



Subject Access Request Policy 2021 - 2022

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. WHAT IS A SUBJECT ACCESS REQUEST?

- 1.1. Under the UK GDPR and Data Protection Act 2018, individuals (“Data Subjects”) have a number of rights, including a “right of access”. The right of access, commonly referred to as “subject access”, gives individuals the right to confirmation that an organization is processing their Personal Data and why and to obtain a copy of their Personal Data, as well as other supplementary information (which largely corresponds with the information that should be provided in a privacy notice or privacy statement). It helps individuals to understand how and why an organisation is using their Personal Data, and check that the organisation is doing so lawfully.
- 1.2. **A Subject Access Request is therefore a request by an individual to an organisation to confirm what Personal Data is being processed (used) by that organisation and why, and to be provided with a copy of that information in addition to other supplementary information.** The person making the request is often referred to as “the Requester”.
- 1.3. A Subject Access Request is different from a request for information.
- 1.4. For instance, “how much money do I owe the College (for accommodation, fees, etc.)?” is a request for information, not a Subject Access Request.
- 1.5. A Subject Access Request would be “please can you provide me with copies of all emails sent to me between (date) and (date)?” or “Please can you provide me with a copy of my personnel file?”
- 1.6. A request by a student or outside organisation for a reference is also not a Subject Access Request; but like a Subject Access Request, does need to be responded to promptly and care also needs to be taken as to what information is disclosed. See the Policy and Procedure on Providing References for Students (formerly SCA33) for further details.

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- 1.7. A distinction also needs to be drawn between a Subject Access Request and a Data Sharing Request. A Data Sharing Request is a request by a third party organisation (as opposed to a Data Subject), such as a local authority, or a school, or the Police and emergency services, to share Personal Data that is in the College's possession with that organisation so that they may fulfill, for instance, a statutory obligation imposed upon them, and or so that they can further process that Personal Data for their own purposes.
- 1.8. It is permissible to share information with third party organisations assuming certain criteria are met. In most cases, a Data Sharing Agreement will also be required (see Data Sharing Policy and Data Sharing Procedure for further).
- 1.9. **All Subject Access Requests should be forwarded immediately upon receipt to the College's Legal and Compliance Adviser so that the Legal and Compliance Adviser can respond to the request.**

2. HOW DO YOU MAKE A SUBJECT ACCESS REQUEST?

- 2.1 **A Subject Access Request does not necessarily have to refer to itself as a "Subject Access Request" to be a valid request.** Sometimes it is self-evident that the request is a Subject Access Request from the context; but sometimes, you may need to consider if what the Data Subject is doing is making a Subject Access Request or not. If in doubt, contact the Legal and Compliance Adviser at jethro.powell@askham-bryan.ac.uk
- 2.2 **Subject Access Requests can be made verbally or in writing (which can also include via email and social media).**
- 2.3 **Data Subjects should be encouraged to submit their request using the form shown at Appendix A.** This is to assist in confirming the nature of the request, so that the request is not misunderstood, which can easily happen where the request is made over the phone, or in person to a member of staff who then fails to pass on details of that request straightaway, and also to assist in confirming the contact details of the person who made the request including details of where they want copies of any Personal Data relating to them sending to.
- 2.4 **However, there is no obligation that a person making a Subject Access Request has to use the form at Appendix A and the College cannot refuse to respond to a Subject Access Request because the form at Appendix A has not been used.**
- 2.5 If the Subject Access Request is made via email, for instance to enquiries@askham-bryan.ac.uk, then this must be forwarded the Legal and Compliance Officer immediately upon receipt so that it can be responded to within the statutory time limit of one month.

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Offering assistance

- 2.6 There is an obligation under the UK GDPR and DPA 2018 to, where necessary, assist a person in formulating their Subject Access Request.
- 2.7 Where the person making the request has learning difficulties or is hearing or visually impaired, then the details of that request should be confirmed in writing to the individual concerned, to ensure that the College has properly understood the nature and scope of the request. Use of the form at Appendix A would assist in such a situation.

Can we ask for ID?

- 2.8 Yes. The College needs to be satisfied that the person requesting the information is how they say they are (or if someone else is requesting that information, such as a solicitor, that they have authority to do so). Where the College asks a Requester to confirm their identity, the timescale for responding to a Subject Access Request does not begin until the College has received the requested information.

Can we charge a fee?

- 2.9 In most cases it is not possible to charge a fee to comply with a Subject Access Request. However, you can charge a 'reasonable fee' for the administrative costs of complying with a request if it is manifestly unfounded or excessive, or if an individual requests further copies of their data.

Timescale to respond

- 2.10 The College must comply with a Subject Access Request without undue delay and at the latest within one month of receiving the request, provided the College is satisfied that the request is a valid request and is also satisfied as to the identity of the Requester.
- 2.11 The College can extend the time to respond by a further two months if the request is complex or if the College has received a number of requests from the individual, eg other types of requests relating to individuals' rights.
- 2.12 If the College processes a large amount of information about an individual, the College may be able to ask the Requester to specify the information or processing activities their request relates to, if it is not clear. Alternatively, the Requester may be asked to rephrase their request so that it is possible to respond within one month. For instance, where the Subject Access Request was for "all emails sent to me by the College", the request could be reformulated so that it instead requests details of "all emails sent to me by the College between (date) and (date)", ie between certain specified dates.
- 2.13 The time limit for responding to the request is paused until the College receives clarification, although the College should still supply any of the supplementary information within one month.

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3. WHAT INFORMATION IS A DATA SUBJECT ALLOWED ACCESS TO?

3.1 Under the right of access, individuals have the right to obtain:

- details as to the **categories** of Personal Data (information about that individual) that the organisation is processing about them, and be provided with a copy of that Personal Data. They are not entitled to information about people other than themselves;
- confirmation from the organisation as to the **purpose** of the processing, ie why is that organisation, in this case the College, using that Personal Data;
- details as to any **recipients** or categories of that Personal Data (including recipients or categories of recipients in third countries or international organisations). A “third country” is any country not in the EEA. (The EEA consists of the EU Members States, Iceland, Liechtenstein and Norway);
- where possible, the period for which any Personal Data will be stored (known as the “retention period”), and if not possible, the criteria used to determine the **retention period**;
- the existence of and reasoning behind any profiling or automated decision making involving the use of their Personal Data, and
- details of the safeguards where Personal Data has or will be transferred to a third country or international organisation.

3.2 Individuals should also be informed about their right to request rectification, erasure or restriction or to object to processing and right to lodge a complaint with the Information Commissioner’s Office (ICO) and also be provided with information about the source of the data, if this was not obtained directly from the individual.

3.3 Typically, this is the information that should be provided in a Privacy Statement. This is so individuals can verify the lawfulness of any processing.

3.4 Any information, however, relating to individuals other than the person making the request must be redacted before any relevant information can be disclosed to the person making the request.

3.5 Similarly, any information provided in confidence must also be redacted, unless the person who provided that information originally consents to the disclosure.

3.6 **The College only has an obligation, however, to undertake a search of information in its possession, on College devices or on College networks, not for information that may be held on personal devices.**

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4. REFUSING A REQUEST

4.1 In some circumstances, it may be possible to refuse to respond to a Subject Access Request:

- where the Subject Access Request is deemed to be “manifestly unfounded or excessive”, for instance, where it is a repeat of a previous and similar request, that the College has only just responded to;
- where the request is ultimately deemed not to be a Subject Access Request at all, but a request for information instead, ie “how much do I owe the College?”, “when does my course start?”, etc;
- where the request is in fact a request under the Freedom of Information Act 2000 instead (a request to a public body for information about how that public body operates, as opposed to a request for personal information) (for further details, see the College’s Freedom of Information Policy and associated procedure and guidance document);
- where no Personal Data is held by the College on that individual;
- where the Personal Data in fact relates to a third party and not the Requester;
- where the Requester is in negotiations with the College and asks for information relating to the College’s negotiating position;
- where the Requester is involved in legal proceedings with the College (you cannot use a Subject Access Request to request information that may be subject to legal professional privilege); and/or
- where to respond to the Subject Access Request would involve disproportionate cost.

4.2 If the College refuses to comply with a Subject Access Request, the College inform the Requester of:

- the reasons why;
- their right to make a complaint to the ICO or another supervisory authority; and
- their ability to seek to enforce this right through the courts.

See the Subject Access Request Procedure for further.

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5. RIGHT TO AN INTERNAL REVIEW

- 5.1 If the Requester is not happy with the response to their Subject Access Request, they have the right to request an internal review. If a Requester wishes to exercise their right to an internal review, they should be asked to contact the PA to the Principal and Chief Executive with details as to why they are unhappy with the College's response to their Subject Access Request.
- 5.2 A request for an internal review will be handled as if it is a complaint, in accordance with the principles of the College's Customer Service and Complaints Procedure.
- 5.3 Upon receipt of the request for an internal review, the PA to the Principal and Chief Executive will first send an acknowledgement to the Requester and then escalate the request.
- 5.4 Thereafter, whoever is appointed to respond to the Requester will seek to do so within 14 working days unless he/she agrees a different timescale with the Requester. Usually this will be the College's Data Protection Officer where the Legal and Compliance Adviser responded to the initial request.
- 5.5 The internal review will not involve the reprocessing of the request (although that may be what is ultimately suggested by the internal review); but will instead look at the manner in which the Subject Access Request was processed and the extent to which the Subject Access Request has been complied with; whether that was consistent with that procedure, and data protection principles and legislation; whether all the information that fell to be disclosed was properly disclosed; and, whether, if certain information was redacted or withheld from the Requester, it was correct to do so.
- 5.6 If it is decided that the Subject Access Request was not properly responded to, the College will take steps to ensure that the Subject Access Request is properly responded to.
- 5.7 If the conclusion of the internal review is that the Subject Access Request was properly responded to, then the complaint/request for an internal review will be closed and the Requester will be reminded of his/her right to complain to the ICO instead, if they are not satisfied with that outcome.

6. DATA PROTECTION OFFICER

- 6.1 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 and Director of Governance.
- 6.2 The Data Protection Officer will lead on the College's overall approach to data protection, assisted by the Legal and Compliance Adviser and the Head of IT.

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- 6.3 In addition, the College's Data Protection Officer, assisted by the Legal and Compliance Adviser and Head of IT, will monitor internal compliance with the UK 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.
- 6.4 However, all users of College systems, ie staff, students, contractors and visitors to the College, and link organisations such as the Wildlife Park and the Rural Business Research Unit ("RBRU"), are expected to comply with data protection legislation and support the College's Data Protection Officer, Legal and Compliance Adviser and Head of IT in meeting the College's obligations under data protection legislation, and cooperate with them in the event of a Data Breach or Cyber Security incident.**
- 6.5 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 .
- 6.6 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.
- 6.7 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.
- 6.8 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.**

7. RELATED POLICIES AND PROCEDURES

This policy is supplemented by the following policies and procedures:

Data Protection Policy
Subject Access Request Procedure (internal use only)
Data Sharing Policy
Data Sharing Procedure (internal use only)
Data Retention Policy
Data Retention Procedure (internal use only)
Breach Detection and Reporting Policy
Breach Detection and Reporting Procedure (internal use only)
Data Subject Rights Policy
Data Subject Rights Procedure (internal use only)

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APPENDIX A: SUBJECT ACCESS REQUEST FORM

Part 1 – The Request

Please complete in **BLOCK CAPITALS**

I am the person the information is about **if yes, please tick and then complete
Parts 3, 4, 5 and 6**

OR

I am acting on behalf of someone else **if yes, please tick and then complete
Parts 2, 3, 4, 5 and 6**

Part 2 – The information requested is about someone else

I am the Data Subject's parent I enclose proof of parental responsibility

I am the Data Subject's guardian/carer I enclose proof

Other I enclose consent to share signed by the Data Subject

If "Other", please state

If you are requesting information on behalf of someone else, please give **YOUR** details below

Full Name Relationship to Data Subject

Address

Daytime Telephone Number Email Address (optional).....

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Part 3 – Data Subject - Person that the information relates to

Title Surname First Name

Student number:

Date of birth

Current Address

Post Code

Telephone Number Email Address

Identification Documents - please select one from each section

- Section 1 – proof of identity**
- Passport
 - Driving Licence
 - Other Please state

- Section 2 – proof of address**
- Bank Statement
 - Utility Bill
 - Other Please State

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Part 4 – Details of the information being requested

Please help us deal with your request quickly and efficiently by giving as much detail as possible about the information you want.

Part 5 – Access to the Information

All information is provided in an encrypted format, or by registered post, unless specified otherwise. If you have learning disabilities or who are hearing impaired or who have other disabilities and may struggle to access your information in this format, then please let us know. We can seek to provide you with this information in another format.

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Part 6 – Declaration

I certify the information provided on this form is true. I understand Askham Bryan College is not obliged to comply with my request unless they are supplied with such information as they may reasonably require in order to satisfy themselves as to my identity and to locate the information which I seek.

Name Signature Date

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