# Baguley Hall Primary School

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# GDPR Data Subject Access Policy

**July 2020**

**Contents**

1. [Introduction 3](#_bookmark0)
2. [Scope and Purpose 3](#_bookmark1)
3. [Rights of the Data Subject 3](#_bookmark2)
4. [Subject Access Request Requirements 4](#_bookmark3)
5. [Review & Update 6](#_bookmark4)
6. [Training 6](#_bookmark5)
7. [Approvals and version control 6](#_bookmark6)

[Appendix A – Subject Access Request Form 7](#_bookmark7)

[Requests for Access to Personal Data under Article 15 of the General Data Protection](#_bookmark8) [Regulation (GDPR) 2018. 7](#_bookmark8)

# Introduction

Baguley Hall processes (including collecting, storing and transmission) different types of personal data about pupils, parents, staff, governors, volunteers, other stakeholders and members of the public who have been in contact with the school to fulfil its role and to meet its legal obligations.

Baguley Hall has a responsibility to protect this information and ensure its confidentiality, integrity and availability.

This document sets out Baguley Hall’s policy and procedures relating to responding to subject access requests, that is, requests from individuals to access their own personal data.

# Scope and Purpose

* 1. **Scope of this policy and procedure**

Baguley Hall defines a ‘personal subject access request’ as a request in any form received by a member of staff where the data subject expresses a request to access some or all of their personal data.

Baguley Hall’s Subject Access Request policy and procedure applies to permanent employees, and third parties who act as a data processor on behalf of Baguley Hall. For the purposes of this document, “Baguley Hall staff” refers to both permanent employees and third-party data processors.

# Purpose of this policy and procedure

Baguley Hall’s Data Protection Policy requires that a procedure will be developed and maintained for dealing with subject access requests. This document contains the procedures to establish the methodology for handling a request from an individual who wishes to exercise their right to access their personal data.

# Rights of the Data Subject

* 1. **Right to Access**

Under Article 15 of the Regulation (EU) 2016/679 (known as the General Data Protection Regulation (GDPR), an individual has a right to access personal data which has been collected concerning them by Baguley Hall. Article 15 allows an individual to access that personal data and be provided with the following information;

* + 1. The purposes of the processing;
    2. The categories of personal data concerned;
    3. The recipients or categories of recipients concerned, in particular recipients in third countries (where applicable), and the safeguards in place relating to the transfer of personal data;
    4. Retention periods;
    5. Information on the rights of the individual to have their personal data rectified, restricted, erased or objected to;
    6. The right to lodge a complaint with a Supervisory Authority;
    7. If personal data have not been collected directly, the source of the personal data;
    8. The existence of automated decision making and/or profiling relating to the personal data;

Where a controller processes a large amount of data in relation to the data subject, prior to providing the information, the school may request the data subject to specify the information to which the request relates (Recital 63, GDPR). The relevant articles are contained in Appendix A and relevant recitals in Appendix B of this document.

# Right to Portability

Where the right to access requires personal data to be provided in a commonly used form, the right to portability goes further under Article 20 and requires the [SCHOOL NAME] to provide the information to the data subject “in a structured, commonly used and machine-readable format” so it can be transferred to another controller “without hindrance.”

The right to portability applies to the following:

* Personal data processed by automated means;
* Personal data provided to the controller;
* Only where the legal basis is for consent or data is being processed to fulfil a contract;

This right should not adversely affect the rights or freedoms of others, including trade secrets or intellectual property and, in particular, copyright protecting the software. However, the result of those considerations should not be a refusal to provide information to the data subject.

As outlined in Baguley Hall’s Data Protection Policy, it is expected that this right will apply only to a small number of data subjects based on the lawful basis for the processing carried out by the school.

# Subject Access Request Requirements

* 1. **Format of Response**

Baguley Hall must provide a copy of the personal data to the data subject. In line with Article 15 of the GDPR, where the data subject submits an access request by electronic means, the information should be provided to the data subject by electronic means, unless otherwise requested by the data subject.

# Costs

A SAR should be provided to the data subject free of charge. However, for additional copies provided to the data subject, Baguley Hall may charge a reasonable fee or where access requests are “manifestly unfounded or excessive” taking into account the administrative costs of providing the information as outlined under Article 15 and Article 12 of the GDPR.

# Subject Access Request Form

Baguley Hall publishes on its website a Subject Access Request Form. The form gives information to data subjects about how to make a valid subject access request. The form is included in Appendix A of this document.

# Information about examinations

Special rules apply to subject access requests relating to information about the

outcome of academic, professional or other examinations. These rules, which apply to requests for examination scripts, marks or markers’ comments, are designed to prevent the right of subject

access being used as a means of circumventing an examination body’s processes for announcing results.

Information comprising the answers given by a candidate during an examination is exempt from the right of subject access. So a subject access request cannot be used to obtain a copy of an individual’s examination script.

Although this exemption does not extend to an examiner’s comments on a candidate’s performance in an examination (whether those comments are marked on the examination script or recorded on a separate marking sheet), or to details of the marks awarded, there is a special rule governing the time limit for responding to a subject access request for such information in cases where the request is made before the results are announced. In such cases, a response must be provided within the earlier of:

* five months of the date of the request; and
* 40 days of the date on which the results are announced.

Where a subject access request is made for an individual’s examination marks, a response may only be refused (or delayed) for reasons permitted by the GDPR. So, it would not be appropriate to refuse to provide details of examination marks in response to a subject access request because the requester had failed to pay their tuition fees. Clearly, though, providing information about examination results is not the same as conferring a qualification.

# Parents right of access to children’s “educational record’

Parent’s have a separate right of access to their child’s ‘educational record’ (in England, Wales and Northern Ireland this right of access is only relevant to maintained schools – not independent schools, English academies or free schools. However in Scotland the right extends to independent schools). Whilst this right overlaps with subject access rights, the right to educational records is not dealt within this policy and procedure.

# Exemptions

A subject access request may be refused where it is deemed “manifestly unfounded or excessive, in particular because of its repetitive character." The burden of demonstrating the manifestly unfounded or excessive character will rest with the Baguley Hall as outlined under Article 12 of the GDPR.

There are other instances where the school may decide to refuse the request. Examples of reasons to refuse a request include where the requester is involved in a claim against the school, seeking compensation, and the information requested reveals details of the organisation’s decision process in relation to their claim; or if releasing the personal data requested would mean that the personal data of another individual would be unfairly disclosed.

# Refusing a Request

Under Article 12 of the GDPR, where Baguley Hall refuses to respond to a subject access request, Baguley Hall shall inform the data subject without delay and at the latest within one month of receipt of the request of the following:

* Reasons for refusing to respond;
* The right to lodge a complaint with the Information Commissioner’s Office;
* The right to seek a judicial remedy.

# Deleting data

It is an offence under the GDPR to delete data that is the subject of an access request. Under no circumstances should the data be deleted even if it has been retained for a period longer than Baguley Hall’s retention schedule permits.

# Data Processors

Where Baguley Hall uses a data processor, then we must notify the processor of the subject access request and ensure that contractual arrangements are in place to guarantee that such requests are dealt with efficiently by all data processors.

# Review & Update

This policy and procedure will be reviewed and updated annually or more frequently if necessary to ensure any changes to Baguley Hall’s organisation structure and business practices are properly reflected in the policy.

The most up to date version of this policy is published on the school’s website.

# Training

All Baguley Hall Staff are trained to be aware of their responsibility to report subject access requests as quickly as possible. They will also be made aware of the procedure for responding to subject access requests and the point of contact to whom subject access requests are required to be reported. This is likely to be the School’s Data Protection Officer in most instances.

Baguley Hall expects its staff to comply with the school’s data subject access request policy and procedures in full. Any breach of this policy may result in disciplinary action against the individual in accordance with Baguley Hall’s procedures.

# Approvals and version control

This document was approved and came into effect as follows

|  |  |
| --- | --- |
| **Document Control** | |
| **Approved By** | **Kate Bulman Headteacher** |
| **Date approved** | **May 2018** |
| **Next review date** | **May 2019** |
| **Previous versions** | **V1.0** |

# Appendix A – Subject Access Request Form

# Requests for Access to Personal Data under Article 15 of the General Data Protection Regulation (GDPR) 2018.

Under the GDPR, you may receive a copy of your personal data held by Baguley Hall electronically or in manual filing systems simply by submitting a subject access request.

Access requests can be submitted by written or electronic means. You may use Baguley Hall’s subject access request application form, write a letter, or submit your request using other electronic means, such as an email. You may also submit a request verbally, although a written request is preferable if possible, so that there can be no doubt as to the details of the request.

All written applications along with proof of identity should be addressed to:

Data Protection Officer

Baguley Hall Primary School

Ackworth Drive Baguley Manchester M23 1LB

To help us answer your request please be as specific as possible about the information you wish to see, and give as much information as you can to help us find it.

You are legally entitled to a decision regarding your request within *30 days* of Baguley Hall’s receiving your request. The 30 days begins the day after the school receives your request. So, for example, if your request is received on 29 March, the school would have until 30 April to respond to your request, irrespective of weekends. Public holidays, however, are excluded from the 30 days. However, every effort will be made by the Data Protection Officer to deal with your request as soon as possible, and you will receive an acknowledgement on receipt of your application, which will outline the deadline for your particular request.

If you are unhappy with the decision of the Data Protection Officer you have the right to complain to the Information Commissioner’s Office who will investigate the matter for you. The Information Commissioner’s Office has legal powers to ensure that your rights are upheld. You also retain the right to seek a judicial remedy.

# Role of the Information Commissioner’s Office

The Information Commissioner’s Office, with whom Baguley Hall is registered as a data controller, oversees compliance with the terms of data protection legislation. The Information Commissioner’s Office has a wide range of enforcement powers, including investigative and corrective powers. The telephone number to contact them is 0303 123 1113, and website is [www.ico.org.uk](http://www.ico.org.uk/).

**Appendix 1**

Baguley Hall Primary School

Ackworth Drive

Baguley

Manchester

M23 1LB

Insert date: [ ]

Re: subject access request

Dear Data Protection Officer

Please provide me with the information about me that I am entitled to under the General Data Protection Regulation. This is so I can be aware of the information you are processing about me, and verify the lawfulness of the processing.

Here is the necessary information:

|  | |
| --- | --- |
| Name: |  |
| Relationship with the school | Please select:  Pupil / parent / employee / governor / volunteer  Other (please specify): |
| Correspondence address |  |
| Contact number |  |
| Email address |  |
| Details of the information requested:  Insert details of the information you want that will help us to locate the specific information. Please be as precise as possible, for example:   * My personnel file * My child’s medical records * My child’s behavior record, held by [insert class teacher] * Emails between ‘A’ and ‘B’ between [date] | Please provide me with: |

Please find attached photocopy proof of identity and address. If you need any more information from me, please let me know as soon as possible.

Please bear in mind that, in most cases, you must supply me with the information within 1 month and free of charge.

If you need any advice on dealing with this request, you can contact the Information Commissioner’s Office on 0303 123 1113 or at [www.ico.org.uk](http://www.ico.org.uk)

Yours sincerely,