Data Protection Act (1998)

Subject Access Request Procedure

December 2005
**Subject Access Requests [SAR]**

**Data Subject Rights**

Section 7 of the Data Protection Act provides that a data subject is entitled, upon written request, to be promptly informed whether personal data of which the individual is the data subject are being processed by or on behalf of the data controller. A fee (currently £10 at time of writing) may be charged by the data controller for this service and the data controller has 40 days from time of receipt by the data controller of such a request to comply with it. The 40 day time limit does not start to run until the controller has received the fee and/or has been supplied with sufficient information to comply with the request. A request for information need not be complied with if the data controller has received insufficient information to be satisfied as to the identity of the person making the request (and to locate the information which that person seeks) and has informed the person making the request of the need for further information to be supplied.

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<th>Where personal data are being processed by or on behalf of the data controller, the data subject is entitled to be given a description of:</th>
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<td>a) the personal data of which that individual is the data subject</td>
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<td>b) the purposes for which they are being or are to be processed and</td>
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<tr>
<td>c) the recipient or classes of recipients to whom the data may be disclosed.</td>
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In addition the data subject is entitled to have communicated to him or her in a form which is capable of being understood:

a) the information constituting any personal data of which that individual is the data subject and

b) and information available to the data controller as to the source of those data

Under the Freedom of Information Act the University will not be obliged to comply with a request under schedule 7 of the Data Protection Act which relates to unstructured personal data unless the request contains a description of that data.

There is an obligation to provide this information in a permanent form unless:

a) the supply of such a copy is not possible or would involve disproportionate effort or

b) the data subject waives this right

Section 7(1)(d) provides that where the personal data are being processed automatically for the purposes of evaluating matters relating to the data subject and the processing has or is likely to be the sole basis of a decision significantly affecting the data subject, he or she is entitled to be informed by the data controller of the logic behind the decision taking.

**Who can access their records?**

Staff, students and other users of the University have the right of access to personal data relating to themselves that is held by the University in electronic format and/or manual records forming part of a ‘relevant filing system’. Although students (like staff) can be assumed to have a general entitlement to access the records the University holds about them, they have no right to demand to see their records without having first made a proper application through the Data Protection Officer.

A fee of £10 is required and the University has a period of 40 days in which to provide the required information. Application forms are available from the Head of Information Compliance & Policy or can be printed off here.

**Identifying other individuals**

In certain cases where the data controller will be unable to comply with a request for information without disclosing information relating to another individual who can be identified from the information requested. E.g. where the data relates to two or more of them and only one of them has made a subject access request. In determining whether another person can be identified from the information, a data controller is entitled to take into account not only the entirety of the information that would otherwise be supplied to the data subject, but also any information which the data controller believes is already in the possession...
(or is likely to come into the possession) of the data subject making the request. In the event that another person is likely to be identified, the data controller is entitled to refuse to comply with the data subjects request unless (s.7(4))

a) the other individual has consented to the disclosure of the information to the person making the request or
b) it is reasonable in all the circumstances to comply with the request without the consent of the other individual

Where the individual who can be identified from the information is in fact the source of the information the data controller is not excused from complying with the request altogether. Here the data controller must so much of the information sought by the data subject as can be communicated without disclosing the identity of the source. This might be done by omitting any references to names or other identifying particulars.

In determining whether it is reasonable in all the circumstances to comply with the request without the consent of the other individual who may be identified, particularly relevant considerations are;

a) any duty of confidentiality owed to that individual
b) any steps taken by the data controller with the view to seeking the consent of the individual
c) whether the individual is capable of giving consent and
d) any express refusal of consent by the individual

**Multiple Requests**
The data controller is entitled to make as many requests for information form the data controller as he or she see fit. However, the statute does save the data controller from excess paperwork by providing that a reasonable time must be allowed to elapse between requests. The data controller does not have to comply with a request that has been made too soon after compliance with a previous request. In determining what is a reasonable time for these purposes regard should be had to the following:

a) the nature of the data
b) the purpose for which the data are processed and
c) the frequency with which the data are altered

**Amendments to data**
It may be, in the course of business or otherwise, that the data will be amended (whether, for example, by addition or deletion) between the time of a data subjects request being received by the data controller and the time of compliance with the request. The information forwarded to the data subject may be the post-amendment version of the data, but only where the ‘amendment or deletion would have been made regardless of the receipt of the request’.

**Court Order**
The right of access to data by data subjects may be enforced by the High Court or a county court. Where a person has made a request for information (or logic behind decision taking) and has not been supplied with that information, the court may grant an order requiring the data controller to comply with that request (s.7(9)). In deciding whether the data subject is entitled to see the information (including the question as to whether such information is exempt from the provisions) the court may require access to the information on the basis that it is not shown (at that stage) to the data subject. Assistance from the Information Commissioner for either party is available at the discretion of the Commissioner where a case involves the processing for the ‘special purposes’ and concerns matters of substantial public importance.

**Staff Responsibilities**
A nominated member of staff in each area is responsible for ensuring that the procedure as detail below is undertaken in a timely manner.
Procedure

If a student or member of staff wishes to be advised of what information is stored on him, there are two approaches that can be used. Any other data subject should make a formal access request.

Members of Staff - Informal

The member of staff can write to the Departmental Data Protection lead whom they think holds the relevant data and ask for information about themselves to be disclosed. (The Head of Information Compliance & Policy can be contacted to find out who the where this might be, to help in this exercise). Once the relevant Managers are satisfied with the identity of the member of staff then the information will be supplied direct within the 40 day period. In case of a second request within a year by a member of staff, then a £10 fee will be charged, other than in exceptional circumstances.

Members of Staff - Formal

Alternatively, the staff member concerned can ask the University for a copy of all information stored about them. As information on staff can be located in various different areas it will be necessary for this formal approach to be made, in writing, to the Head of Information Compliance & Policy. The standard form will then be sent for completion and when the necessary information has been supplied and confirmed by the Head of Information Compliance & Policy, he will write to those users who have information stored on the individual, and ask for that information to be conveyed to him.

It can be conveyed to the Head of Information Compliance & Policy in the form of sealed envelopes, (if it is confidential), but the Head of Information Compliance & Policy has the responsibility to ensure a return to the individual concerned of all data stored about them from each of the Data Controllers, within the forty day period. The Data Controller will be asked to make the return to the Head of Information Compliance & Policy in 21 days in order to give time for the Head of Information Compliance & Policy to collate the information. In the case of the second request within a yearly period by a member of staff then a £10 fee will be charged other than in exceptional circumstances.

Students

If a student wishes to make a subject access request it will be necessary to write to the Head of Information Compliance & Policy who will supply the appropriate form (or it may be printed off here). In a limited number of circumstances the department may be able to provide the information direct to the student on an informal basis. Once the standard form has been completed and the Head of Information Compliance & Policy is satisfied as to the identity of the Student then he will arrange to obtain the information from all areas of the University, collate this and return it to the individual concerned within the forty day period. A £10 fee will be charged other than in exceptional circumstances.

In all cases of access the relevant documents must be retained for a minimum of one year.

Other requests

In the case of a request for data from persons other than University staff or students, such requests must be referred to the Head of Information Compliance & Policy. A statutory fee of £10 per request will always be charged.

All requests must be made in writing to the Head of Information Compliance & Policy

Register

The Head of Information Compliance and Policy will maintain a database of all Data Subject Access Requests. This will be used solely for control (ensuring the University meets its legal targets for return of data) and for management resource planning.
Advice

Anyone who seeks advice on Subject access Requests or anything in relation to implementing the Data Protection Act (1998) should contact the Head of Information Compliance & Policy.

Request Procedure