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**Bewbush Community Nursery**

**Subject Access Request Procedure**

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## 1.0 Introduction

The GDPR (General Data Protection Regulation) creates some new Rights for Data Subjects as well as strengthening existing Rights under the previous legislation. As a Data Controller, Bewbush Community Nursery must be able to comply with these Rights.

The GDPR provides the following Rights for individuals:

* Right of Access (Also known as a Subject Access Request) (Such requests must be dealt with within 1 calendar month)
* Right to Rectification (Under GDPR must be dealt with without undue delay)
* Right to Erasure (Under GDPR must be dealt with without undue delay)
* Right to Restrict Processing
* Right to Data Portability
* Right to Object
* Rights in Relation to Automatic Decision Making and Profiling

This procedure sets out the key features regarding handling or responding to requests for access to personal data made by data subjects, their representatives or other interested parties. This procedure will enable Bewbush Community Nursery (further: “Company”) to comply with legal obligations, improve transparency, enable individuals to verify that information held about them is accurate, and increase the level of trust by being open with individuals about the information that is held about them.

## 1.1 Reference Documents

* EU GDPR 2016/679 (Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC)
* Data Protection Act 2018
* Data Protection Policy

Further information about each of the above Rights can be found in Appendix 1 of this procedure. It is important that should you receive and identify such a request against any of the above Rights that this procedure is followed. It is important to recognise that such requests may be made by current or past staff or contractors of the Company as well as clients or suppliers and may not follow a clear and standard format where the Data Subject clearly sets out which Right they are requesting to be exercised.

When a request is recognised it is important that you obtain details about the request, such as the time frame, whether it is in relation to a particular event or time / activity as this can help to provide the correct information required in a timely manner before forwarding the request to [person responsible] for action. It should be noted that Data Subjects can make such requests verbally (for example over the telephone), as well as in an email or postal letter.

## 2.0 Purpose

The purpose is to provide a procedure to follow when a Data Subject Request in relation to the above Rights is received by Bewbush Community Nursery.

3.0 Responsibilities

All staff and contractors have a responsibility to recognise a request and to comply with the procedure as follows.

4.0 Procedure

Upon receipt of a SAR, the Business Manager will log and acknowledge the request.

### 4.1 Identity verification

The identity of anyone making a SAR has to be verified to ensure information is only given to the person who is entitled to it. If the identity of a SAR requestor has not already been provided and verified, the person receiving the request will ask the requestor to provide two forms of identification, one of which must be a photo identity and the other confirmation of address. If the requestor is not the data subject, written confirmation that the requestor is authorised to act on behalf of the data subject is required.

### 4.2 Information for Data Subject Access Request

Upon receipt of the required documents, the person receiving the request will provide the Business Manager with all relevant information in support of the SAR. Where the [person responsible] is reasonably satisfied with the information presented by the person who received the request, the [person responsible] will notify the requestor that his/ her SAR will be responded to within one calendar month. The requestor will be informed in writing if there will be any deviation from the one month timeframe due to any significant complexities involved in meeting the deadline.

### 4.3 Review of Information

The Business Manager will have the relevant and required information as requested in the SAR collated. He/ She must ensure that the information is reviewed/received by the imposed deadline to ensure the one month timeframe is not breached.

### 4.4 Response to Access Requests

The Business Manager will provide the finalised response together with the information retrieved and/ or a statement that the Company does not hold the information requested, or that an exemption applies. He/ she will ensure that a written response will be sent back to the requestor. This will be via email, unless the requestor has specified another method by which they wish to receive the response (e.g. post). The Company will only provide information via channels that are secure. When hard copies of information are posted, they will be sealed securely and sent by recorded delivery.

### 4.5 Archiving

After the response has been sent to the requestor, the SAR will be considered closed and a record of the actions taken made.

## 5.0 Exemptions

An individual does not have the right to access information recorded about someone else, unless they are an authorised representative. The Company will not normally disclose the following types of information in response to a Data Subject Access Request:

* Information about other people – A Data Subject Access Request may cover information which relates to an individual or individuals other than the data subject. Access to such data will not be granted, unless the individuals involved consent to the disclosure of their data, the data can be redacted or there is an reasonable or overriding reason to disclose it without consent.
* Repeat requests – Where a similar or identical request in relation to the same data subject has previously been complied with within a reasonable time period, and where there is no significant change in personal data held in relation to that data subject, any further request made within a six month period of the original request will be considered a repeat request, and the Company will not normally provide a further copy of the same data
* Publicly available information – The Company is not required to provide copies of documents which are already in the public domain.

## 6.0 Data Subject Access Request Refusals

There are situations where individuals do not have a right to see information relating to them. For instance:

* If the information is kept only for the purpose of statistics or research, and where the results of the statistical work or research are not made available in a form that identifies any of the individuals involved.
* Requests made for other, non-data protection purposes can be rejected.

If the responsible person refuses a Data Subject Access Request on behalf of the Company, the reasons for the rejection must be clearly set out in writing. Any individual dissatisfied with the outcome of his/ her Data Subject Access Request is entitled to make a request to the Data Protection Officer to review the outcome.

# Appendix 1 – Rights of Data Subjects:

### Right of Access (Also known as a Subject Access Request)

Data Subjects have the Right to obtain:

* Confirmation that their data is being processed
* Access to their personal data and
* Other supplementary information

**Right of access requests must be responded to within one calendar month.**

### Right to Rectification

Data Subjects are entitled to have their personal data rectified if it is inaccurate or incomplete. If the information in question has been disclosed to a third party the Data Controller must inform them of the request for rectification where possible. The Data Subject is also entitled to be informed of the third parties to whom the data has been disclosed, where appropriate.

**Rights to rectification must be responded to without undue delay.**

### Right to Erasure

This Right is also known as the ‘Right to be Forgotten’. It enables Data Subjects to request the deletion or removal of personal data where there is no compelling reason for its continued processing by the Data Controller.

The Right to Erasure applies in the following circumstances:

* The personal data is no longer necessary in relation to the purpose for which it was originally collected
* The processing was based on consent, and the Data Subject has now withdrawn their consent
* The Data Subject objects to processing and there is no overriding legitimate interest of the Data Controller
* The data was being unlawfully processed
* The data must be erased to comply with a legal obligation

**Rights to erasure must be responded to without undue delay.**

Right to Restrict Processing

When this Right is exercised you are permitted to store the personal data but not further process it. Restricted information about the individual may be retained to ensure that the restriction is respected in the future. The Right to Restrict Processing applies in the following circumstances:

* When a Data Subject contests the accuracy of their personal data, then processing should be restricted to storage only until accuracy is verified
* When a Data Subject objects to processing which is being carried out for the reason of performance of a task in the public interest, or for the legitimate interests of the Data Controller, then the Data Controller must restrict processing to storage only whilst they consider whether their legitimate grounds override the Rights and freedoms of the individual.
* When processing is unlawful and a Data Subject opposes erasure and requests restriction to storage instead.
* When the Data Controller no longer needs the personal data but the Data Subject requires it for the purpose of a legal claim.

Right to Data Portability

This Right allows individuals to obtain and reuse their personal data for their own purposes across different services. It allows the individual to move, copy or transfer personal data easily from one IT environment to another in a safe and secure way in a common data format, for example, Excel or CSV file.

The Right to Data Portability applies in the following circumstances:

* When the personal data was provided to the controller directly by the Data Subject
* Where the processing is based on consent or performance of a contract
* When processing is carried out by automated means

Right to Object

Individuals have the Right to object to:

* Processing based on legitimate interest or performance of a task in the public interest/exercise of official authority (including profiling)
* Direct marketing (including profiling)
* Processing for the purposes of scientific/historical research and statistics

Rights in Relation to Automatic Decision Making and Profiling

This Right provides safeguards for individuals against the risk that a potentially damaging decision is taken without human intervention.

The Right not to be subject to a decision applies when:

It is based on automated processing

It produces legal/significant effects on the individual It does not apply if the decision:

Is necessary for entering into or performance of a contract

Is authorised by law

Is based on explicit consent

Does not have a legal/significant effect on the data subject

# Appendix 2 SAR Process Flow