

Compliance advice

Subject access – Right of access to education records in England.

The Data Protection Act 1998 came into force on 1 March 2000. It gives all individuals who are the subject of personal data (“data subjects”) a general right of access to the personal data which relates to them. These rights are known as “subject access rights”. Requests for access to records and for other information about those records are known as “subject access requests.” Personal data may take the form of computerised or, in some cases, paper records.

The Act also sets out specific rights for school students in relation to educational records held within the state education system whether these are held in computerised or paper form. Educational records are the official records for which head teachers are responsible. The rights of students lie alongside the rights of parents to obtain copies of the educational records relating to their children. These are set out in separate education regulations¹.

This leaflet explains the rights of both students and parents in relation to official educational records. (The leaflet does not set out to explain the general right of access to personal data not forming part of the official record, for instance records held by individual teachers for their own use, or records held by independent schools. This is described in the leaflet, “Using the law to protect your information,” also available from the Data Protection Commissioner.)

Pupil Rights

The Data Protection Act gives all school students, regardless of age, the right of access to their school pupil records. Requests to see or receive copies of records should be made in writing to head teachers.

In addition to the right to be given a copy of the educational record, students are entitled to be given a description of the personal data which makes up the record, together with details of the purposes for which the data are processed, the sources of the data (if known) and the individuals or organisations to which the data may have been disclosed.

A period of up to 15 school days are allowed in which to respond to a subject access request. (The equivalent period for other types of record is up to 40 days.) If asked to provide a hard copy of the record, a fee may be charged according to the number of pages. (See below for the scale of charges.) Students may be asked for information to verify their identity if is necessary, for instance in the case of former pupils who may not be currently known to the school. They may also be asked for information necessary to locate the data held about them. For instance a student may be asked to supply the dates between which he or she attended the school.

While in principle students have a right of access to the whole of their educational records, in exceptional cases some information may be withheld. The main exemptions are for information which might cause harm to the physical or mental health of the student or a third party, information which may identify third parties (for example other pupils, although not teachers), and information which forms part of some court reports. Information may also be withheld if in that particular case it would hinder the prevention and detection of crime or the prosecution or apprehension of offenders to provide it.

¹ The Education (Pupil Information) (England) Regulations 2000

If students are incapable of understanding or exercising their own rights under the Data Protection Act, (for instance because they are too young), parents can, of course, make subject access requests on their behalf.

If a request for information under the Act is refused or ignored, the matter can be referred to the Data Protection Commissioner or an application for disclosure can be made to a court.

Parents rights

In addition to the subject access right which can be exercised by pupils or by parents acting on behalf of pupils, parents have their own independent right of access to the official educational records of their children under the separate education regulations referred to in footnote 1. In essence the information to which parents are entitled and the exemptions are the same as for pupils although there is no parental right of access to information which does not form part of the official record. Requests to see or receive copies of the educational records of their children should be made in writing to head teachers. If asked to supply a hard copy of the record, a fee covering the cost of supplying the information, may be charged. This is set by the governing body. A parent seeking access to an education record does not, however, have a right of redress under the Data Protection Act unless he or she is acting on behalf of their child. If a parent is not given a copy of his or her child's records, in the first instance he or she should contact the governing body and, after that, the DfEE or, as a last resort, the courts.

Because parents have an independent right of access to pupil records, the students themselves have no right to prevent their parents from obtaining a copy of their school records.

Subject Access Fees

No of Pages	Maximum Fee	No of Pages	Maximum Fee
1-19	£1	100-149	£10
20-29	£2	150-199	£15
30-39	£3	200-249	£20
40-49	£4	250-299	£25
50-59	£5	300-349	£30
60-69	£6	350-399	£35
70-79	£7	400-449	£40
80-89	£8	500+	£50
90-99	£9		

Further Information

Further information about the Data Protection Act can be obtained from the Commissioner's web site (www.dataprotection.gov.uk) or can be requested from our Information Line (01625 545745).

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The Office of the Data Protection Commissioner

Wycliffe House, Water Lane, Wilmslow, Cheshire. SK9 5AF Telephone:01625 545 700 Facsimile: 01625 524510
e-mail: mail@dataprotection.gov.uk Website: www.dataprotection.gov.uk