

Information Governance Support

Essex County Council



Approved by	SIRO
Date Approved	21 st May 2020
Version	V4.0
Review Date	21 st May 2021

STATUTORY REQUESTS GUIDE

Guidance on legislation providing rights of access to School data

The following guidance explains the basic responsibilities of Schools when dealing with requests for School data. This provides summary information only and you are advised to seek further advice to ensure all the provisions of the laws are understood before taking action.

This guidance covers the following:

- 1) The Education (Pupil Information)(England) Regulations 2005 - [Link](#)
- 2) The Data Protection Act (2018) - [Link](#)
- 3) The Freedom of Information Act (2000) - [Link](#)
- 4) The Environmental Information Regulations (2004) - [Link](#)

1) The Education (Pupil Information) (England) Regulations, (Section 5: Disclosure of Curricular and Educational Records)

Note: this does not apply to Academies. If you are unsure whether you have a Pupil Information Request or a Subject Access Request then please see Appendix A.

a) When does this apply?

- This is a request made by either:
 - A parent/ guardian, or
 - The pupil (if over 18), or
 - Another school, Further/ Higher Education body if the Child is being considered for admission
- The subject of the request is for the Child's 'Education Record' which is defined as covering: "information such as the records of the pupil's academic achievements as well as correspondence from teachers, local education authority employees and educational psychologists engaged by the school's governing body. It may also include information from the child and from...a parent"
- It applies to any School maintained by the Local Authority (other than a nursery school) and any special school
- The request must be in writing
- If the parent wants a copy provided to them, any fee the School decides to charge to cover the cost of supplying the information must have been paid

b) What are the requestors' rights?

- Parents are allowed to come to the School to inspect the record
- Parents are allowed to have a copy supplied (but the School can ask for the basic cost of this to be paid)

- A request from a School/ College for their admissions process is free of charge
- c) How long do we have to respond?
- The timescale for a request for an education record is **15 school days** (i.e. the countdown clock stops for school holidays, bank holidays and inset days)
- d) Can we charge a fee for it?
- Yes to parents, but only to cover the cost of supplying a copy (i.e. printing and postage costs)
 - No if the request is made by a School/ College
- e) Can we refuse the request?
- You can refuse to provide the information if the request is not in writing or any reasonable fee you have charged for supplying a copy of the data is not yet paid
 - You can refuse to supply some personal information if it would be exempt from disclosure under the Data Protection Act
- f) Further Information
- <https://ico.org.uk/your-data-matters/schools/pupils-info/>

2) Data Protection Act 2018 / GDPR

- a) When does this apply?
- When an individual makes a request for personal data which:
 - Relates to them
 - Relates to someone they are legally responsible for
 - Relates to someone they represent with that person's consent (e.g. a Solicitor)
 - Relates to information which is broader than a request falling under Section 1 (above)
 - Where the request is made in writing or verbally
 - Where you are satisfied of the person's identity and entitlement to the information
- b) What are the requestors' rights?
- The right of access
 - To be informed

- To receive a copy of the data electronically; by request, or by having requested it electronically
 - To be informed of any delay
- c) How long do we have to respond?
- A calendar month
 - An additional 2 months may be claimed as long as you can demonstrate the request is complex and there are a number of them relating to the same individual being handled at the same time
- d) Can we charge a fee for it?
- Yes, a reasonable fee only to cover the administrative costs and then only if the request is 'manifestly unfounded' or 'excessive'
- e) Can we refuse the request?
- Yes if you can argue that it is 'manifestly unfounded' or 'excessive'
 - Yes, if this is the case and you have chosen to offer to fulfil for a fee, and if this fee is not paid
- f) Further Information
- <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/right-of-access/>

3) Freedom of Information Act (2000)

- a) When does this apply?
- When a requester makes a request in writing for any information the school holds which:
 - Is NOT the personal data of the requestor (or someone for whom they have parental responsibility – see Section 1 or 2), or
 - Does NOT relate to 'environmental information' (see Section 4)
- b) What are the requestors' rights?
- Where the school holds the information, to be provided with the information or to have an explanation of the legal reasons why it can't be provided
- c) How long do we have to respond?
- Whichever comes first, either:

- 20 working days after receiving the request (not counting any school, bank holidays or inset days), or
 - 60 working days
- The regulation defining this is [here](#):

d) Can we charge a fee for it?

- Only if the request would exceed 18 hours to fulfil (you only charge for hours used beyond 18 hours) and
- The requestor asks to go ahead having agreed a fee and
- The School is prepared to fulfil the request on this basis rather than refuse it

e) Can we refuse the request?

- Yes, if:
 - The request is not in writing with a reply name and address
 - The request doesn't explain what information is being sought
 - The information is not held
 - An exemption applies
 - It would take over 18 hours to fulfil (and the School is not prepared to fulfil for a fee)
 - The request is 'vexatious'
 - A reasonable fee has not been paid

f) Further Information

- <https://ico.org.uk/for-organisations/guide-to-freedom-of-information/>

4) Environmental Information Regulations

a) When does this apply?

- When a request (either written or verbal) is made and the data being requested is interpreted by the School as relating to the environment.
- The definition of 'environmental information' is in [Regulation 2](#)
- For schools this is likely to mean information about issues like asbestos, building cladding, hygiene, food and water safety, school grounds/landscaping etc (this list is not a full exhaustive list, just examples)
- Further guidance on the scope of environmental information is [here](#)

b) What are the requestors' rights?

- To have information proactively published, but
- If it needs to be requested from the School, it should be made available in the requested format (where reasonable)

- Subject to any 'exceptions' that the School is entitled by the regulations to apply, and if so, to have an explanation of the legal reasons why it can't be provided
 - To only be charged a fee if there is a published policy explaining how the fee is arrived at.
- c) How long do we have to respond?
- 20 working days following the date it was received
- d) Can we charge a fee?
- You may charge a 'reasonable' fee for responses
 - Charging a fee for every request regardless of how long it takes to fulfil would be unreasonable
 - There is no maximum time limit as there is under FoI law where you can refuse a request, so if the requestor is willing to pay then the School can't refuse
 - The fee can apply to any hours taken to respond to a request provided it can be shown to be 'reasonable'
- e) Can we refuse the request?
- Yes, if:
 - An exception applies
 - A 'reasonable' fee has not been paid
- f) Further Information
- <https://ico.org.uk/for-organisations/guide-to-the-environmental-information-regulations/>

Appendix A: Subject Access or Pupil Information Request

