



Our Mission Statement

Creating a child centred, safe learning environment which is underpinned by the physical, emotional, mental and spiritual wellbeing of each child; focusing on children's interests whilst providing a challenging curriculum and enabling environments to support children to strive and be prepared for the next stage of their learning journey

Information Security, Data Protection and Freedom of Information

LAST REVIEWED ON	SIGNATURE
December 2018	S. MADARI
December 2019	S. MADARI
February 2021	S. MADARI
April 2022	S. MADARI

Introduction

This document is designed to provide the Nursery leadership team with essential guidance on the requirements of the Data Protection Act and the Freedom of Information Act and gives a practical view of information security at Taqwa Nursery.

Any specific questions relating to Data Protection and Freedom of Information can be directed to:

The Information Management Unit

Bolton Council

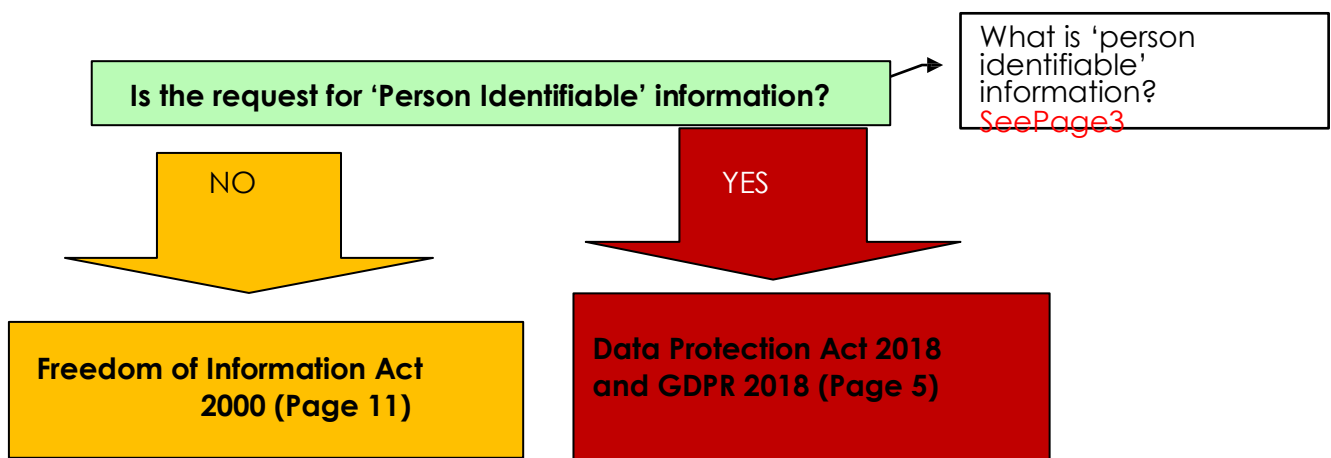
BL1 1JW

POBox 53

01204 332129

ec_imu@bolton.gov.uk

Both the Data Protection Act and the Freedom of Information Act allow requests for information from the Nursery. The flow chart should be used to help decide which Act applies:



Information Security and Handling Personal Information

What is Personal Information?

Personal information is information that can identify a living individual or a small group of specific individuals by its content alone or by its content and any potential link to other information that may be available from another source.

Who can I share personal information with?

- Other practitioners and professional bodies to improve outcomes for children
- Through requests from the data subject themselves. All requests should be in writing and in an appropriate format
- In certain circumstances, with official bodies such as the police or DWP conducting investigations or with other professional services involved with the care and or protection of a child. See Privacy Notice (Client and Workforce) for further details.

Can I send personal information by email to recipients outside the Nursery?

- Personal or confidential information should only be sent by normal(unencrypted) email to recipients that the Nursery has verified, **where there is no reasonable alternative and where not sending the information would cause a risk to anyone**. When sending an e-mail under these circumstances it is essential that the e-mail address is verified before sending.
- In all other cases, personal information should only be shared via e-mail using secure mail such as Egress or SICT.

Can I store personal information on a memory stick?

- Personal, confidential or sensitive information should never be stored on any portable media device except for Taqwa Nursery issued USB devices with prior permission from Management.
- Portable media includes Memory/USB sticks, CD's, Floppy disks, mobile phones, PDA's, Laptops, flash memory cards or anything else that can store information independently to the Nursery's computer systems excluding Taqwa Nursery issued USB devices.
- Staff are personally responsible for the safety of any Nursery information/data you store on a memory stick. If staff/service holders/Trustees remove it from Nursery premises, they are responsible for ensuring its safe transport and for its safe return.

When and how do I dispose of information?

Taqwa Nursery follows a retention of records schedule and all records must be retained accordingly. When this period has finished, or if the information does not fall under any category named within the schedule, the information must be destroyed securely:

- If it is paper, SHRED IT

- If it is electronic, ASK MANAGEMENT TO ERASE IT

What do I do if information is lost?

Loss of information is not about apportioning blame; it is about minimizing the harm that can be caused and learning from the lessons. If any staff member experiences loss of information either through theft of equipment or loss of media, contact the MANAGER and DPO IMMEDIATELY and report the data breach to the police as part of our Information Management Procedure.

Data Protection Act & General Data Protection Regulations 2018

Data Protection has been around since the mid 1970's; it has evolved roughly in line with the use of computers to store electronic records about people. The Act came about following EEC requirements for laws supporting the European Convention for Human Rights, particularly Article 8, the right to privacy. Two previous versions of the Act have come in to force, the first in 1984 which covered electronic records only and then in 1998 when it was extended to cover all forms of records such as paper files.

Data Protection is only related to that information that can be classed as 'personal information'.

Personal information is:

- Information that can identify a living individual or a small group of specific individuals by its content alone or by its content and any potential link to other information that maybe available from another source.
- Only living individuals are protected under the Act, the deceased may be protected by other means beyond the scope of this guidance.

The Act has 8 principles:

- Personal data shall be processed fairly and lawfully.
 - Taqwa Nursery sets out its legal basis for collecting, processing and storing personal information in its Privacy Notices – these are reviewed annually or sooner if there is a significant change to legislation, and all clientele, the Workforce and Trustees will be issued a privacy notice at least once a year.
- Personal data shall be obtained only for one or more specified and lawful purposes.
 - Please see Data Map for further information.
- Personal data shall be adequate, relevant and not excessive.
 - Taqwa Nursery audits its data protection procedures at least annually, part of this process is to look over forms and other procedures of collecting information to ensure that collected data is adequate, relevant and not excessive.
- Personal data shall be accurate and kept up to date.
 - SLT and Administration staff ensure Personal Data is as up-to-date as possible. This includes termly messages and emails sent out to clients, the Workforce and Trustees reminding them of the need to update all information that the Nursery holds.

Annually, this information is resent back to clients, the Workforce and Trustees giving them the opportunity to recheck their personal information.

- Personal data shall not be kept longer than necessary.
 - Taqwa Nursery follows a retention of records schedule and all personal information is retained for the length of time stated within the schedule or as indicated by our public liability insurance documentation.
- Personal data shall be processed in accordance with the rights of data subjects.
 - The rights of the Data Subject are clearly identified in the annual privacy notice.
- Personal data shall be kept secure.
 - All personal data is kept securely on-site. This includes a securely locked filing cabinet for live and archived paper documents, and password protection or encryption for digital records.
- Personal data shall not be transferred out of the European Economic Area unless special arrangements are in place.
 - Taqwa Nursery does not transfer any data outside of the EEA.

Protecting personal information is built into the way Taqwa Nursery:

- Collects information
- Stores information
- Processes information
- Shares information with others (even within the Nursery)

General guidance

Personal information should only be used in the best interests of the individual it relates to unless there are statutory requirements such as crime detection / prevention or safeguarding concerns.

Personal information should not be collected unless there is a need to collect and store that information.

Data protection **does not** restrict the safe and secure sharing of information between practitioners and other professional services when working in the best interests of a child or young person

There are times that an official body such as the police or DWP will ask the Nursery for personal information. There are very clear reasons for this and the onus is on the official body to supply enough information for you to decide if you should release the information requested. As a minimum, these requests should be in writing, state their right in law to access the information and an investigation reference number.

Bolton Council's Information Management Unit is on hand to provide guidance if this occurs.

Children and parents/guardians have a right in law to request to see and take away a copy of the information Taqwa Nursery holds about them. This is known as a **Subject Access Request** and is outlined in our Privacy Notices.

Subject Access Requests

A Subject Access Request must be in writing but they are not required to quote the Data Protection Act or lawful basis under which they are asking to see the data.

This does not give any member of the Nursery Workforce or stakeholder the request or the right to directly access any records or systems. The Subject Access Request will be granted following the procedure set below:

- Subject Access Requests must be made in writing to be accepted by Taqwa Nursery (this includes e-mail requests)
- SAR's should be addressed to the DPO of the Nursery
- Once a SAR is received, the DPO will immediately ask to see proof of identity from the individual making the SAR
- Once proof of identity has been checked and recorded, the DPO will collate all personal Data held by the Nursery and compile a folder of retained documentation. This will be ready within 30 days from the date that the identity was checked and documented, and not from the date of the SAR being received.
- Within the 30 days, the DPO will contact the individual to ask which format the individual would like to receive their folder of retained documentation in. If the documentation is required electronically, Taqwa Nursery will use Egress or SICT to complete the document transfer and it is the responsibility of the individual to ensure they have access to either of these secure email pathways.
- If the documentation is required in paper format, the Nursery may charge a small administration fee, to cover the cost of the file compilation.
- Taqwa Nursery will ask for a signed and dated copy of a SAR form and log of all documentation to be shared as a result of the SAR before releasing any documentation.
- Taqwa Nursery will keep a detailed log of each SAR we receive, with copies of the request and also a copy of what was and was not disclosed and the reasons why the Nursery didn't disclose the whole record (if applicable).
- A person requesting to see a record is only entitled to see their own information or their child's if they have parental responsibility. If the parents of a child are married to each other or if they have jointly adopted a child, then they both have parental responsibility. This is not automatically the case for unmarried parents. According to current law, a mother always has parental responsibility for her child. A father, however, has this responsibility only if he is married to the mother or has acquired legal responsibility for his child through one of these three routes:
 - (After December 1 2003) By jointly registering the birth of the child with the mother
 - By a parental responsibility agreement with the mother
 - By a parental responsibility order, made by a courtLiving with the mother, even for a long time, does not give a father parental responsibility and if the parents are not married, parental responsibility does not always pass to the natural father if the mother dies.
- If the information requested contains third party information, Taqwa Nursery will redact any and all information that pertains to the third party. Taqwa Nursery will provide explanations of all redacted information.
- If a child is over the age of 12, they may be sufficiently mature enough to their own rights in the Data Protection Act.
- Information created by professionals such as our Workforce, educational social workers, speech and language therapists or other professional services etc. will

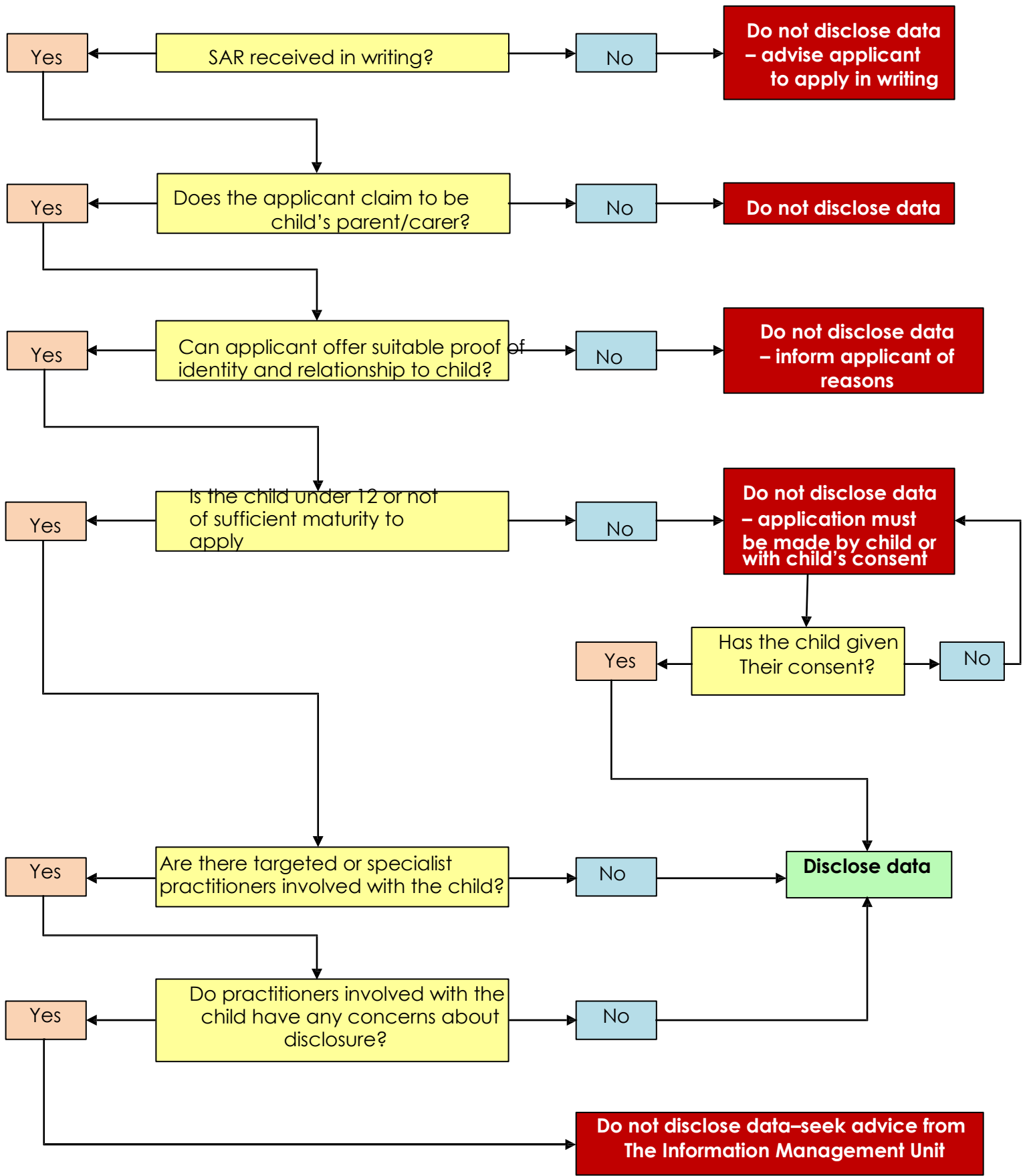
normally not be considered as third-party information because their records form part of the record of the individual concerned. Taqwa Nursery will however, endeavour to inform any person(s) whose work is being used in the compilation of the SAR file. Taqwa Nursery will engage in conversations of concerns raised by these persons IF they raise their concerns within the 30 days timeline.

- These requests are quite often surrounded by sensitive situations and as such Taqwa Nursery will, once the information has been collated, invite the requester into the Nursery to view the information file with a copy available to take away (a suitable person (preferably the DPO) will be on hand to present the information in a supportive manner and to explain any terminology or acronyms that may not be fully understood or may be misleading)

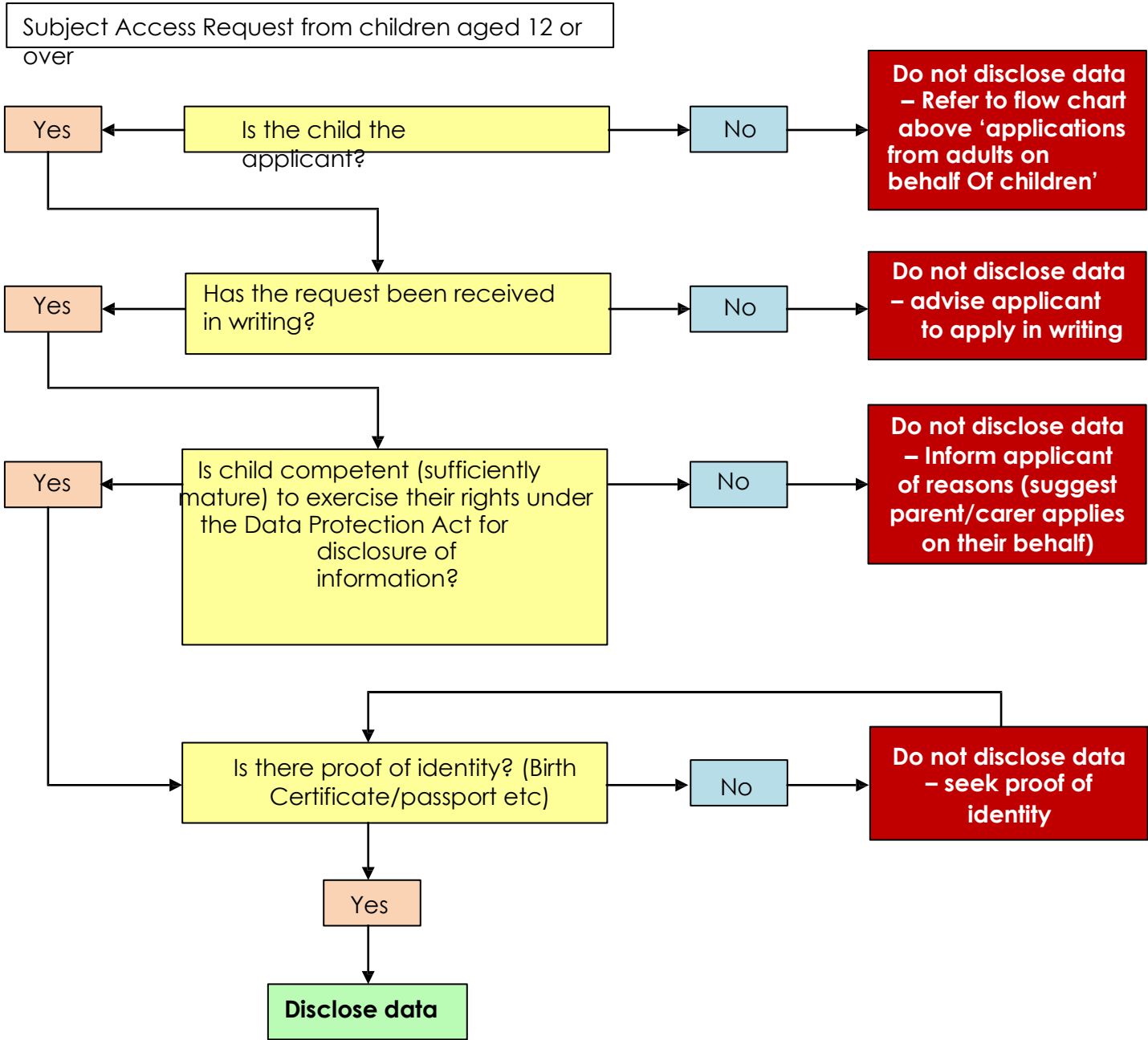
Dealing with an SAR from adults on behalf of children:

- Strictly speaking, a Subject Access Request can only be made by the data subject (the individual the information is about)
- In the Data Protection Act, there is a presumption that a child of 12 or over has sufficient maturity to exercise their rights in relation to information held about them. Of course some children under 12 will have sufficient maturity and some over 12 will not. (Making the judgement is a matter of professional opinion that will rest with the DPO)
- A parent only has right of access **on behalf of a child** until the child reaches sufficient maturity or with a child's consent.

Applications from adult on behalf of a child



All Decisions Will Be Recorded



All Decisions Will Be Recorded

Dealing with requests from others who are not the data subject.

There are some official bodies that may require personal data without the explicit consent from the person who the information is regarding. The following list is not exhaustive but gives an indication of the types of organisations that may need this power:

- Council tax investigation team
- Housing benefit investigation team
- Police
- UK Border Agency
- Department for Work and Pensions
- HM Revenue and Customs
- Child Support Agency
- Health and Safety Executive

This can be a very complex situation especially when the requester is quoting unfamiliar legislation as to their rights to access information. Generally, these groups will know how to formally ask the Nursery for information; they need to provide the Nursery with enough information for the DPO to make an informed decision without pressure. The DPO may liaise with The Information Management Unit in these circumstances to ensure correct decisions are being made **(0120433 2129)**.

Freedom of Information Act 2000

The Freedom of Information Act became law in January 2005, the Act gave the public a direct option to ask for and receive any information in the ownership of a public body.

The intention is to promote public confidence in public services such as Central Government, Local Government, Police, Health and Education.

Freedom of information entitles any member of public including journalists and press associations to ask for any piece of information that the Nursery holds (which does not fall under the category of Personal Information)

As a general rule of thumb, all information is available for release unless there is a specific exception within the Freedom of Information Act. However, in practice at Taqwa Nursery, all Freedom of Information Requests must be forwarded to the Chair of Trustees for advice and permission before release. All requests must be received in writing, emails are acceptable. Taqwa Nursery will respond to a Freedom of Information request within **20 working days (not including nursery holidays)**. If the request is not 'clear' or there is doubt about exactly what information is being asked for, Taqwa Nursery reserves the right to 'stop the clock' on the 20 day turn around period whilst we clarify the request. Taqwa Nursery will keep a log of all requests and our responses including the dates received and completed.

- A Freedom of Information request does not give someone the right to directly access Nursery Records
- **Personal information will not to be supplied under the Freedom of Information Act.**
- A person applying for information has the right to be told if the information requested is held by the Nursery, and if that is the case, to have the information sent (subject to any exemptions). This obligation is known as the Nursery's 'duty to confirm or deny order'. However, the Nursery does not have to confirm or deny if an exemption applies.

There are a series of exemptions that may apply to the information requested:

- If Taqwa Nursery uses an exemption to not release the requested information, we will always justify our reasons and ensure that this is clearly logged and filed with the original request to allow for audit trails and notification to the ICO.

The exemptions possibly available to Nurseries are as follows:

Absolute exemptions

- **Reasonably accessible by other means** (the information requested is publicly available elsewhere such as the Nursery or Bolton Council's websites)

- **Legal prohibition on disclosure** (such as exam results prior to the official release date)
- **Effective conduct of public affairs** (quite often the Nursery Trust Board will need to discuss matters such as strategic staff planning, possibility of Nursery closure or conversion to an academy that requires the Trustees 'time to breathe' on such decisions without immediate public scrutiny, again this is a temporary exemption as the 'time to breathe' will not be a permanent requirement).
- **Information provided in confidence** (If the Nursery holds information that an assurance of confidence was given when the information was recorded or collected)

Qualified exemptions

- **Health and Safety** (If the Nursery suspects that the information, if released, may endanger the health and safety of students or staff such as a request for the design plans for the Nursery)
- **Intended for future Publication** (If the Nursery intends to release the information at a given date, the Nursery will use this exemption, this exemption will always be a temporary exemption and Taqwa Nursery will clarify a timeline or deadline for release in this instance)
- **Commercial Interests** (An example of this would be a contractor or supplier attempting to gain an unfair advantage during a tender process by requesting details of other bids)
- **Investigations and proceedings conducted by public authorities** (Information is exempt if it has at any time been held by the Nursery for the purposes of criminal investigations or proceedings, such as determining whether a person should be charged with an offence or whether a charged person is guilty, or investigations which may lead to a decision to instigate criminal proceedings [the duty to confirm or deny does not apply to this information])
- **Law enforcement** (Information that is not exempt under Investigations and proceedings conducted by public authorities, may be exempt under this exemption in the event that disclosure would, or would be likely to, prejudice the following among others:
 - i. The prevention or detection of a crime
 - ii. The apprehension or prosecution of offenders
 - iii. The administration of justice
 - iv. The exercise of functions such as ascertaining if a person has broken the law, is responsible for improper conduct, whether circumstances justify regulatory action, ascertaining a person's fitness or competence in relation to their profession, ascertaining the cause of an accident or protecting or recovering charities or its properties.
 - v. Any civil proceedings brought by or on behalf of the Nursery which arise out of an investigation carried out for any purposes mentioned above. (The duty to confirm or deny does not arise where prejudice would result to any of these matters))

- **Communications with the Queen** (Information is exempt if it relates to communication with the Queen, the Royal Family or the Royal Household or if it relates to the award of honours).
- **Environmental Information** (This is exempt under Freedom of Information as this is covered by the Environmental Information Regulations)
- **Legal professional privilege** (This exemption covers any advice given by legal advisors, solicitors and barristers. Generally such information will be privileged. A Nursery wishing to disclose the information will need to seek consent from the provider of the advice.

Other General Information:

Willfully concealing, damaging or destroying information in order to avoid answering an enquiry is an offence and will put the Nursery at risk of criminal proceedings.

The requester need not supply their real name, they only need to supply contact information.

The requester is not required to explain why they want the information.

Information that the Nursery holds can be defined as information relating to the business of the Nursery which may have been created by the Nursery, received from another body or person to the Nursery or held by another body or person on the Nursery's behalf.

Information means both hard copy and electronic information including email.

If the Nursery does not hold the information requested, the Nursery is not required to create it for the purposes of the requester.

Complaints

Any written (including e-mail) expression of dissatisfaction – even if it does not specifically seek a review– will be handled through the Nursery's existing complaints procedure which would be fair and impartial. The procedure will be clear and non-bureaucratic. Wherever possible the review will be handled by someone not involved in the original decision. The Trust Board will set and publish a time for determining complaints and information on the success rate in meeting the target. The Nursery will maintain a record of all complaints and their outcomes.

Freedom of Information sample standard letters

General Acknowledgement

Dear

Request for Information

Thank you for your request for information held by Taqwa Nursery, received at this office on [date].

Your request is being considered and the DPO will contact you in due course. If you would like to discuss this request in further detail, please contact the DPO and state reference number: [reference number]

An administration charge may be applicable for your request. If so, we will advise you of this in due course.

Yours sincerely

[DPO details]

FOI acknowledgment

Dear

Request for information under the Freedom of Information Act 2000

Thank you for your request for information received at Taqwa Nursery on [insert date]. This has been considered as a request under the Freedom of Information Act 2000.

Your request may take up to 20 working days (excluding Nursery holidays) to be processed.

If an exemption applies to the information that you have requested, the statutory period maybe exceeded in accordance with the provisions of that Act.

If an administration charge is applicable for your request, we will advise you of this in due course. Should you have any queries, please contact the DPO.

Yours sincerely

[DPO details]

Information not held

Dear

Request for information under the Freedom of Information Act 2000

Further to your request for information received at Taqwa Nursery on *[insert date]*, I write to advise you that the information that you have requested is not held by Taqwa Nursery.

You may wish to contact *[insert name of agency that might hold information]* as they may hold the information that you require. Please find contact details below.

[Insert contact details if available]

Should you disagree with our decision, you may appeal to:

[Insert Contact Details of MI Siraj Madari]

Should you further disagree with the decision following the appeal you may wish to contact the Information Commissioner:

Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF

www.ico.gov.uk

Tel:01625 545700, Fax:01625 524510

Yours sincerely

[DPO Details]

Repeated request

Dear

Refusal of request for information issued under Section 14 of the Freedom of Information Act 2000.

From the information supplied in your request it appears that Taqwa Nursery has already previously complied with a request for information that you have made of an identical or substantially similar nature. We will, therefore, not be providing any information in response to this request.

Should you disagree with our decision, you may appeal to:

[Insert Contact Details of MI Siraj Madari]

Should you further disagree with the decision following the appeal, you may wish to contact the Information Commissioner:

Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF

www.ico.gov.uk

Tel:01625 545700, Fax:01625 524510

Should you have any queries, please contact

me. Yours sincerely

[Insert DPO Details]

More detail required

Dear

Request for information

Thank you for your request for information regarding held by Taqwa Nursery received at this office on *[insert date]*.

Unfortunately, from your recent correspondence we are unable to identify the information you have requested and we require some further details from you in order to progress your request. In particular, It would be useful to know *[give the applicant an indication of the sort of information that we will require in order to proceed with the request]*

Should you have any queries or require any further advice or assistance in making your request, please contact *[DPO details]*.

If no clarification is received within three months of the date of this letter, we will assume that you have decided not to pursue this request for information and we will close the request.

Yours sincerely

[DPO contact details]

Fees notice

Dear

Request for information under the Freedom of Information Act 2000

Taqwa Nursery is happy to supply the information that you have requested regarding *[insert details]*, and this will be forwarded to you on receipt of a payment of £*[insert amount]* for photocopying *[or other disbursement]* costs incurred.

You can send a cheque made payable to *[insert details]* to the above address or pay in person at the Nursery office.

If a payment is not received within three months from the date of this letter, it will be assumed that you no longer require the information and this request will be closed.

Should you have any queries regarding this, please contact the DPO *[insert details]*.

Yours sincerely

[DPO details]

