If Salendine Nook High School (Academy) fails to comply with this policy and, as a result, breaches the UK GDPR, they will be at significant risk of receiving a huge administrative penalty. The maximum penalty which can be imposed depends upon which provisions of the UK GDPR have been breached. With the maximum being £17.5 million or 4% of annual revenue.
- 8.2 In addition to fines, the ICO has a range of corrective powers and sanctions namely, issuing warnings, reprimands, imposing temporary or permanent bans on data processing, ordering the rectification of inaccurate information, restriction or erasure of data and suspending data transfers to third countries.

- 8.3 Further, employees should ensure that they do not alter the information to be disclosed under a SAR in any way because to do so could lead to a prosecution under section 173 of the DPA 2018.

## **RELATED POLICIES AND GUIDANCE**

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- 9.1 The following is a list of related policies and guidance:

Data Protection Policy  
Data Breach Policy