



St Mary's
Catholic Primary School and Nursery

INFORMATION RIGHTS PROCESS

The General Data Protection Regulation (GDPR) contains a number of rights for the data subject, which allows the data subject to control the use of their personal data by the data controllers (the school). The rights of the individual are a central part of data protection legislation and St Mary's is legally bound to respond to them.

GDPR expands upon the rights of the individual that exist within the Data Protection Act 1998 by introducing more rights, but also changing the fundamental timeframes and expectations that the School must meet.

The Rights

GDPR provides individuals with the following rights: -

1. The right to be informed (covered as part of the School's Privacy Notice and Transparency Guidance)
2. The right of access
3. The right to rectification
4. The right to erasure
5. The right to restrict processing
6. The right to data portability
7. The right to object
8. Rights in relation to automated decision making and profiling

Not all of the rights under GDPR are absolute. The Data Protection Officer should always be consulted for advice to ensure that the school are acting appropriately in the way they deal with any request by an individual to exercise a specific right.

The Right of Access

The right of access (also known as a Subject Access Request) gives the individual the right to request:

- Confirmation that the School is processing (using) their personal data
- Access to their personal data itself along with supporting information about data sharing and what it is used for

The right of access provides an individual with the right to request his or her own information from St Mary's. The individual is not entitled to view information about another individual unless that individual's explicit consent is obtained.

An individual may request personal data from St Mary's on behalf of another person, for example – a child. In this case, the requester must provide the following documentation:

- Proof of identification for both the requester and the person they are requesting the information on behalf of
- Proof of authority to act on their behalf. This may include Power of Attorney forms, signed authority from a solicitor's office or in the case of a child, proof of parental responsibility.

All documents issued are redacted to remove any personal data about third parties (other people) before release. This redaction must be dip sampled and approved by the School Data Protection Lead before release to the requester.

Full details of St Mary's Right of Access Policy is available on the school website www.stmaryscrewe.co.uk

The Right of Rectification

The right of rectification gives the data subject the right to request that inaccurate data held by St Mary's is rectified or deleted.

Where St Mary's receives a request to rectify inaccurate data, it is best practice that the personal data is restricted from use whilst an assessment of its accuracy is completed. All requests for rectification of data are referred to the Data Protection Officer at the same time they are referred to the relevant service. The DPO must approve the action before it is completed.

Where the requester can manifestly prove that data is inaccurate, (e.g. an address inaccurately entered) St Mary's may ask for proof of the correct address to correct the mistake.

Where the requester queries whether an opinion recorded about them has any merit, St Mary's may take the action to mark the data clearly that it is an opinion rather than fact. This may also mean that we do not rectify or delete this data.

The Right to Erasure (Right to be Forgotten)

The right to be forgotten is not absolute and only applies in the following circumstances:

- The personal data is no longer necessary for the purpose which it was originally collected or used it for
- St Mary's are relying on consent as the lawful basis for holding the data, and the individual withdraws their consent

- St Mary's are relying on legitimate interests as the basis for using the personal data. The individual objects to the processing of their data, and there is no overriding legitimate interest to continue this processing
- St Mary's are using the personal data for direct marketing purposes and the individual objects to that processing
- St Mary's has processed the personal data in breach of the General Data Protection Regulation
- The law states that the personal data has to be deleted
- St Mary's has collected the personal data through offering online services to a child.

The right to be forgotten does not apply in a number of situations, including:

- Where St Mary's has a statutory duty to keep the information
- Where there is a high public interest in St Mary's keeping the information and it is used for a public function (e.g. safeguarding)
- Where the information is necessary for a legal claim

Where a right to be forgotten request is received, the Data Protection Officer must be consulted at the earliest opportunity to provide advice on the deletion of the personal data in question.

Some School systems will not facilitate the erasure of personal data. Where this is the case, the data will be flagged on the system as being "not to be used" and must not be included in any reports or documents produced from that system.

Where an applicant successfully applies their right to be forgotten and the St Mary's has previously shared the deleted information with another agency, St Mary's must immediately contact the recipient agency and ask them to remove the data from their systems.

The Right of Restriction

The right of restriction gives an individual the right to ask St Mary's to temporarily stop using their information in the following circumstances: -

- The individual disputes the accuracy of their personal data and St Mary's are verifying the accuracy of the data
- The data has been unlawfully used or shared and the individual chooses that St Mary's restricts access to the data, rather than delete it
- St Mary's no longer need the personal data but the individual needs the School to keep it in order to establish, exercise or defend a legal claim
- The individual has objected to St Mary's using their data (see right to objection below) and we are considering whether we have legitimate grounds override those of the individual

Where a right to restriction (or rectification/objection) request is received, the Data Protection Officer must be consulted at the earliest opportunity in order to advise regarding the restriction of the personal data in question.

Some School systems will not facilitate the restriction of personal data. Where this is the case, the data will be flagged on the system as being “not to be used” and must not be included in any reports or documents produced from that system.

Where an applicant successfully applies their right to restriction and St Mary’s has previously shared the deleted information with another agency, the service must immediately contact the recipient agency and ask them to restrict the data on their systems.

The Right of Data Portability

The right of data portability gives the individual the right to have returned any information that they have previously supplied to St Mary’s in a commonly used, machine readable format.

This right only applies in the following situations: -

- Where St Mary’s is using personal data with the consent of the individual involved
- Where St Mary’s is using personal data as part of a contract with the individual
- Where the use of personal data is done in automated (computerised) way

The right only applies to personal data that the individual has directly provided to us. We are not obliged to provide information that it has generated about the individual, only the information they initially provided to us. If the requester requires information wider than what they have provided to St Mary’s, they must make a Subject Access Request.

The requester has the right to receive their information directly, or ask St Mary’s to provide this to another organisation. The requester must make their wishes clear in this regard.

Where we receive a right to data portability request, the Data Protection Officer must be consulted at the earliest opportunity to provide advice regarding the restriction of the personal data in question.

The personal data requested must be provided in a commonly used, machine readable format. It may be appropriate to ask the requester for their preferred method and file format in which to receive their disclosure.

Where the personal data requested cannot be removed in a portable manner, the Data Protection Officer must be informed immediately so that appropriate communication can take place with the requester and a compromise reached about the format of the disclosure.

The Right to Object

The right to object gives individuals the right to request that St Mary's cease processing their personal data in certain circumstances, such as:

- Where St Mary's is using the individual's personal data in line with their public tasks and functions (Article 6(e) of the GDPR) or in the School's legitimate interests (Article 6(f))
- Where St Mary's is using the personal data for direct marketing or profiling purposes
- Where St Mary's is using the personal data for scientific/historical research or statistical purposes

The right to object is not absolute regarding personal data processing by St Mary's for its functions. In order to refuse a right to object, St Mary's must demonstrate compelling and legitimate grounds for keeping the information. This may include grounds of public interest, safeguarding purposes or crime prevention.

If we require the personal data to defend a legal claim then the requester cannot use their right to object.

Where the requester would like to object to direct marketing from us, this request is honoured immediately. There are no exemptions to this right. St Mary's must remove the requester's data from all mailing lists and ensure that they receive no further marketing communications from that point.

Where a right to object request is received, the Data Protection Officer must be consulted at the earliest opportunity in order to advise regarding the application of this right.

The Right to Prevent Automated Decision Making (including Profiling)

GDPR provides an individual with the right to object to any automated decisions made about them that would have a significant effect. It also gives the individual the right to prevent automated profiling of them.

Automated decision making is a decision that is made about an individual without any human involvement. An example of this is a credit check before buying a product on higher purchase.

Profiling is specifically mentioned in the GDPR as automated profiling that is used to evaluate a person's behaviour to analyse or predict their actions or needs. The text specifically mentions employment, economic situation, health, personal preferences, interests, reliability, behaviour and movements (location).

The use of information must result in a decision taken about the individual in question. If no decision is taken, the individual cannot prevent the processing using this right, they must exercise their right to object.

The School may only carry out this type of processing in the following circumstances: -

- The decision is necessary for entering into a contract with the individual(s) involved
- Authorised by law (e.g. for preventing crime or fraud)
- The individual has given their explicit consent

If the decision making is to include sensitive (special category) personal data, then St Mary's must have: -

- A substantial public interest in the decision being taken
- The individual's explicit consent

This use of personal data cannot be undertaken without completing a Data Protection Impact Assessment.

Where a right to preventing automated processing request is received, the Data Protection Officer must be consulted at the earliest opportunity in order to advise regarding the application of this right.

Expectations and Basic Principles

Making a Request

An individual can make a request for any of their rights at any time and in any form that they see fit.

The individual does not have to state that they are using their rights under the GDPR, or even state which right they wish to use in order for the request to be valid. Requests can take any form and phrased in any way. For this reason, staff must be aware of all data protection rights and their responsibilities when receiving a request.

St Mary's has appointed a Data Protection Officer and all rights requests received by staff will be referred immediately.

Proof of Identity

Where St Mary's deems it necessary, the applicant will be asked for proof of their identity as their request is being logged. Where St Mary's cannot be satisfied as to the requester's identity, the response will not be disclosed until the necessary proof of identity has been provided.

Original or scanned documents to prove identity include:

- Driving licence
- Passport
- Recent utility bill or similarly addressed document

Lack of a proof of identity will not be used to delay requests unduly.

Fee

Under GDPR, St Mary's cannot charge a fee for the disclosure of information as part of a rights request. However they may exercise discretion in levying an administration fee if a request is:

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- For information that the School has already provided to the applicant as part of a previous response
- Manifestly unreasonable or excessive

Where an administration fee applies, the applicant is informed of the charge at the earliest opportunity.

Time Limits

St Mary's must respond to all requests within 30 calendar days (one month) of receipt. For example, we receive a request on 3rd September; the time limit would begin from the next day (4th September). The response would be due on 4th October.

St Mary's may extend the deadline by a further 2 months, if the request is complex or one of many ongoing rights requests from the individual.

The time limit cannot be extended because: -

- The request is unfounded or excessive
- An exemption applies
- The requester has yet to adequately prove their identity

There are no specific exemptions relating to requests made during school holidays. As a result, requestors may expect their request to be completed regardless of when it may be made. In reality, St Mary's will not have staff available to receive a request during this period. Any delay will be clearly communicated as part of the school's Information Rights Procedure.

Exemptions

GDPR does not provide any exemptions from the rights of the individuals it sets the circumstances in which the rights apply. All exemptions to the rights of the individual are contained in the Schedules of the Data Protection Act 2018. These exemptions include, but are not limited to:

- Crime & Taxation purposes
- Immigration (subject to legal challenge)

- Legal Proceedings
- Regulatory Services
- Legal Professional Privilege
- Management forecasts
- Negotiations with the requester
- Confidential references
- Emotional Harm relating to social care
- Adoption records (complete exemption)

Where an exemption is applied, a record is retained of where the exemptions are applied before disclosure. This is so an accurate audit trail is retained.

Overall School Process

- St Mary's receives a rights request. The request is sent **immediately** to the School's Data Protection Lead.
- The DPL will then log the request and liaise with the requester to obtain proof of identification or clarification around their request. The DPL will send the customer an acknowledgment of receipt of the request upon completion of this stage.
- The DPL will consult with the Data Protection Officer where necessary regarding the application of rights to specific personal data or circumstances to ensure compliance with GDPR. (This will relate to all rights bar the right of subject access)
- The DPO's decision must be documented by the DPL
- The DPL will liaise with any area to which the rights request applies. This will include details of the requester, the type of request (which GDPR right applies), the information involved and deadline for the response
- The DPL will then collate and prepare the response to the request. This may include redacting information or performing a specific action to the requester's personal data as stipulated in the specific right they have requested, for example deleting information in line with the Right to be Forgotten.
- Where the Right of Subject Access is requested, all redacted documents are approved and signed off by the DPL
- Where there are any other GDPR rights, the Data Protection Officer is consulted before any further steps are taken
- All responses are sent to the DPL for disclosure to the requester. Staff **must not** disclose information to the requester directly
- The DPL will respond to the applicant using an appropriately secure method
- The DPL will then update and close the request upon disclosure