

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. The GDPR and Data Protection Act 2018 provide the following rights for individuals:

1. the right to be **informed** – the right to be told by an organisation about the collection and use of their Personal Data and where this information comes from;
2. the right of **access** – the right to understand how and why an organisation is using their Personal Data and to be provided with a copy of that information;
3. the right to **rectification** – a right to have inaccurate or incomplete Personal Data rectified;
4. the right to **erasure** – a right to deletion or removal of Personal Data (in certain circumstances) where there is no compelling reason for its continued processing;
5. 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 where the processing is unlawful and the Data Subject opposes erasure and requests restriction instead;
6. 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 the Data Subject can transfer that Personal Data to another organisation;
7. the right to **object** – the right for a Data Subject to object to the processing of their 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;
8. **rights in relation to automated decision making and profiling** –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 (usually this is done by an

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algorithm, with no human involvement). (Automated decision making is unlikely to apply here at the College).

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:

- 9. **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”;
- 10. **right to effective judicial remedy against the Supervising Authority** where a Data Subject feels that the Supervising Authority’s decision is incorrect or unfair;
- 11. **right to effective judicial remedy against the Controller or Data Processor** (Court proceedings or judicial review where the organisation concerned is a public body);
- 12. **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.

- 1.2. The right of access is the subject of a separate Subject Access Policy and procedure (see below).
- 1.3. Any Subject Access requests should be directed **immediately upon receipt** to the College’s Data Protection Officer, Judith Clapham, by emailing judith.clapham@askham-bryan.ac.uk and to the College’s Legal and Compliance Adviser by emailing jethro.powell@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). **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

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- 1.5. 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 Leadership Team has overall responsibility for ensuring compliance with data protection legislation and its associated policies and procedures and has appointed a Data Protection Officer, who is the Clerk to the Corporation.
- 2.2 The Data Protection Officer will lead on the College's overall approach to data protection, assisted by the Legal and Compliance Adviser.
- 2.3 In addition, the College's Data Protection Officer, assisted by the Legal and Compliance Adviser, will monitor internal compliance with GDPR and the Data Protection Act 2018, and provide advice on data protection issues and how it impacts the College and its activities, and act as a contact point for Data Subjects and the supervisory authority, the ICO.
- 2.4 Any person who considers that any of the College's data protection policies and or procedures have 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 or by contacting the Legal and Compliance Adviser at jethro.powell@askham-bryan.ac.uk .
- 2.5 If an individual makes a complaint to the College's Data Protection Officer and is not satisfied with the College's response, he/she may then wish contact the Information Commissioner's Office (or "ICO"), the UK's supervisory authority, at <https://ico.org.uk/concerns/> and make a formal complaint. The College is registered with the Information Commissioner's Office ("ICO"). The Registration Number is Z6170811. Renewal of the registration takes place annually on 22 January.
- 2.6 Please note that the ICO is unlikely to investigate a complaint without an individual first having made a complaint to the College and exhausting the College's own internal complaints procedure first, before referring the matter to the ICO.

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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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