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THE BEDIFFERENT FEDERATION



RESPONDING TO SUBJECT ACCESS REQUESTS

BUSINESS COMMITTEE

January 2025



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Who is responsible for responding to the SAR?

The Chief Executive Headteacher's Personal Assistant will lead on searching for and putting together the response. The Director of Operations, as data protection lead, will review the response before it is sent out. The Governor lead for data protection and can also be used as a source of advice/ second opinion for more complex cases.

Step One: Check who is making the request

Ensure that the person requesting is who they say they are. This should be proportionate. If you are confident there are no concerns about identity, there is no need to ask for formal ID. For example, if the request comes from a parent who is familiar and known to the school and uses their normal email address, there is no need for further checks.

However, if you have any concerns (for example, someone asking out of the blue who you have not heard from before, using an unfamiliar email address or someone claiming to be a relative or child) then you should make further inquiries, for example by asking for a copy of their ID. A parent can only make a SAR concerning a child if they have parental responsibility for that child. If in any doubt, you should check this by asking for a copy of the child's birth certificate.

Step two: Check the request is valid

The most likely request the Federation is likely to receive is from a parent. They may ask about the data we hold about them or about their child or about both.

If the SAR is made by someone other than the person the data is about (such as a friend, relative or solicitor), check that they are allowed to have it. You'll need to see that they have written authority to act on behalf of the person concerned or a document showing general power of attorney.

In most cases, children over 12 are capable of making their own SARs. In the unlikely event that the Federation is asked for personal data about a child older than 12 by their parent or carer, you should usually get permission from the child first.

Step three: Acknowledge the request and seek any further information





You should let the requester know that you have received the request and the deadline to which you will be working. You should also confirm what your understanding of the request is. If you need to seek further information about the requester, you should do so as quickly as possible and give your reasons why.

Step four: Check statutory deadlines and plan how you will meet them

You have one calendar month to get what you need together and send it to the relevant person. If you need to check their ID or ask for other information, the clock starts after you have received their response but you should ask for any additional information that you need as soon as possible.

The calendar month works as follows:

- It doesn't matter if the day you receive the request isn't a working day. For example, if you receive a request on Saturday 7th March, you should respond by Tuesday 7th April.
- If the SARs due date falls on a weekend or a public holiday, you have until the next working day to respond. For example, if you receive a request on 25th November, you should respond by 27th December.
- You can't add extra days when the calendar month is shorter. For example, if you receive a request on the 31st January, you should respond by the 28th February.
- There is no special provision for when you receive the request in the school holidays. The clock starts from the date of receipt.

You should work out when the response is due straight away. Then build in mini deadlines for collecting the data, assembling the data and checking the response with the Director of Operations. Consider at the outset whether this is likely to be a challenging request and therefore you need to build in time to consult Merton's Legal Department.

If it's a very complex request or if the requester has made a lot of requests, you can take an extra two calendar months to respond. But you must let the requester know there will be a delay before the end of the first calendar month.





If you are uncertain about whether this qualifies as complex, you should check with the Director of Operations or Governor data protection lead.

Step five: Check the request carefully

Read the request very carefully. It's easy to make assumptions about what they are asking for, for example, all of the data the Federation holds, when in fact they've only asked for data relating to one particular thing. It is reasonable to ask for clarification if the request is not clear or doesn't make sense but again, this should be done as soon as possible.

Step six: Search for the relevant information

Decide on the search parameters, i.e. what search terms you will use. This might be, for example, the full names of the parent and/or child. Consider the range of school systems you need to search. These are likely to include:

- Emails of staff who are connected with the requester (or their child), for example, Chief Executive Head Teacher, Head of School, class teacher, relevant teaching assistant, Inclusion Lead, office staff;
- The online safeguarding system, MyConcern;
- Paper safeguarding records;
- Shared drives;
- Attendance/sickness records;
- School databases, e.g. SIMs
- School attainment/achievement records;
- Incident and contact forms
- School reports;
- Social media; and
- Personal data held about the child, i.e. medical records, contact details, emergency contacts.

Take a moment to consider the subject of the request and what is being asked and whether there is anywhere else you should look.

Step seven: Assemble the data

Assemble all the data that you have. Any data that has already been shared with the requester (for example, emails they have sent to the school or that have been sent to them) need not be shared again. If there is data of this nature, you





should let the requester know and explain in your response that you will not be sharing it, because it is already available to them.

If the requester has asked for something specific that is no longer available (for example, a child's contact and pick up data from previous years), you should reference this in your response and explain that the school has not retained this data and so it is no longer available.

Step eight: Check what you need to release

Check what you have assembled and decide whether it should be released:

- a) If the document contains information that is not relevant to the SAR, this should not be shared. For example, if the information is included in an email that covers other areas, only the relevant part of the email should be shared.
- b) If it contains information about other people, this should be redacted. For example, if you have an email that mentions a number of different people, you should redact any information which doesn't relate to the person making the SAR. This is because most of the time you should avoid disclosing information about other people.
- c) If it contains emails with the email addresses of members of staff, these should be redacted.
- d) Consider whether there is any risk to a third party, if the data is released. In most circumstances, you are exempt from providing education data in response to a SAR to the extent that complying with the request would be likely to cause serious harm to the physical or mental health of any individual. This is known as the 'serious harm test' for education data. For example, providing data about domestic abuse allegations may put the person who made the allegations at risk of serious harm. The aim should be to release as much information as possible but this should only be done safely.

This is a difficult area which requires fine judgement. There are some examples annexed to this document of when and when not to release third party data. If in doubt about what to release, check with the Director of Operations and/or lead Governor. In sensitive cases, consider contacting Merton's Legal Department or the ICO for advice. The ICO website also contains lots of useful guidance about when it is appropriate not to release information and when it should be released.





Step nine: Redact any of the information you have decided not to release

If you're using a computer to redact information, do not use the blackout function on Word or Adobe Acrobat. If you do, there's a risk that someone could delete your blacked-out sections and read the text underneath.

The safest way to share the right data is to copy and paste sections relevant to the SAR into a separate document and send them that instead.

Step ten: Record all of your decisions

Prepare a separate 'decision document' alongside your response that sets out how you have managed the SAR, what you have done and when and all the decisions you have taken about the data. This should include deadlines, search parameters, where you have searched, what you have decided not to release and why. This is for internal use only, it is not for sharing with the requester. It will be helpful if the requester is not happy with the response and asks for a review, or if you are ever reviewed by an external party, such as the ICO.

Step eleven: Prepare and check the reply

If you got the SAR by email, you should reply by email, unless the requester has said otherwise. The response should include all of the data that you have decided should be shared. It should also reference any relevant data that you have not shared and explain why. Once the response is prepared, send it and the separate 'decisions' document to the Director of Operations for checking. Make sure she is aware of the deadline for reply.

Step twelve: Send your reply securely and keep a record of what you've sent

Once the Director of Operations has reviewed it, send the response.

Make sure you submit the response in a secure way. You may want to submit the response by:

- encrypting the document
- saving the document in a secure workspace
- using tracked mail for physical documents





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Keep a copy of the response for school records, alongside the 'decision document'. This will be needed, if they're unhappy with your response or make another request soon after.



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Third party data: What to release

Most of the time, you should avoid disclosing information about other people in a SAR. But there may be occasions when the personal data you have pulled together includes information that is closely linked to someone else. In those situations, your aim should still be to release the personal data requested. But you also need to take into account that in doing so you may disclose data about someone else and, at the same time, consider the impact of that.

Here are some examples where the right to the information needs to be balanced by the rights of third parties:

Workplace complaints

Samira is an employee who has made a SAR for her personnel file. In her file is a complaint a colleague, Tom, made about Samira. Although the information in the complaint is about Samira, if you release it to her, it might identify Tom. You need to weigh up Samira's right to her personal data, against giving out information about Tom without good reason.

There are three options here:

1. If Samira knows all about the complaint, what was said and who said it; you could give her the information as it is, without redacting Tom's details.
2. If Samira doesn't know about the complaint and wouldn't guess that it came from Tom, you could supply the details of the complaint but redact Tom's name or any other identifying information.
3. If Samira doesn't know about the complaint but would guess that it came from Tom, whether his details were redacted or not; you may need to consider whether it's necessary to get Tom's consent.

It's a balancing act between making sure Samira is given the data she's entitled to, and not disclosing Tom's details if you don't have to.

If you think releasing the information to Samira may mean that there would be a negative impact on Tom, then you could consider withholding this piece of





information altogether. If you do this, you should make a note of why you withheld it.

Data about another child

Ebony Smith's dad has submitted a SAR requesting Ebony's behavioural record. The school office's record reads:

'Ebony Smith was excluded due to a fight she had with Sajid Khan'.

When the school responds to the SAR, it should read 'Ebony Smith was excluded due to a fight she had with (REDACTED)'. Although Ebony's dad might know who the fight was with, the school should not release this information. Ebony's dad is only entitled to the personal data held about Ebony, not Sajid.

Data held within another document

A parent has submitted a SAR for all information the school holds about their child's special educational needs. The school identifies the child's personal information is contained in the minutes of an Inclusion meeting. The child's personal information in scope of the request amounts to 2 sentences within a 4-page document. The rest of the document is not about the child.

The school extracts the child's personal information for inclusion in their response. They do not provide the whole document. The school provides the requester with context about where the information is held. The remaining information is out of scope of the SAR and is not released.





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