Procedures for responding to requests for personal data

to support Data Protection Policy

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HERIOT-WATT UNIVERSITY

PROCEDURES for responding to requests for personal data

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1. INTRODUCTION

These procedures set out how to respond to requests for personal information from and about applicants, current and former students, staff and others whose personal data the University holds in accordance with their rights as data subjects under the Data Protection Act 1998 and the data protection laws of other relevant jurisdictions.

The scope of these procedures applies to information that we hold about all current and former Heriot-Watt University students or staff, regardless of where or how they studied or worked.

These procedures support the Data Protection Policy and also other policies relating to the management of student and staff records, such as the Student Records Management Policy. These procedures form part of the University Information Security Policy Framework.

2. REQUESTS BY CURRENT AND FORMER STUDENTS AND STAFF FOR THEIR OWN PERSONAL DATA

Everyone has the right to know what personal information organisations hold about them, why and how their information is held and used, with whom their information is shared and for what purpose and for how long their personal information is retained. People also have the right to check that the information held about them is accurate and to object to processing of information that would cause them damage and distress.

In the University context individuals may make requests for their own personal data which can be readily met in the normal line of business e.g. by asking for and receiving feedback on their progress or performance.

The following procedures cover the most common scenarios for managing formal requests by individuals for their own personal data.

Handling Data Subject Access Requests

2.1 Under the UK Data Protection Act, a formal request for one's own personal data is called a data subject access request. However, people do not have to state that they are making a data subject access request, or cite the Data Protection Act, for their requests to be valid. A request by an individual for their own personal data may be simple or complex. The management of all such requests must be governed by a common set of rules.

2.2 All requests must be made in writing

We may not require anyone to complete a subject access request form but we can encourage people to use the form as it provides helpful prompts to focus the request and help staff identify where the relevant information is likely to be held.

If someone asks for assistance in completing a request form, it can be helpful if the member of staff completes the form and asks the applicant to affirm that the details are correct and to sign it.

2.3 Proof of identification

If the person making the request for their own information (the data subject) is not

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known to the person receiving it, the data subject must provide proof of their identity in the form of their student ID card, a birth certificate, passport or driving licence.

2.4 Requests made on behalf of the data subject by a third party

If someone makes a request on behalf of another person e.g. a parent on behalf of their child or a lawyer on behalf of a client, the person making the request must provide evidence of their authority to make the request on behalf of the data subject, for instance confirmation of power of attorney, or the written consent of the data subject. If the officer receiving the request is in any doubt e.g. if the signature does not match those on record, it is necessary to contact the data subject to get confirmation of their consent to disclose their personal data to the third party. If the request is for information of a sensitive nature, it may be appropriate to send it to the data subject rather than the person making the request on their behalf.

2.5 Fees for handling requests

The University has the right to charge a fee of £10 for processing a subject access request. The level of the fee is fixed by statute. In the case of requests made by current or former students, the Head of School or the Academic Registrar and Deputy Secretary or their nominees have authority to levy or waive the fee as appropriate under the circumstances. Where requests are made by current or former staff, the Director of Human Resources or his nominees have authority to levy or waive the fee.

2.6 Statutory timescales for complying with requests

The statutory deadline for responding to subject access requests is 40 calendar days from receipt of the request (and the fee if levied) or from confirmation of the identity of the person making the request. If the request is very vaguely worded, it is legitimate to stop the clock at the point that the original request is received in order to seek clarification of the information requested.

The only exception to the 40 day deadline is where a student requests their marks or grades before the results have been announced. In this case, the deadline for providing the information is either 5 months of the date of the request or 40 days after the results have been announced, whichever is the earlier.

2.7 Informing applicants of their rights

The person managing the request should use and adapt the University data protection request acknowledgement and response templates which are provided by Heritage and Information Governance. These provide information for applicants about their legal rights and support staff in responding consistently and appropriately to requests.

2.8 Managing straightforward requests

If a request for personal data is straightforward and not contentious, it should be managed locally by the relevant School or Service, with advice from Heritage and Information Governance staff as needed.

Requests from current or former students: Student Service Centre or the relevant School.

Requests from current or former staff: Human Resources Partner

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2.9 Managing more complex requests

It is essential to involve colleagues in Heritage and Information Governance in managing any request which has one or more of the following characteristics:

- Complex or voluminous requiring retrieval and appraisal of information from various sources e.g. " all correspondence, emails, reports relating to my studies…"
- made in the context of an appeal or dispute
- includes information relating to other people (who will have their own rights as data subjects) within or outwith the University
- combines a subject access (information about me) request with an FOI request (How the University decided….)

Under these circumstances, the Data Protection Officer will discuss the request with the Head of School or Professional Service that has received the request and agree whether the request should be managed by HIG or by the School or Service.

In either case the Data Protection Officer or Information Governance Coordinator will review the information requested and recommend what information should be disclosed or withheld compliance with the relevant provisions of the Data Protection and Freedom of Information (Scotland) Acts.

2.10 Student requests for transcripts and certifications

These are subject access requests which are limited and specific in scope to provide evidence of academic attainment or enrolment.

Current or former students may request an official transcript confirming their award and grades. This may include percentage marks. Students may also need an official certificate to confirm their period of enrolment at the University and any award or award date.

Both types of requests should be managed in accordance with the **Policy on Management of Academic Transcripts and Certifications.**

3 REQUESTS FOR PERSONAL DATA BY THIRD PARTIES

3.1 Under most circumstances we must obtain the written consent of individuals before disclosing their personal data to third parties.

3.2 Third party requests to make contact with individuals

In this context the personal data of current or former students includes the fact that they are or were a Heriot-Watt student. If someone contacts the University asking to make contact with a current or former student or expressing concern about their welfare we must not confirm that the person is or was a student. We can offer to take the contact details of the enquirer and to forward these on to the individual concerned if our records confirm that they are or were at Heriot-Watt, in order that the individual can chose whether to respond.

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3.3 Disclosure of information about students to sponsors or employers

In some cases a student may have signed an agreement at enrolment consenting to the disclosure of limited personal data necessary to confirm their status, attendance, progress and awards to a sponsor or potential employer. If evidence of consent is on record, in such a case it is legitimate to disclose the information requested as long as it is possible to verify that the person making the request as long as it is possible to verify that the person making the request

- is who they claim to be,
- has the authority to make the request and
- has the consent of the applicant.

If in any doubt, seek the consent of the student.

3.4 Disclosure of information about staff: references

When receiving requests for references about a current or former member of staff it is legitimate for managers to disclose limited personal data necessary to verify the details of their employment and role at the University to a potential employer, as long as it is possible to verify that the person making the request

- is who they claim to be,
- has the authority to make the request and
- has the consent of the applicant.

If in any doubt, seek the consent of the data subject.

Staff need to be aware that data subjects have the right to ask the organisation that receives the reference for a copy of it. Both organisations and data subjects have the right to take legal action against the authors of references where they consider that the reference has misrepresented the candidate's abilities.

3.5 When someone claims legal authority to request personal data

In some cases, requests for personal data may be received from people claiming legal authority to ask for the information concerned. In these cases recipients of requests should seek advice from the Data Protection Officer and Information Governance coordinator within Heritage and Information Governance.

Unless the person making the has a warrant or court order requiring the University to disclose personal information about current or former students, the University is not obliged to comply with such requests. Therefore all staff who receive requests for personal data from the police or other government bodies must follow these procedures to ensure that disclosures of personal data are lawful, authorised, and accountable. Requests from the Police should be managed in accordance with the **Procedures for responding to Police enquires and attendance on campus**

All requests for disclosure must be in writing, by email or letter. Organisations such as Police Scotland have a standard personal data request form. The request must

- be signed by an officer with the authority to make the request; this may be an electronic signature or a scanned image of a signed form, if the request is made by email.
- set out the legal authority for making the request. This is normally a specific section of the Data Protection Act. The request must explain how this right applies and why they need the information.

Even if the applicant is known to the person handling the request it is necessary to verify the applicant's identity and their authority to make the request.

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3.6 Authorising disclosure to third parties

Requests to disclose personal data must be escalated to an officer who has designated authority to decide whether to release or withhold the information.

For requests by the police, Home Office or other government bodies:

- For student personal data the responsible officer is the Academic Registrar and Deputy Secretary and her nominees including the Registry Office Manager.

- For staff personal data the responsible officer is the Director of Human Resources Development or his nominee.

The responsible officer will need to consider whether

- the disclosure is necessary for the purpose claimed e.g. the prevention or detection of crime or the apprehension or prosecution of offenders;

- not disclosing the personal data would be likely to prejudice the purpose cited.

The responsible officer must be satisfied that the request is reasonable and proportionate and disclose only the minimum personal data necessary for the purpose, seeking advice from the Data Protection Officer as appropriate.

4 SECURITY OF COMMUNICATIONS

All personal data disclosed in response to a request must be communicated by a method appropriate to the security and sensitivity of the information.

Before supplying information it is essential to check how the applicant wishes to receive the information and ensure that you have the correct postal or email address.

Information containing sensitive personal data sent by email or using a USB memory stick or other portable media must be encrypted.

If sending a hardcopy, then the packaging should be marked as strictly private and confidential and sent via recorded delivery.

5 KEEPING AN AUDIT TRAIL OF REQUESTS

All subject access requests and requests from third parties must be recorded on University systems so that the University has an audit trail of actions taken in response to a request and can justify each decision. The record must include details of the request, contact details of the applicant, evidence sought and obtained to verify their identity, the decision to release or withhold the information requested, the reasons for the decision and a copy of any information disclosed.

For requests by and about students:

Straightforward subject access and third party requests must be recorded either in the request handling system maintained by the Student Service Centre or if the request is made directly to the School in the evidential student file. If the request is handled by the School and the student has left the University, the file should be retrieved from HIG for the record to be added prior to returning it to the University records centre.

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Records of requests from the police or government agencies are held by the Academic Registry and reviewed by the Secretary of the University .

For requests by and about staff:

Straightforward subject access and third party requests about current staff must be recorded in the individual's personal file in the School, Service or held by Human Resources.

Where requests for information are received about former staff, the manager handling the request should liaise with Human Resources and provide a record of the request and the response to Human Resources to add to the leaver's file.

Records of complex requests managed by Heritage and information Governance are held in the central data protection and FOI management records managed by HIG.

The recommended retention period for request records is completion plus 6 years in line with that for records that need to be retained for a limited time to defend the University's legal interests. (The Limitations laws of Scotland and the UK).

6. FURTHER HELP AND ADVICE

For further advice and assistance contact

Data Protection Officer:
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7. DEFINITIONS

Data Protection Officer	The member of staff with oversight of organisational and technical measures and controls to comply with the Data Protection Act 1998.
Personal Data	Data which relates to a living person who can be identified from those data or from those data and other information that that the Data Controller holds or is likely to receive
Responsible Officers	The Secretary of the University and other officers with delegated authority or duties under these procedures

8 PROCEDURES VERSION AND HISTORY

Version No	Date of Approval	Approving Authority	Brief Description of Amendment
V. 3	04.03.2014	Secretary's Board	Additional hyperlinks

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