

**Data Subjects Rights Policy
GA32**

Equality Impact Assessment: Askham Bryan College recognises the importance of the Equality Act 2010 and its duties under the Act. This document has been assessed to ensure that it does not adversely affect staff, students or stakeholders on the grounds of any protected characteristics.

1. INTRODUCTION

- 1.1. This Policy is issued by Askham Bryan College (“the College”) in accordance with the requirements of the General Data Protection Regulation (“GDPR”) and other data protection legislation. It supplements the College’s other data protection policies and procedures (see below), in particular the College’s Data Protection Policy and the College’s Subject Access Policy.
- 1.2. As stated in the College’s Data Protection Policy, in addition to a person (a “Data Subject”) having a right to access, ie to know what information or “Personal Data” an organisation processes about them and why, the GDPR creates other rights that they can exercise in respect of their Personal Data and how it is used. These are:
1. the right to be **informed** – the right to be told what Personal Data an organisation processes about a Data Subject and why and how long that information will be held for before it is destroyed;
 2. the right to **rectification** – a right to have inaccurate or incomplete Personal Data rectified;
 3. the right to **erasure** – a right to deletion or removal of Personal Data where there is no compelling reason for its continued processing;
 4. the right to **restrict processing** – a right to have an organisation stop processing a Data Subject’s Personal Data where a Data Subject contests the accuracy of that data or for instance when processing is unlawful and the Data Subject opposes erasure and requests restriction instead;
 5. the right to **data portability** – the right to be given a copy of any Personal Data held by an organisation “in a structured, commonly used and machine readable format”, so that they can transfer that data to another organisation;
 6. the right to **object** – the right to object to the processing of a Data Subject’s Personal Data, unless the organisation can demonstrate compelling legitimate grounds for the processing, which override the interests, rights and freedoms of the Data Subject, or the processing is for the establishment, exercise or defence of legal claims;

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7. **rights in relation to automated decision making and profiling** – automated decision making and profiling is the process whereby Personal Data is used to evaluate certain personal aspects relating to a Data Subject, such as their work or economic situation, health, personal preferences, interests, etc to assist, for instance, with direct marketing to that individual.

Automated decision making is unlikely to apply here at the College and usually applies where decisions are made without human involvement, such as whether someone qualifies for a loan which they have applied for online or a recruitment aptitude test which uses pre-programmed algorithms and criteria.

In addition, Data Subjects also enjoy the following rights under GDPR; but they will not be subject to any specific College procedures as such; but will otherwise be observed and respected:

8. **right to lodge a complaint** with the Supervisory Authority. The College’s nominated Supervisory Authority is the UK’s Information Commissioner’s Office or “ICO”;
9. **right to effective judicial remedy against the Supervising Authority** where a Data Subject feels that the Supervising Authority’s decision is incorrect or unfair;
10. **right to effective judicial remedy against the Controller or Data Processor** (Court proceedings or judicial review where the organisation concerned is a public body);
11. **right to compensation** – for instance, in respect of a Data Breach (loss or theft or unauthorised access to a Data Subject’s Personal Data), a breach by an organisation of a Data Subject’s data protection rights, and for distress.
- 1.3. The right to access is the subject of a separate Subject Access Policy. Any Subject Access requests should in the first instance be directed to the College’s Data Protection Officer, Judith Clapham, by emailing judith.clapham@askham-bryan.ac.uk or by emailing DataProtection@askham-bryan.ac.uk.
- 1.4. This policy summarises a Data Subject’s other rights under GDPR, which are also subject to a separate procedure (see below).

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1.5. Please note: that the rights that may apply to a Data Subject's will vary depending on the College's basis for processing.

Legal basis for processing/sharing	Right to erasure	Right to portability	Right to object
Consent	YES	YES	NO (but right to withdraw consent)
Performance of a contract	YES	YES	NO
Legal obligation	NO	NO	NO
"Vital interests"	YES	NO	NO
Public task	NO	NO	YES
Legitimate interests	YES	NO	YES

1.6. In most cases, there will be one or more grounds as to why the College is processing a Data Subject's Personal Data therefore in most cases one or more or all of the above rights will apply.

2. DATA PROTECTION OFFICER

2.1. The College Senior Management Team has overall responsibility for ensuring compliance with GDPR and data protection legislation and associated policies and procedures and has appointed a Data Protection Officer, who is the Clerk to the Corporation. The Data Protection Officer will lead on the College's overall approach to data protection, assisted, where necessary, by the Legal and Compliance Adviser.

2.2. Any person who considers that this policy has not been followed should raise the matter with the College's Data Protection Officer by contacting judith.clapham@askham-bryan.ac.uk or by emailing DataProtection@askham-bryan.ac.uk.

2.3. If you are not satisfied with the response, you may then wish contact the Information Commissioner's Office at <https://ico.org.uk/concerns/>.

3. RELATED POLICIES AND PROCEDURES

This policy is supplemented by the following policies and procedures which should be referred to if and when the situation arises:

- GA23 Data Protection Policy
- GA24 Subject Access Request Policy
- GA25 Subject Access Request Procedure (internal use only)
- GA26 Data Sharing Policy
- GA27 Data Sharing Procedure (internal use only)
- GA28 Data Retention Policy
- GA29 Data Retention Procedure (internal use only)
- GA30 Breach Detection and Reporting Policy
- GA31 Breach Detection and Reporting Procedure (internal use only)
- GA33 Data Subject Rights Procedure (internal use only)

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