

Parental Access Requests

The right of access to a copy of one's own data under Section 4 of the Data Protection Acts applies to a person's own personal data only. There is no express provision within the Data Protection Acts for a person (such as a parent) to exercise the right on behalf of another person (such as their minor child). Aside from the Data Protection Acts, Schools are also governed by other pieces of legislation, including the Education Act 1998 (as amended). All Schools are reminded that under the Education Act 1998 parents/guardians of children under the age of 18 years are statutorily entitled to information relating to their child's educational progress. See section 9(g) Education Act 1998, the text of which is set out below (emphasis added):

"9.—A recognised school shall provide education to students which is appropriate to their abilities and needs and, without prejudice to the generality of the foregoing, it shall use its available resources to—
(g)ensure that parents of a students, or in the case of a student who has reached the age of 18 years, the student, have access in the prescribed manner to records kept by that school relating to the progress of that student in his or her education".

The statutory obligation imposed upon schools by section 9(g) Education Act 1998 is entirely separate and distinct from an "access request" made under section 4 of the Data Protection Acts. It is not the same as an "access request". When a parent purports to make an "access request" citing the Data Protection Acts, Schools might wish to consider telling the parent that an "access request" only applies where an individual requests their own data. However, the School can facilitate the parent's access to records relating to their child's progress in his/her education under section 9(g) Education Act 1998. It is particularly important that all parents/guardians, regardless of marital or family status, receive information relating to their child's educational progress. Schools are advised to be as accommodating, transparent, inclusive and conciliatory as possible when dealing with requests from parents/guardians where the child is under 18 years old, and to deal with the parent/guardian's request irrespective of their marital or family or civil status. The definition of a "parent" as set out in the Education Act 1998 is important; it "includes a foster parent, a guardian appointed under the Guardianship of Children Acts, 1964 to 1997, or other person acting in loco parentis who has a child in his or her care subject to any statutory power or order of a court and, in the case of a child who has been adopted under the Adoption Acts, 1952 to 1998, or, where the child has been adopted outside the State, means the adopter or adopters or the surviving adopter". Schools are reminded of their obligations under the equality legislation, and of their obligation to communicate and correspond with all parents/guardians (which according to the Education Act 1998 includes foster parents, and others acting in loco parentis etc) in a fair and equitable manner irrespective of their marital/family/civil status. Where issues arise, schools are strongly advised to obtain advice at an early stage, and to avoid the situation of complaints being made.

Due to the absence of a provision within section 4 of the Data Protection Acts allowing for a parent/guardian to request records relating to their children (or indeed any person making a request on behalf of another person), the School might choose to state in its policy that where it receives a request for records from a parent/guardian relating to a student under 18 years, that in the first instance it will consider releasing these the records to the parent/guardian per section 9(g) Education Act 1998. If the parent/guardian is still not satisfied with that, then the School may (in its absolute discretion) choose to deem the parental request as an access request made on behalf of the child who is under 18. For the avoidance of any doubt, this would be entirely at the discretion of the school. If the School decides to exercise its discretion to do this, it may post the materials to the student's address, addressed to the student (ie treating it as a request made on behalf of the student). In all cases where the matter is complex, and particularly where complaints or complications arise (or are likely to arise), the school should obtain appropriate advice at an early stage to assist them in

dealing with the matter appropriately.

Note: the template "[Data Access Requests Form](#)" is prepared on the basis that the School has decided to exercise its discretion by deeming the parent's request to be made on behalf of the child who is under 18 years.

Special Note re FOI for voluntary secondary schools, community and comprehensive schools etc: at present, Schools which do not operate under the auspices of an ETB are not currently subject to Freedom of Information legislation. For further information, see "[What should you do if a request is made under FOI?](#)" If a parent requests their child's data citing Freedom of Information, the School should endeavour to facilitate the parent's request under section 9(g) Education Act 1998 in the first instance as detailed above.

Special Note re FOI for ETB Schools: ETB Schools are subject to the Freedom of Information legislation. Where a parent makes a freedom of information request to an ETB school, requesting information relating to their child, see "[What should you do if a request is made under FOI?](#)"