

# Data Subject Rights Policy

## 1. Background

- 1.1 Under Article 15 of the General Data Protection Regulation, individuals (data subjects) are provided a number of rights in relation to their Personal Data.
- 1.2 This policy outlines how the University of Kent as a Data Controller shall comply with these legal obligations as well as providing a framework within which the University's Information Compliance Office shall processes such requests.
- 1.3 This policy should be read in conjunction with the Data Protection Policy.

## 2. Making a Request

- 2.1 A data subject may make a request either verbally or in writing to the University. Although Data Subjects are encouraged to submit their requests directly to the Information Compliance Office, staff members should be aware that requests may sometime be received by them in the course of their daily work. Where a staff member directly receives a request, they should inform the Information Compliance Office without delay. The Information Compliance Office will processes all requests, staff should not attempt to process the request themselves unless authorised by the Information Compliance Office.
- 2.2 Data Subjects are advised to make their requests clearly. It may be necessary in some circumstances for the Information Compliance Office to ask the Data Subject to clarify their request. This is to ensure that the University processes the request in line with the expectations of the Data Subject.
- 2.3 Before processing any form of information rights request, the Information Compliance Office shall verify the identity of the data subject. Data subjects must provide such information that the University requires to confirm their identity before the University shall process their request. Taking into consideration the nature of the request, the University shall take proportionate steps to verify the identity of the requester, without unnecessary delay. The timeline for complying with the request shall only begin when the Information Compliance Office has verified the identity of the requester.

## 3. Timeframes for response to Requests

- 3.1 The Information Compliance Office shall respond to any request made under this policy without delay and in any event within one month of confirming the identity of the requestor.

- 3.2 Where a request is deemed to be complex, the time for complying with the request may be extended by a further two months as necessary. The Information Compliance Office will inform the data subject of this extension within one month of receiving the request and will endeavour to provide the Data Subject with a full response without undue delay.

## 4. The Rights of Data Subjects

### 4.1 Right of Access (Data Subject Access Request)

- 4.1.1 Data subjects may request confirmation that their data is being processed as well as a copy of any of their personal data held by the University. The Information Compliance Office shall also provide other supplementary information to the data subject regarding how the University of Kent processes information.
- 4.1.2 Any Data Subject Access requests where there is significant intermixing of third party data will be classified as complex. This is due to the likelihood that information containing a data subject's personal data may also contain information relating to third parties or information where release would affect the data protection rights of a third party.
- 4.1.3 Where providing personal data to a data subject would negatively affect the rights and freedoms of a third party, including their right to privacy, the University of Kent may wholly or partly restrict the provision of such information to the Data subject. The Information Compliance Office will balance the data subject's rights of access with the rights of the third parties concerned.
- 4.1.4 Where the disclosure of information has been restricted, the data subject will be informed as to the reasons behind any such restriction, the nature of the data that has been restricted, their right to complain to the Information Commissioner's Office and their right to apply to a Court for its release.

### 4.2 Right of Erasure, Right to Restrict Processing and Right to Object

- 4.2.1 Data subjects may request the deletion of any of their personal data held by the University of Kent where there is no lawful basis for its continued processing or retention.
- 4.2.2 Data Subjects may also object to any of the University's processing of the personal data or request that restrictions are put in place on any further processing of their data by the University.
- 4.2.3 These rights are not absolutes, as such the University shall consider each request individually and take reasonable steps to comply.

- 4.2.4 Where the University can demonstrate compelling legitimate grounds for the continuing retention or processing of personal data, which override the interests, rights and freedoms of the individual; or the processing is for the establishment, exercise or defence of legal claims, the University may not comply with the request.
- 4.2.5 In responding to the Data Subject the Information Compliance Office shall confirm the extent to which the University has complied with the request as well as explaining the reasoning used to make any decision in relation to the request. The data subject will also be informed of their right to make a complaint to the supervisory authority or seek judicial remedy if they are dissatisfied with the University's response.

### 4.3 Right of Rectification

- 4.3.1 Data Subjects may request that the University of Kent correct any of their data held by the University that the data subject believes to be inaccurate.
- 4.3.2 On receiving such a request, the Information Compliance Office shall check the accuracy of the data at the centre of the request. Whilst the Information Compliance Office works with colleagues to review the accuracy of the data, the data subject shall have the right to request a restriction on the processing of the personal data in question.
- 4.3.3 The Information Compliance Office shall take into consideration any arguments or evidence given by the data subject when assessing the accuracy of the data held by the University.
- 4.3.4 Where the Information Compliance Office finds that the personal data is incorrect or misleading as to any matter of fact, the University shall take reasonable and proportionate steps to rectify the data.
- 4.3.5 Where the University considers the data to be accurate and does not agree to make any changes to the data, the Information Compliance Office shall explain this decision to the Data Subject, informing them of their right to complain to a supervisory authority or seek judicial remedy.

### 4.4 Other Rights

- 4.4.1 Data Subjects also have the right to data portability as well as rights related to automated decision making including profiling. It is recognised that these rights would apply to a limited number of University processing activities. As such, if a data subject wishes to exercise these rights the Information Compliance Office shall have regard to the advice issued by The Information Commissioner's Office when responding.

## 5. Manifestly unfounded or excessive Requests

- 5.1 If a request is malicious in its intent, or has been submitted with the aim of harassing the University or its staff the Information Compliance Office may classify the request as manifestly unfounded.
- 5.2 Where a response is repetitious or overlaps with other requests made by the Data Subject to the University, the Information Compliance Office may consider classifying the request as excessive.
- 5.3 When a request is deemed manifestly unfounded or excessive, the University of Kent may choose not to comply with a request in whole or in part.
- 5.4 When considering whether to engage this exemption, the Information Compliance Office must consider the rights of the data subject in accessing their own data against the issues presented by the request.
- 5.5 Once a decision has been made, this should be communicated to the Data Subject as soon as is practicable, alongside the justification for refusal and the right of the data subject to complain to the supervisory authority or seek judicial remedy.

## 6. Exemptions

- 6.1 On receiving a request, the Information Compliance Office shall assess whether to apply any of the exceptions contained in the GDPR and DPA 2018 on a case by case basis.
- 6.2 The application of exceptions shall not be considered routine and the University shall only apply such exemptions after considering the extent to which complying with a request would be likely to prevent, seriously impair or prejudice the achievement of the University's processing purposes.
- 6.3 Where an exemption has been applied, the University shall communicate the fact to the Data Subject as soon as is practicable, alongside the justification for engaging the exemption and the right of the data subject to complain to the supervisory authority or seek judicial remedy.

## 7. Data Subjects Rights and Research Data

- 7.1 Where the University of Kent is processing personal data for non-commercial research purposes, the University may be exempt from the following GDPR provisions:
  - the right of access;
  - the right to rectification;
  - the right to restrict processing; and

- the right to object.

7.2 The University of Kent shall only apply these exemptions where:

- the extent that complying with the provisions above would prevent or seriously impair the achievement of the purposes for processing;
- if the processing is subject to appropriate safeguards for individuals' rights and freedoms;
- if the processing is not likely to cause substantial damage or substantial distress to an individual;
- if the processing is not used for measures or decisions about particular individuals, except for approved medical research; and
- as regards the right of access, the research results are not made available in a way that identifies individuals.

7.3 These factors will be considered as part of the Ethical Review process and subsequently where necessary by a Data Protection Impact Assessment prior to the commencement of the research.

## 8. Staff responsibilities

8.1 Staff are required to reasonably assist the Information Compliance Office in their work around responding to data subject requests made under this policy.

8.2 This means that staff should respond in a timely manner to requests for assistance in locating, deleting, correcting or restricting the use of personal data held by the University.

8.3 Staff are reminded that it is an offence under the Data Protection Act 2018 to amend or delete data with the intention of preventing its disclosure.

## Document review date

This policy will be reviewed annually by the Data Protection Officer

Policy created: 2<sup>nd</sup> March 2020

Policy reviewed: review by 2<sup>nd</sup> March 2021