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# INTERNAL SUBJECT ACCESS REQUEST POLICY AND PROCEDURE

**This procedure deals with the handling of subject access requests**

## **1. Introduction**

- 1.1 Manchester Settlement (the Charity) holds personal data about job applicants, employees, clients, customers, members, suppliers, business contacts and other individuals for a variety of purposes.
- 1.2 Under data protection law, individuals (known as 'data subjects') have a general right of access to personal data which we process about them. Such a request is known as a Subject Access Request ('SAR').
- 1.3 This right of access is subject to certain exceptions where personal data may be exempt from this right of access under data protection law.
- 1.4 This procedure sets out how SARs received by the Charity should be dealt with.
- 1.5 This policy provides guidance for staff members on how SARs should be dealt with, and is intended for internal use. It is not to be made routinely available to third parties.
- 1.6 This policy is aimed primarily at those members of staff who are authorised to handle SARs. For other staff members, it provides guidance on:
  - (a) How to decide whether a request for information is a SAR; and
  - (b) What to do if you receive a SAR.
- 1.7 A failure to comply with a SAR in accordance with data protection law could result in a significant risk to the Charity, as such a failure to comply with this policy may lead to disciplinary action, which may result in dismissal (see section 14 below).

## **Handling Subject Access Requests**

### **2. Identifying a request**

- 2.1 A SAR is a request from an individual to be given access to personal data which the Charity processes about them. A SAR does not need to expressly refer to personal data, any Data Protection Act, the General Data Protection Regulation or other relevant data protection law.

For example: A letter which states *'please provide me with a copy of all the information that you have about me'* will be a SAR.

- 2.2 All requests for access to data should be passed immediately to the HR Manager.
- 2.3 There are limited timescales within which the Charity must respond to a request.
- 2.4 Any delay could result in the Charity failing to meet those timescales, which could lead to enforcement action by the Information Commissioner and/or legal action by the affected individual.

### **3. Making a request**

- 3.1 There is no requirement for the request to be made in writing. A request could be made by telephone or in person, as well as in writing for example by letter, email, text, twitter or other social media forum.
- 3.2 If an individual makes a request by telephone or in person, they should be asked to put that request in writing using the **Subject Access Request Form**, which is available from the staff policy drive
- 3.3 Unless certain requirements are met, the Charity is not obliged to comply with a SAR. The individual must however be told promptly if further information is required in order to fulfil the request. This will be dealt with by HR.

### **4. The timescale for responding to a SAR**

- 4.1 A valid SAR should be responded to it as soon as possible and at least within **1 calendar month**.
- 4.2 In exceptional circumstances it may be possible to extend this period by a further 2 calendar months. This should be discussed with HR, when they are notified about the request.

### **5. Information to be provided in response to a SAR**

- 5.1 The individual making a SAR is entitled to receive various pieces of information about their request. Details of what the Charity must provide as part of a SAR request can be obtained from HR.
- 5.2 This information must be provided in an intelligible form, using clear and plain language. Any technical terms, abbreviations or codes must be explained to the individual. A standard form letter should be used when responding to a SAR and this is available from HR.

## **6. How to locate the information requested**

- 6.1 The personal data we need to provide in response to a SAR may be located in electronic and other filing systems. This is why it is important to identify at the outset the type of information requested so that the search can be as focused as possible.
- 6.2 Depending upon the type of information requested it will be necessary to search some or all of the following:
- (a) electronic systems (for example databases, servers etc);
  - (b) personal devices (for example laptops, tablets, telephones, etc);
  - (c) non-electronic filing systems (for example personnel records or customer records);
  - (d) data systems held externally by our data processors (for example external payroll providers or IT service providers); and
  - (e) occupational health records held by HR.

## **7. What is personal data?**

- 7.1 The individual is only entitled to receive information which constitutes their personal data.
- 7.2 The type of information that will be classified as personal data is any information which identifies the individual (either directly from the data or from that data and other information which is in the Charity's possession) and:
- (a) relates to the individual; or
  - (b) has the individual as its focus; or
  - (c) is an expression of opinion about the individual; or
  - (d) is an indication of the intentions of the Charity or any other person towards the data subject.
- 7.3 Examples of information likely to constitute personal data include:
- marketing lists containing a name together with contact details;
  - customer profile information (for example shopping preferences of the data subject);
  - human resources information (for example salary details, appraisals);
  - financial information (for example information about the data subject's tax liabilities, income, expenditure);
  - medical information (for example medical history or condition, including pregnancy); and

- images caught on CCTV camera or audio recordings.

7.4 Examples of information unlikely to constitute personal data include:

- reference to the individual's name in a document that contains no other personal data about that data subject (for example the data subject's name in a list of attendees in the minutes of a meeting where the individual simply attended in his or her official capacity);
- where the individual's name appears in an email that has been sent to or copied to him or her, but where the content is not about him or her (for example emails sent to the data subject about the Charity's dealings); and
- information about the performance of a department or branch office where no reference is made personally to the individual.

## **8. The personal data of other individuals**

8.1 There will be instances where the individual's personal data includes data that identifies another person. This is referred to in this procedure as 3<sup>rd</sup> party data. If this is the case, assistance should be sought from HR to determine whether such data constitutes personal data relating to the data subject and whether this should be disclosed as part of the SAR response.

8.2 Ultimately, whether or not it is reasonable to disclose the 3<sup>rd</sup> party's information will depend upon all the circumstances and each SAR should be considered on a case-by-case basis, with advice from HR.

## **9. Providing the information**

9.1 The data subject is entitled to be provided with a copy of their personal data.

9.2 A copy of the information **must** be provided to the data subject unless this is not possible for some reason. You must seek assistance from HR before responding to or providing any information in relation to a SAR.

9.3 If a copy of the information cannot be provided, then alternative ways of enabling the data subject to have access to the information must be considered.

9.4 If data subjects are allowed to view personal data on our premises, it is necessary to ensure that they are supervised and to not have inadvertent access to confidential information or the personal data of others. Arrangements of this nature must be discussed with HR prior to being made.

## **10. Refusing a request or charging a fee**

10.1 In the majority of cases, a response to a SAR will be provided free of charge.

10.2 A reasonable fee can be charged to comply with requests for further copies of the same information which has been requested under a SAR.

- 10.3 The Charity can, in some circumstances, charge a fee for processing a SAR. HR will advise you further on this when they are notified of a SAR being received.
- 10.4 If it is determined that a fee should be charged, this should be confirmed in writing to the data subject.
- 10.5 If it is determined that the request will be refused, this should be confirmed to the data subject in writing. You should seek assistance from HR in these circumstances.

## **11. Requests made by third parties on behalf of the data subject**

- 11.1 Occasionally we may receive a request for subject access by a third party (an 'agent') acting on behalf of a data subject. These agents may include parents, guardians, legal representatives and those acting under a power of attorney or other legal authority. The agent must provide sufficient evidence that he or she is authorised to act on behalf of the data subject, before we can deal with the SAR.

## **12. Exemptions to the right of subject access**

- 12.1 In certain circumstances the Charity may be exempt from providing some or all of the personal data requested.
- 12.2 The most relevant exemptions are set out below and should only be applied on a case by case basis after careful consideration of the facts, and in discussion with HR.
  - (a) crime detection and prevention;
  - (b) confidential references;
  - (c) legal privilege;
  - (d) management forecasting; and
  - (e) negotiations.

## **13. Failure to comply with a request**

- 13.1 A failure to comply with a SAR, or a failure to provide a copy of all the personal data requested without a valid reason will be in breach of the GDPR.
- 13.2 In these circumstances, the data subject can complain to the Information Commissioner, who can investigate the complaint.
- 13.3 If the Charity is found to be in breach of the GDPR, it could be subject to enforcement action, including significant fines.
- 13.4 Individuals can also bring a claim against the Charity for damages if they have suffered damage or distress as a result of the Charity's failure to comply with their SAR.

**14. Disciplinary action**

14.1 A failure to comply with this policy may be a disciplinary offence, which could result in summary dismissal.

**15. Review of this policy**

15.1 This procedure will be reviewed regularly by Adrian Ball (CEO and DPO)

15.2 Any questions regarding this procedure should be addressed to Adrian Ball (CEO and DPO)