

Subject Access Rights Internal Guidance for UCA Staff

1. Background

The laws regarding data protection put legal obligations on the University as to how we deal with people's personal information. In May 2018, the United Kingdom incorporated the General Data Protection Regulations (GDPR) into national law. At the same time, the United Kingdom also revoked the Data Protection Act 1998 and replaced it with the Data Protection Act 2018. These two pieces of legislation co-exist and should be read together and shall be referred to as the data protection legislation within this guidance.

2. Definitions

- "Personal data" means any information relating to an identified or identifiable living individual
- "Data subject" means the identified or identifiable living individual to whom personal data relates
- "Subject access request" (SAR) means a request by the data subject for their own personal data
- "Data controller" means the natural or legal person, public authority, agency or other body which alone or jointly with others, determines the purposes and means of processing of personal data
- "Processing" means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction

3. Subject Access Request (SAR)

The law gives data subjects the right to have access to information the University holds about them. When a person makes a SAR, it can be made orally or in writing to any member of staff. It is important to recognise a SAR when it is received as legal time limits apply at the point of the University receiving a request.

We are obliged to provide the information requested without delay and in any event, within one month of receiving the request. This time can be extended by two

further months where necessary taking into account the complexity and number of requests but the data subject must be informed of any extension within one month from the receipt of the request together with reasons for the delay.

If the request is made orally (in person / over the phone), a record should be made detailing the following information:

- The identity of the person making the request (full name)
- The contact details (postal address, telephone, email)
- Precise details of what the data subject is requesting

The SAR should then be forwarded to the University's Data Protection Officer (DPO) for logging by emailing dpo@uca.ac.uk . If the SAR is made in writing, it should also be forwarded to the DPO email address.

The DPO will allocate the request to the most appropriate person to process the request and collate the information. This will normally be the Director of Human Resources for requests made by staff and the Director of Academic Services for student requests.

A data subject does not need to cite data protection legislation to trigger a SAR. Confusingly, people sometimes ask for information we hold about them under the Freedom of Information Act 2000. For the avoidance of doubt, if someone is asking for information that is about them, it is a SAR.

4. Checking identity

We are entitled to check the identity of the person making the request before we release personal data. Under no circumstances should we release any personal data until we are satisfied that it will be sent to the correct person. It is possible for the University to deal with SARs where a person is making the request on behalf of another person; again, the authority to act on their behalf should be checked and no information released until this has been properly ascertained.

5. Processing the request

If a SAR is allocated to you to process, you should contact the person making the request in writing and acknowledge that the request has been received and allocated to you. You should also confirm your understanding of what has been requested and if necessary, ask for any clarifications from the data subject to process the request. Any replies should be recorded.

If the scope of the request is very wide, it may be appropriate to contact the person making the request to see if the scope of the request can be refined; for example, to identify an appropriate date range or to specify particular documents or specific email addresses to focus the search. It may help the requestor understand the

benefits of restricting the scope if you explain what is involved in processing a SAR and what they can do to limit delays or time extensions.

The likelihood is that any SAR is going to involve a search of our IT systems. Authority to search the IT systems can only be given by the Data Protection Officer / Data Control Officer or their nominee before the processing can begin.

The information requested should be collated. Once collated, if the information only relates to the data subject and no other individuals, it should be possible to release once identity requirements have been satisfied. However, if the information contains information about other people as well as the data subject, it may be necessary to consider whether to obtain the consent of the relevant third party or parties before releasing the information.

If the person making the original request has given written permission for us to reveal who they are before we ask for consent, we can reveal this. If not, consent may still be requested but the identity of the person making the original SAR should not be revealed.

If it is reasonable to release information about another data subject without obtaining consent, we may do so but obtain advice from the DPO before releasing any personal data about third parties to the person making the request.

If the data subject has made the request electronically, the data protection legislation requires us to provide the information by electronic means where possible, unless otherwise requested by the data subject.

It is the decision of the University as to whether information will be released or not. If information is not being released or requires redaction, it is necessary to provide in writing to the data subject why we have decided to not release or redact the information. The data subject should also be informed of their right to ask us to review the decision internally and of their rights to take further legal action and / or complain to the Information Commissioner.

The contents of a letter to the data subject refusing to release information and / or confirming information has been redacted must include the legal basis for the decision. Advice should be sought from the DPO in advance of any refusal being sent to ensure compliance with the data protection legislation. If you have any doubts about what to release, contact the DPO before the expiry of the one month time frame.

Occasionally, third parties ask the University to provide information about data subjects to them directly; for example, the Police. The data protection legislation does not oblige the University to provide the information requested. Consideration

should still be given as to whether it is legal and fair to release the information irrespective of who is asking for it unless there is a court order specifically requiring the University to supply the information or some other statutory obligation to release. If in doubt, seek advice from the DPO.

Specific exemptions are contained within data protection legislation that do allow the University to refuse to release information requested using a SAR. It is important to apply careful consideration as to what information may be 'caught up' within the data of a data subject. For example, the information could be legally privileged and compromise the interests of the University if released. If in doubt, seek advice from the DPO.

6. Fees

The data protection legislation states that information requested pursuant to a SAR should be given free of charge. If the data subject requests further copies, we may charge a reasonable fee for additional administrative costs.

7. Internal reviews

In the event that a data subject requests an internal review regarding a decision not to release information, the DPO should be notified on receipt of the request in order to arrange for an independent person to review the decision. All records pertaining to the original request should be supplied to the person responsible for reviewing the decision.

The review should be undertaken promptly and in any event within 30 days of the request for a review. The reviewer shall make a final decision on whether to release information or not. As part of this process, if further exemptions are identified that did not form part of the original refusal, it is open to the reviewer to cite them in a final decision if applicable.

The final decision should be communicated to the data subject in writing. If the information is not being released, the data subject must be informed of their right to complain to the Information Commissioner and contact details for the Information Commissioner's Office provided as set out below:

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

8. Appeals to the Information Commissioner

If the data subject complains to the Information Commissioner, it is likely they will contact the University to investigate our handling of the SAR. If you receive a letter from the Information Commissioner directly, this must be given to the DPO as soon as possible to co-ordinate a response and to work with the Information Commissioner's office to manage the investigation.

9. Other rights available to Data Subjects

In addition to the right to make a SAR, data subjects can also assert the following rights:

- The right to be informed of what information is held about them (subject to other legal constraints)
- The right to have data rectified
- The right to have data erased (subject to other legal constraints)
- The right to restrict processing
- The right to object to processing
- The right to data portability
- The right to complain to the Information Commissioner
- The right to be told if data is subject to automated decision making or profiling.

Requests by data subjects to assert any of these rights should still be sent via the dpo@uca.ac.uk inbox in order to ensure they are captured and the appropriate actions are taken.

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