

# Information Assurance Office

## Understanding your Information Rights

The new Data Protection Act, which is based on the General Data Protection Regulation, (GDPR) gives everyone new or enhanced information rights. From the 25<sup>th</sup> May 2018, you will have greater control around how your personal data is used. This guidance has been produced to give an overview of the key rights in a UEL and wider context and is designed to help you understand when and how your rights can be used.

Further information is available from the Information Commissioners Office website: [ico.org.uk](http://ico.org.uk).

The Act provides the following rights for individuals:

- The right to be informed
- The right of access
- The right to rectification
- The right to erasure
- The right to restrict processing
- The right to data portability
- The right to object
- Rights in relation to automated decision making and profiling.

### The right to be informed

You have the right to be informed about the collection and use of your personal data. This is a key transparency requirement under the GDPR. When an organisation asks you to provide them with your personal data, they must provide you with certain information including:

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- Why they need the data (the purposes for processing their personal data)
- The legal reason they need to use it, such as they have a contract with you, or you have given your consent
- How long they will retain the data
- Who it will be shared with
- Who to get in touch with if there is a problem

Organisations must provide you with privacy information at the time they collect your personal data. It should be clear, easily accessible and free of charge to obtain.

If the organisation obtains your personal data from other sources, they must provide you with privacy information within a reasonable period of obtaining your data and no later than one month after they have received it.

There are a few circumstances when an organisation does not need to provide you with privacy information, such as if you already have the information, if the reason for the collection of data is obvious or if it would involve a disproportionate effort to provide it to you.

### **The Right of Access**

You have the right, subject to certain exemptions, to access the personal information that an organisation holds about you. Accessing personal data in this way is known as making a Subject Access Request.

If you wish to make a subject access request to the University, your request must be:

- Made in writing (this may be in electronic form)
- Include enough detail to enable us to locate the personal data you have requested

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There are certain steps we need to take before we fulfil the request. We must:

- Verify your identity
- Locate the information that relates to **your personal data**
- Ensure that we are legally allowed to disclose the personal data to you

Below is the process detailing how we handle your request:

## STEP1: WE RECEIVE YOUR SUBJECT ACCESS REQUEST

For your convenience and to speed up the process, we ask that you submit your request using the Subject Access Request (SAR) form (but you don't have to.) The more information you provide on this form, the easier it will be for us to locate your information. Once you have completed your form, please email it to [dpo@uel.ac.uk](mailto:dpo@uel.ac.uk)

## STEP 2: WE COLLATE THE INFORMATION

Once your identity has been confirmed, UEL will begin the process of collating your personal data prior to review.

## STEP 3: WE REVIEW YOUR INFORMATION

Before we release your information to you, it is very important that we review it to ensure that it does not contain the personal data of other individuals (third parties). All personal information of other individuals will be removed where it is not relevant to you.

If your request contains a substantial amount of information (from various sources), then reviewing it can be time consuming. We review

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information as we receive it and aim to release it to you within 30 calendar days of the request being received. In complex cases, we may need to extend this deadline. We will let you know if this applies, within one month of the acknowledgement email we send you.

## STEP 4: WE RELEASE YOUR INFORMATION

Once the information has been reviewed we will contact you and confirm the details for releasing it to you. If you have requested that we provide your information electronically, this will be encrypted with a password. If you have requested that we send your information to you by post, then we will do so using Royal Mail 'Signed For' delivery.

The format of the data supplied as part of a Subject Access request is designed to ensure we meet the requirements set out in the Data Protection Act. We are legally required to share this in a permanent and intelligible form, while protecting the identity of third parties. To achieve this we may supply your personal data in a tabular or transcript format, rather than heavily redacted copies. We will however, supply copies, where this is appropriate after consideration of all factors associated with the request.

If you have any queries regarding your requested information, then you will be able to raise these with us via [dpo@uel.ac.uk](mailto:dpo@uel.ac.uk).

## STEP 5: WE DELETE YOUR INFORMATION

It is important that we do not retain your personal data for any longer than is necessary either because of a legal obligation or an operational requirement. Therefore, all of the information collated as part of your SAR will be deleted either 12 months after the release date, or 12 months after the last query you made regarding the request has been resolved; whichever is the later. Original copies of the requested information will

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remain where they were located and will be retained as per the University Record Retention Schedule.

All queries should be directed to the University Data Protection Officer in the first instance via [dpo@uel.ac.uk](mailto:dpo@uel.ac.uk)

## The Right to Erasure

The Data Protection Act introduces a right to erasure in some circumstances. This means that in specific situations, you can ask an organisation to delete the personal data it holds about you. It is not an absolute right and there are certain exemptions.

The right to erasure would apply when:

- The personal data you provided is no longer necessary for the purpose which UEL originally collected or processed it for;
- UEL are relying **solely** on consent as our lawful basis for holding the personal data, and you withdraw that consent;
- UEL are relying on legitimate interests as our lawful basis for processing, and you object to the processing of your data, and there is no overriding legitimate interest for us to continue the processing;
- UEL are processing the personal data for direct marketing purposes and you object to that processing;
- UEL have processed the personal data unlawfully (i.e. in breach of the lawfulness requirement of the first principle of the Act);
- UEL have to erase the data to comply with a legal obligation; or
- UEL have processed the personal data to offer information society services (e.g. social media) to a child.

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The Right to Erasure would not apply when:

- Data is not considered personal or special category data for the purposes of the Act;
- Where the personal data is used to exercise the right of freedom of expression and information;
- When UEL process the day to comply with a legal obligation such as for employment law;
- For the performance of a task carried out in the public interest or in the exercise of official authority such as delivering lectures or awarding degrees;
- For archiving purposes in the public interest, scientific research historical research or statistical purposes where erasure is likely to render impossible or seriously impair the achievement of that processing; or
- For the establishment, exercise or defence of legal claims.

## **The right to portability**

The right to data portability allows you to obtain and reuse your personal data for your own purposes, across different services. With this right, you can move, copy or transfer personal data easily from one IT environment to another in a safe and secure way, without hindrance to usability. You can apply your right to portability:

- To the personal data you have provided to UEL and

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- When you gave us consent to process that data, or, the data was given to us as part of a contract between UEL and you.

For a portability request to be valid, your personal data must have been processed using automated means. In practice that means that we have entered the personal data into a computer system for further use.

In the event of a valid portability request, we will provide your personal data in a commonly used, machine readable format such as a CSV file. If requested, we can send this file to a new organisation for you in the form of a password protected file that will be sent via email. It is your responsibility to provide us with the correct contact details of the new organisation, we will not however send the file to a personal email address other than your own. The right to portability would not automatically lead to an erasure of your personal data.

The right to data portability does not apply when:

- We are using the personal data under any other legal basis that we may use to process the data for example as part of our public tasks or where we process the personal data under a specific legal obligation or for the purposes of scientific, historical or statistical research or for the purposes of archiving in the public interest.
- The personal data is processed by non-automated means such as hand written documents, notes or photographs.

### **The right to restrict processing**

In some circumstances, you have the right to restrict the processing of your personal data. This may be because you have issues with the content of the information UEL or another organisation hold or how they have processed your data. You can apply to restrict processing of personal data if:

- Your contesting the accuracy of your personal data and the organisation is taking steps to verify the accuracy of the data;

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- Your data has been unlawfully processed (i.e. in breach of the lawfulness requirement of the first principle of the Act) and you oppose erasure and request restriction instead;
- An organisation no longer needs the personal data but you need the organisation to keep it in order to establish, exercise or defend a legal claim; or
- You have objected to the organisation processing your data under your right to object, and an organisation are considering whether their legitimate grounds to process the personal data override those of the individual.



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## Frequently Asked Questions

Because Information Rights are so important, we want to make sure you understand them. We have answered some of the more common questions below but if you can't find the answer to your question, email [dpo@uel.ac.uk](mailto:dpo@uel.ac.uk).

### **I've read that you need my consent for all of the processing you do. Is this right?**

No, this is a common misconception that has been picked up and promoted (wrongly!) by the media including the BBC, the Guardian and several law firms. Under the new rules, organisations need to have a legal reason for processing your personal data. There are six reasons that an organisation can use, depending on the circumstances and what they want to do with your data. While consent is one of these six reasons, other legal reasons such as processing based on a contract, or processing based on a legal obligation are also available.

### **What I am I entitled to receive under a Subject Access Request?**

As part of a Subject Access Request you are entitled to:

- Be told whether any of your **personal data** is being processed;
- Given a description of the personal data, the reasons it is being processed, and whether it will be given to any other organisations or people;
- Given a copy of the personal data, a written transcript of that data, or access to view the personal data; and
- Given details of the source of the data (where this is available).

You can also request information about the reasoning behind any automated decisions taken about you, such as a computer-generated

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decision to grant or deny credit, or an assessment of performance at work.

## **When does the Data Protection Act Apply?**

The rules in the Data Protection Act apply to personal data held in a “relevant filing system”. As a broad rule, the Information Commissioners Office consider that a relevant filing system exists where records relating to individuals (such as personnel records) are held in a sufficiently systematic, structured way as to allow ready access to specific information about those individuals.

## **When does the Data Protection Act not Apply?**

If data is held outside of a “relevant filing system” so could not be easily identified or searched for, or, the personal data are held in a manual form (e.g. on a piece of paper), then some elements of the Data Protection Act and thus some of your Information Rights may not apply. This includes where the personal data relates to appointments, removals, pay, discipline, superannuation or other personnel matters in relation to a contract of employment.

In addition, the Act does not apply to non-personal data such as business documents, or data that does not identify an individual.

If you make a request that we do not need to comply with because it falls outside of the scope of the Act, we will let you know in writing.

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## What is personal data?

Personal data is any information that either identifies or relates to a living individual. For example your name, address, date of birth and National Insurance number can all be used to identify you and therefore would be considered personal data.

## What is not considered personal data?

Not all data is personal data or data that identifies or relates to an individual and therefore would not be covered by the Act, or be in the scope of an Information Rights request. Examples of what would not be considered personal data include:

- Presentations and lecture notes;
- Examination papers;
- Internal business documents such as policies, procedures and processes;
- Anonymised datasets;
- Aggregated datasets;

You may however be able to get some the above information by submitting a Freedom of Information (FOI) request to [foi@uel.ac.uk](mailto:foi@uel.ac.uk)

## Is there a fee for submitting a request?

In most cases no. From the 25<sup>th</sup> May 2018, the current £10 fee for requests is abolished. UEL may only charge a reasonable fee where:

- Requests are manifestly unfounded or excessive, in particular because they are repetitive or;

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- For duplicates of previously supplied information

If the above circumstances apply, UEL may also choose to refuse to deal with the request. If we decide on this action, we let you know in writing, along with our reasoning.

## **How long do I have to wait for information?**

Wherever possible UEL will fulfil your information rights request without delay and at the latest within one month of receipt of the request subject to verifying your identity.

UEL may extend the period of compliance by a further two months where requests are complex or numerous. If this is the case, we will inform you within one month of the receipt of the request and explain why the extension is necessary.

## **How long do you keep my information?**

This depends on several factors including what type of data it is, what we use it for, any legal obligations we have to keep it for a specified period of time and whether the data is used for academic, archiving, scientific or historical purposes. There is no 'one size fits all' period for retention of data and we continuously assess our data repositories to ensure we are not keeping data for longer than necessary. We have outlined a number of our core record types and their retention periods in our Records Retention Schedule which is available on request.

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## **Can I submit a Subject Access Request for a copy of all of the emails I have sent or received while at UEL?**

A Subject Access Request allows you to access your **personal data**. Any email that you send or receive while at UEL would only be disclosable to you if it contains your personal data in the **body** of the email. If your email address appears in the "To", "From", or "CC" fields, of an email message, we will not routinely disclose the contents of these emails, unless the email body itself contains your personal data. If you believe **specific** emails may contain your personal data, we request that you provide us enough information about the nature of the email, a date and time frame and who is likely to have sent or received it for us to undertake a reasonable and proportional search. Providing a specific date range such as January to March 2018, the sender or recipient of an email that may contain your personal data will significantly speed up the process of locating your data.

## **I have a complaint about how my request has been handled, who do I talk to?**

You can get in touch with the University Data Protection Officer on [dpo@uel.ac.uk](mailto:dpo@uel.ac.uk) in the first instance. They work independently to ensure that we are complying with the law. If you are not happy with their response, you have the right to complain to the Information Commissioners Office who act as the UK regulator for Data Protection matters. You can contact them in the following ways

Website: [ico.org.uk](http://ico.org.uk)

Email <https://ico.org.uk/global/contact-us/email/>

Telephone: 0303 123 1113

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Live Chat: <https://ico.org.uk/global/contact-us/live-chat>

Postal Address:

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

## **Can I make a Subject Access Request for someone else?**

Yes, however we require their consent in writing. Our Information Rights Form has a specific section for this purpose. All other Information Rights requests, can only be made by the relevant person, so for instance, you can't request the erasure of someone else's data.

## **Can you send my data to another organisation or third party on my behalf?**

In most cases, no. if you have made the request, details of your request will be sent directly to you and you can forward on the details as necessary. If you exercise your right to data portability, you can ask us to send the valid data to another organisation for you, but it is your responsibility to provide us with accurate contact details and we don't need to do this if we consider it outside of our technical capability.

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## **How do you deal with personal data of third parties?**

From time to time, a Subject Access Request search may surface the personal data of someone else (a Third Party). Where this occurs, UEL has a responsibility to assess whether the disclosure of the Third Party personal data is required. We are not obliged to disclose such data except where:

- The other individual has consented to the disclosure; or
- It is reasonable in all the circumstances to comply with the request without that individual's consent.

Where appropriate, we will take steps to protect the personal data of third parties by using a number of methods including redaction, aggregation of data to remove personal identifies or tabulation and transcription of relevant data.

## **What is the difference between a Subject Access Request and a Freedom of Information Request?**

A Subject Access Request relates to personal data whereas a Freedom of Information Request relates to information held by a specific Public Authority.

## **Can I simply ask for a copy of everything UEL holds on me?**

All organisations process high volumes of personal data. If you submit an open ended or vague request for all personal data that UEL may hold on you, we will consider the request and assess our ability to locate your information. In some cases, we may apply an exemption from fulfilling the request on the basis that such a request is excessive in nature or manifestly unfounded.

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The Information Commissioners Office advises that Data Controllers should be given sufficient detail about the information a request relates to in order to carry out a search.

It is in your interest to be as specific as possible when making a request otherwise you may get much more information than you want, or need.