

Subject Access Request Policy 2022-23

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| Lead Responsible: | Data Protection Officer |
| Approval Dates for Revisions: | |
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| Audit Committee | 3 March 2022 |
| Governing Body | 30 March 2022 |
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Introduction

1. The College holds personal data (or information) about students, job applicants, employees, clients, customers, suppliers, business contacts and other individuals for a variety of business purposes.
2. Under Regulation (EU) 2016/679, UK General Data Protection Regulation (UK GDPR), individuals (known as 'data subjects') have a general right to find out whether we hold or process personal data about them, to access that data, and to be given supplementary information. This is known as the right of access, or the right to make a data subject access request (DSAR). The purpose of the right is to enable the individual to be aware of, and verify, the lawfulness of the processing of personal data that we are undertaking.
3. Our Data Protection Officer, Richard Davies, is responsible for ensuring:
 - a) that all data subject access requests are dealt with in accordance with the GDPR and other relevant legislation and guidance; and
 - b) that all staff have an understanding of the GDPR and other relevant legislation and guidance in relation to data subject access requests and their personal responsibilities in complying with the relevant aspects of the GDPR and other relevant legislation and guidance.
4. This policy provides guidance for staff members on how data subject access requests should be handled, and is intended for internal use. It is not a privacy policy or statement, and is not to be made routinely available to third parties.
5. This policy applies to all staff but much of it is aimed primarily at those members of staff who are authorised to handle data subject access requests. These sections are identified by the words '(authorised staff)' appearing in the section title. For other staff members, it provides guidance on:
 - a) what to do if you receive a data subject access request (see paragraph 3 below); and
 - b) how to decide whether a request for information is a data subject access request (see paragraph 2 below).
6. Failure to comply with the right of access under the GDPR puts both staff and the College at potentially significant risk, and so the College takes compliance with this policy very seriously. For further information on the consequences of failure to comply, see paragraph 14 below.
7. We will review and update this policy in accordance with our data protection obligations. It does not form part of any employee's contract of employment and we may amend, update or supplement it from time to time. We will circulate any new or modified policy to staff when it is adopted.
8. If you have any questions regarding this policy, please contact the Data Protection Officer.

How to recognise a subject access request (all staff)

9. A data subject access request is a request from an individual (or from someone acting with the authority of an individual, eg a parent making a request in relation to information relating to their child):
 - a) for confirmation as to whether we process personal data about him or her and, if so:
 - i. for access to that personal data; and
 - ii. certain other supplementary information.
10. Such a request will typically be made in writing but may be made orally (eg during a telephone conversation). The request may refer to the GDPR and/or to 'data protection' and/or to 'personal data' but does not need to do so in order to be a valid request. For example, a letter which states 'please provide me with a copy of all the information that you have about me' will be a data subject access request and should be treated as such.
11. All data subject access requests should be immediately directed to the Data Protection Officer in accordance with paragraph 3 below.

What to do when you receive a subject access request (all staff)

12. If you receive a data subject access request and you are not authorised to handle it, you must immediately take the steps set out in paragraphs 14 (request received by email) or 15 (request received by letter). There are limited timescales within which we must respond to a request and any delay could result in our failing to meet those timescales, which could lead to enforcement action by the Information Commissioner's Office (ICO) and/or legal action by the affected individual.
13. For information on what amounts to a data subject access request, see paragraph 2 above. If you are in any way unsure as to whether a request for information is a data subject access request, please contact the Data Protection Officer.
14. If you receive a data subject access request by email, you must immediately forward the request to the Data Protection Officer.
15. If you receive a data subject access request by letter you must:
 - a) scan the letter;
 - b) send the original to the Data Protection Officer by internal mail; and
 - c) send a scanned copy of the letter to Data Protection Officer using the below email address: dataprotection@capel.ac.uk
16. If you receive a data subject access request orally, you must:
 - a) take the name and contact details of the individual;
 - b) inform the individual orally that you will notify the Data Protection Officer that the individual has made an oral request and that the Data Protection Officer will contact them in relation to the request;
 - c) immediately email the Data Protection Officer at this email address: dataprotection@capel.ac.uk and provide the individual's contact details and details of the oral request and the date on which it was received.
17. You will receive confirmation when the request (or your email concerning an oral request) has been received by the Data Protection Officer. If you do not receive such confirmation within two working days of sending it, you should contact the Data Protection Officer to confirm safe receipt.
18. You must not take any other action in relation to the data subject access request unless the Data Protection Officer has authorised you to do so in advance and in writing.

Conditions for responding to a valid request (authorised staff)

19. Where we process a large quantity of information about an individual, we may need to ask the individual to specify the information or processing activities to which the request relates.
20. While it is not a requirement under Regulation (EU) 2016/679, GDPR that an individual must make a DSAR in writing, it is helpful for the College if they do so. Individuals should therefore be encouraged to use the Data Subject Access Request form set out in Appendix 1.
21. We will not usually charge a fee for responding to a data subject access request. We may, however, charge a reasonable fee (based on the administrative cost of providing the information) for responding to a request:
 - a) that is manifestly unfounded or excessive, eg repetitive; or
 - b) for further copies of the same information.

Identifying the data subject (authorised staff)

22. Before responding to a data subject access request, we will take reasonable steps to verify the identity of the person making the request. In the case of current employees, this will usually be straightforward.
23. We will not retain personal data, eg relating to former employees for the sole purpose of being able to react to potential data subject access requests in the future.
24. If we have doubts as to the identity of the person making the data subject access request, we may ask for additional information to confirm his or her identity. The Data subject access request form contains examples of the type of documents that can be used to do this. Typically we will request a copy of the individual's driving licence or passport to enable us to establish his or her identity and signature (which should be compared to the signature on the data subject access request and any signature we already hold for the individual). We also ask for a recent utility bill (or equivalent) to verify the individual's identity and address.
25. If, having requested additional information, we are still not in a position to identify the data subject, we may refuse to act on a data subject access request (see paragraph 6 below).

Refusing to respond to a request (authorised staff)

26. We may refuse to act on a data subject access request where:
 - a) even after requesting additional information in accordance with paragraph 5.3, we are not in a position to identify the individual making the data subject access request;
 - b) requests from an individual are manifestly unfounded or excessive, eg because of their repetitive character or, in certain circumstances, where the request relates to large amounts of data.
27. If we intend to refuse to act on a data subject access request, we will inform the individual, no later than one month after receiving his or her request:
 - a) of the reason(s) why we are not taking action; and
 - b) that they have the right to complain to the ICO and seek a judicial remedy.

Time limit for responding to a request (authorised staff)

28. We may refuse to act on a data subject access request where:
 - a) even after requesting additional information in accordance with paragraph 5.3, we are not in a position to identify the individual making the data subject access request;
 - b) requests from an individual are manifestly unfounded or excessive, eg because of their repetitive character or, in certain circumstances, where the request relates to large amounts of data.
29. If we intend to refuse to act on a data subject access request, we will inform the individual, no later than one month after receiving his or her request:
 - a) of the reason(s) why we are not taking action; and
 - b) that they have the right to complain to the ICO and seek a judicial remedy.

Information to be provided in response to a request (authorised staff)

30. The individual is entitled to receive access to the personal data we process about him or her and the following information:
- a) the purposes for which we process the data;
 - b) the recipients or categories of recipient to whom the personal data has been or will be disclosed, in particular where those recipients are in third countries or international organisations;
 - c) where possible, the period for which it is envisaged the personal data will be stored, or, if not possible, the criteria used to determine that period;
 - d) the fact that the individual has the right:
 - i. to request that the College rectifies, erases or restricts the processing of his personal data; or
 - ii. to object to its processing;
 - e) to lodge a complaint with the ICO;
 - f) where the personal data has not been collected from the individual, any information available regarding the source of the data;
 - g) any automated decision we have taken about him or her, together with meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for him or her.
31. The information referred to in paragraph 30 should be provided:
- a) in a way that is concise, transparent, easy to understand and easy to access;
 - b) using clear and plain language, with any technical terms, abbreviations or codes explained;
 - c) in writing if the data subject access request was made in writing; and
 - d) in a commonly-used electronic format, if the data subject access request was made electronically, unless otherwise requested by the individual.

How to locate information (authorised staff)

32. The personal data we need to provide in response to a data subject access request may be located in several of our electronic and manual filing systems or on those of our data processors or other third parties. This is why it is important to identify at the outset the type of information requested so that the search can be focused.
33. Depending on the type of information requested, you may need to search all or some of the following:
- a) electronic systems, eg databases, networked and non-networked computers, servers, customer records, human resources system, email data, back up data, CCTV;
 - b) manual filing systems in which personal data are accessible according to specific criteria, eg chronologically ordered sets of manual records containing personal data;
 - c) data systems held externally by our data processors, eg external payroll service providers;
 - d) devices used by employees;
 - e) occupational health records held by the HR Department;

- f) pensions data held by HR Department:
 - g) share scheme information by College appointed partners where applicable.
 - h) insurance benefit information by College appointed partners.
 - i) data held by College appointed partners.
34. You should search these systems using the individual's name, student number, employee number or other personal identifier as a search determinant.

What is personal data? (authorised staff)

35. Once you have carried out the search and gathered the results, you will need to select the information to be supplied in response to the data subject access request. The individual is only entitled to receive information which constitutes his or her personal data.
36. Personal data is any information relating to an identifiable person who can be directly or indirectly identified in particular by reference to an identifier, eg their name, identification number, location data or online identifier. It may also include personal data that has been pseudonymised (eg key-coded), depending on how difficult it is to attribute the pseudonym to a particular individual.

Requests made by 3rd parties on behalf of an individual (authorised staff)

37. Occasionally we may receive a request for data subject access by a third party (an 'agent') acting on behalf of an individual. These agents may include parents, guardians, legal representatives and those acting under a power of attorney or other legal authority. The agent must provide sufficient evidence that he or she is authorised to act on behalf of the individual. The Data Subject Access Request form in Appendix 1 should be used for all such requests.

Exemptions to the right to subject access (authorised staff)

38. In certain circumstances we may be exempt from providing some or all of the personal data requested. These exemptions are described below and should only be applied on a case-by-case basis after a careful consideration of all the facts.
39. **Crime detection and prevention:** We do not have to disclose any personal data which we are processing for the purposes of preventing or detecting crime; apprehending or prosecuting offenders; or assessing or collecting any tax or duty. This is not an absolute exemption. It only applies to the extent to which the giving of subject access would be likely to prejudice any of these purposes. We are still required to provide as much of the personal data as we able to. For example, if the disclosure of the personal data could alert the individual to the fact that he or she is being investigated for an illegal activity (ie by us or by the police) then we do not have to disclose the data since the disclosure would be likely to prejudice the prevention or detection of crime, or the apprehension or prosecution of offenders.
40. **Protection of rights of others:** We do not have to disclose personal data to the extent that doing so would involve disclosing information relating to another individual (including information identifying the other individual as the source of information) who can be identified from the information (or that information and any other information that we reasonably believe the data subject is likely to possess or obtain), unless:
- a) that other individual has consented to the disclosure of the information to the individual making the request;
 - or

- b) it is reasonable to disclose the information to the individual making the request without the other individual's consent, having regard to:
 - i. the type of information that would be disclosed;
 - ii. any duty of confidentiality owed to the other individual;
 - iii. any steps taken by the controller with a view to seeking the consent of the other individual;
 - iv. whether the other individual is capable of giving consent; and
 - v. any express refusal of consent by the other individual.
41. **Confidential references:** We do not have to disclose any confidential references that we have given to third parties for the purpose of actual or prospective:
- a) education, training or employment of the individual;
 - b) appointment of the individual to any office; or
 - c) provision by the individual of any service.
42. This exemption does not apply to confidential references that we receive from third parties. However, in this situation, granting access to the reference may disclose the personal data of another individual (ie the person giving the reference), which means you must consider the rules regarding disclosure of third-party data set out in paragraph 11 before disclosing the reference.
43. **Legal professional privilege:** We do not have to disclose any personal data which are subject to legal professional privilege. There are two types of legal professional privilege:
- a) 'Advice privilege' covers confidential communications between the College and our lawyers where the dominant purpose of the communication is the seeking or giving of legal advice;
 - b) 'Litigation privilege' covers any document which was created with the dominant purpose of being used in actual or anticipated litigation (eg legal proceedings before a court or tribunal). Once a bona fide claim to litigation privilege ends, the documents in the file which were subject to litigation privilege become available if a data subject access request is received.
44. **Corporate finance:** We do not have to disclose any personal data which we process for the purposes of, or in connection with, a corporate finance service if:
- a) disclosing the personal data would be likely to affect the price of an instrument; or
 - b) disclosing the personal data would have a prejudicial effect on the orderly functioning of financial markets or the efficient allocation of capital within the economy and we believe that it could affect a person's decision:
 - i. whether to deal in, subscribe for or issue an instrument;
 - ii. whether to act in a way likely to have an effect on a business activity, eg on the industrial strategy of a person, the capital structure of an undertaking or the legal or beneficial ownership of a business or asset.
45. **Management forecasting:** We do not have to disclose any personal data which we process for the purposes of management forecasting or management planning to assist us in the conduct of any business or any other activity. Examples of management forecasting and planning activities include student performance, staff relocations, redundancies, succession planning, promotions and demotions. This exemption must be considered on a case-by-case basis and must only be applied to the extent to which disclosing the personal data would be likely to prejudice the conduct of that business or activity.

46. **Negotiations:** We do not have to disclose any personal data consisting of records of our intentions in relation to any negotiations with the individual where doing so would be likely to prejudice those negotiations. For example, if the HR department is negotiating with an employee in order to agree the terms of a redundancy package and the employee makes a data subject access request, the HR department can legitimately withhold giving access to information which would prejudice those redundancy negotiations. The HR department must, however, disclose all other personal data relating to the individual unless those other personal data are also exempt from disclosure.

Deleting personal data in the normal course of business (authorised staff)

47. The information that we are required to supply in response to a data subject access request must be supplied by reference to the data in question at the time the request was received. However, as we have one month in which to respond and we are generally unlikely to respond on the same day as we receive the request, we are allowed to take into account any amendment or deletion made to the personal data between the time the request is received and the time the personal data are supplied if such amendment or deletion would have been made regardless of the receipt of the data subject access request.
48. We are, therefore, allowed to carry out regular housekeeping activities even if this means that we delete or amend personal data after the receipt of a data subject access request. What we are not allowed to do is amend or delete data because we do not want to supply the data.

Consequences of failing to comply with this policy (all staff)

49. The College takes compliance with this policy very seriously. If we fail to comply with a subject access request, or fail to provide access to all the personal data requested, or fail to respond within the one-month time period, we will be in breach of GDPR and other relevant legislation. This may have several consequences:
- a) it may put at risk the individual(s) whose personal information is being processed;
 - b) the individual may complain to the ICO and this may lead the ICO to investigate the complaint. If we are found to be in breach, enforcement action could follow, which carries the risk of significant civil and criminal sanctions for the College and, in some circumstances, for the individual responsible for the breach;
 - c) if an individual has suffered damage, or damage and distress, as a result of our breach of the GDPR or other relevant legislation, he or she may take us to court and claim damages from us; and
 - d) a court may order us to comply with the subject access request if we are found not to have complied with our obligations under the GDPR and other relevant legislation.
50. Because of the importance of this policy, an employee's failure to comply with any requirement of it may lead to disciplinary action under our procedures, and this action may result in dismissal for gross misconduct. If a non-employee breaches this policy, they may have their contract terminated with immediate effect.

Contacts and responsibilities (all staff)

51. This Policy will be regularly reviewed by the Data Protection Officer.
52. Any questions regarding this Policy should be address to the Data Protection Officer.

APPENDIX 1

Data Subject Access Request Form

Please complete this form if you wish to request access to your personal data. You do not have to use this form, but it will help us to deal with your request as quickly and effectively as possible if you do.

You can also use this form if you are requesting access to personal data on behalf of someone else. In that case, we will need you to confirm you have that person's authority to ask for access to their data.

If you have any questions about this form or your request, please contact the College Data Protection Officer at: dataprotection@capel.ac.uk

1. About you

Please provide the following information. If you have an account number or other reference number, please provide it.

| | |
|-----------------|-------------------------------|
| Full name | [Details to be inserted here] |
| Address | [Details to be inserted here] |
| Contact details | [Details to be inserted here] |

For security reasons, we cannot respond to a request unless we have confirmed your identity. Please provide:

[Insert details of identity information required, eg a certified copy driving licence or passport, plus a utility bill or other proof of address]

2. Whose personal data are you requesting?

Please provide the following information. If you are making this request on behalf of someone else, we will need this information before we can supply you with the data you are asking for.

| | |
|--|---|
| Are you requesting access to your own personal data? | <input type="checkbox"/> Yes, please go to section 3 below. <input type="checkbox"/> No, please complete the rest of this section of the form. |
|--|---|

If you are not requesting access to your own personal data, please provide the following information about the person on whose behalf you are making this request:

| | |
|-------------------|-------------------------------|
| Full name | [Details to be inserted here] |
| Address | [Details to be inserted here] |
| Contact details | [Details to be inserted here] |
| Age (if under 16) | [Details to be inserted here] |

We cannot respond to your request until we also receive satisfactory confirmation of the identity of the person on whose behalf you are making this request. Please provide:

[Insert details of identity information required, eg a certified copy of their driving licence or passport, plus a utility bill or other proof of their address]

Please provide a copy of your legal authority to make this request. This might be a signed letter of authority from the person on whose behalf you are making this request, a power of attorney, or confirmation that you are their legal representative.

3. What data are you requesting?

Your rights to request access to personal data and other information are set out [insert details, eg in our Privacy policy, available on our website]. Please describe what personal data and other information you are requesting, in particular if you are asking for specific documents or information.

| | |
|---|-------------------------------|
| Description of the personal data and information requested including details of any specific documents or information you asking for (where relevant) | [Details to be inserted here] |
|---|-------------------------------|

Please give as much detail as possible about where the data might be located and any other relevant information. You do not have to provide this information, but doing so will help us to deal with your request as quickly and effectively as possible.

| | |
|---|-------------------------------|
| Location of data, eg any particular departments or parts of the organisation you have dealt with (if known) | [Details to be inserted here] |
| Relevant time periods, eg when we are likely to have obtained your data (if known) | [Details to be inserted here] |
| Dates of any particular correspondence, meetings or telephone calls (if known) | [Details to be inserted here] |
| The name(s) of people you have dealt with within our organisation (if known) | [Details to be inserted here] |
| Any other relevant information you can think of that might help us respond to your request | [Details to be inserted here] |

4. Signature

Please check the information you have provided and sign below.

| | |
|--------|---------------------------------|
| Signed | [Signature to be inserted here] |
| Date | [Date to be inserted here] |

Please send this form and the documents we have asked you to provide to:

Data Protection Officer

Capel Manor College
 Bullsmoor Lane
 Enfield
 Middlesex
 EN1 4RQ

Or via email to: dataprotection@capel.ac.uk

If you are making this request by email, we will provide the information to you in an electronic format unless you ask us not to. If you wish to receive your information in a different format, eg hard copy please let us know in the box below.

[Details to be inserted here]