

EDINBURGH NAPIER UNIVERSITY

General Data Protection Regulation/Data Protection Act 2018

Guidance Notes for making a Subject Access Request (SAR)

Introduction

In order to carry out its functions and discharge its legal obligations, Edinburgh Napier University holds records which are classed in two ways i.e. recorded information held by the University as a public authority for the purposes of the **Freedom of Information (Scotland) Act 2002** and personal data about living individuals which is governed by the **General Data Protection Regulation 2016 (GDPR)/Data Protection Act 2018 (together referred to as “the Data Protection Legislation”)**.

If your enquiry concerns general information which the University holds as a public authority then you should do this by making a request for information under the **Freedom of Information (Scotland) Act 2002**. You should visit the University's [FOI website](#) for more information.

The information below is intended for those who seek access to personal data about themselves, which is held by the University.

Student requests: please note that academic assessment information and examination marks are available from academic departments or the secure student portal. Students should only need to submit a Subject Access Request to the Information Governance Manager if e.g. they require their personal file, minutes of examiners' meetings or advice on data protection issues.

The Data Protection Legislation

The DP Legislation is concerned with a living individual's personal data and in particular:

- his/her expectations of privacy and security in the use of their personal data
- the University's legal obligations for handling that personal data from collection through to destruction; and
- the right of access to his/her personal data

1. How to make a request for personal data

- a) Section 45 of the Act entitles you to ask what personal data about you is held by the University. This process is called making a Subject Access Request (SAR)
- b) For general advice in the first instance on making a SAR or if you would like to see a specific document and you know who holds that, please contact the Information Governance Manager whose details are given at the end of this guidance.
- c) SARs must be submitted preferably in writing by completing the relevant form. You must specify any specific documents to be located and/or areas to be searched. Blanket requests for 'all personal data which the University holds about me' may result in a fee being charged or additional time (up to 3 months) being required to process the request where it is deemed to be excessive or manifestly unfounded.
- d) You will also be asked to supply the following:

- Confirmation of your identity e.g. staff or student ID card, a utility bill, a driving licence or a passport, and where appropriate
- Written authority from a third party where a SAR is submitted on the data subject's behalf. This must include a description of the relationship of the requester to the data subject.

The request/completed form, proof of identity and consent letter, where appropriate, should be sent to the Information Governance Manager at the address given below.

2. Processing and responding to a SAR

- A SAR will only be processed once the University has:
 - validated your identity and/or that of your representative;
 - agreed on the scope of the request;
- The University must respond to a SAR within the period laid down in the legislation i.e. one month, which may be extended to 3 months for excessive or manifestly unreasonable requests.
- In the unlikely event that the Information Governance Manager anticipates that the University will be unable to respond fully to your SAR within the legal deadline, you will be notified of this and the reasons for it.
- All SARs will be treated in the strictest confidence and will be processed only by authorised University staff. The Information Governance Manager will contact the appropriate departments, faculties and/or service areas within the University in the search for relevant documents containing information on you and to ensure compliance with the process.

Please note that the University does a combined search for information using electronic systems and asking colleagues. If you name individuals in your request then we will ask them to search their records for your personal data. We do this because electronic searches provide limited results e.g. if we search for your initials, first or surname it is likely to return thousands or tens of thousands of irrelevant results, we can therefore only search for your full name to restrict the search results to relevant data.

3. The scope of the SAR

- Unless the SAR involves examination information or you indicate otherwise on the form, the University will conduct a search of the appropriate records held by the University departments, faculties or service areas which you have ticked on the form.
- Relevant manual filing systems will be searched where the filing system is either (a) structured by reference to you; or (b) indexed such that it would be known in advance whether particular material would be found in a particular place in that file.
- The University will also seek to locate other personal data from non-relevant & non-structured filing systems when a specific & detailed description of the personal data is supplied by you on the SAR Form. The University reserves the right to charge an additional fee, according to the provisions of the UK Freedom of Information Act 2000, to cover the costs of locating and supplying any such unstructured information.
- Personal Data can be held in a variety of media e.g. e-mails, electronic documents, manual records e.g. handwritten notes, photographs & CCTV images. Recorded opinions about, or intentions regarding, an individual are also included.

- e) For a document to be considered to contain personal data about you as the subject of the request the following apply:
- you must be the focus of the information;
 - it must relate to you;
 - it must be biographical about you in a significant sense; or
 - the information must affect your privacy;
- f) The mere mention therefore of your name in a document, is not enough to make the information in that document personal data about you.
- g) You are entitled to be told of the logic involved in any process where personal data is used, or is likely to be used, to make an automatic decision about you.
- h) Where necessary and applicable, your coded personal data will be made intelligible and encrypted personal data will be decrypted for you.
- i) Information which you have already received will not be provided unless specifically requested e.g. letters, emails, etc.

4. Third party information and exemptions

- a) The anonymity of other individuals mentioned in personal data will be protected, when appropriate, by redaction i.e. by removing or obscuring data which may identify a third party.
- b) Section 45 of the DPA allows the University to withhold documents or subject documents to redaction on the grounds of lack of consent to release the document by a third-party, or judgements that the:
- University must respect the confidentiality of a third-party,
 - release of the document will cause distress to the individual; or
 - University must safeguard the vital interests of the individual or another person

5. CCTV records

Individuals' right of access to their personal data includes images captured by CCTV systems. The University has a [CCTV Code of Practice](#) which sets out how requests for CCTV images will be handled. There are also separate [Guidance Notes](#) for information on how to make a SAR for CCTV images and a [request form](#) which may be used.

6. Examination marks

- a) In the case of SARs which relate to examination marks or results, the usual timescale of 1 month is extended to (i) five months from the time when the request is received and validated; or (ii) forty days from the announcement of the examination results, if earlier, and provided the request has been validated in accordance with section 25 of the Act.
- b) Examination scripts are exempt under the Act and therefore only documents which contain personal data e.g. examiners' comments & extract minutes of examiners' meetings will be provided.

7. Replying to a SAR

Where the University is unable to hand deliver its response to a request, we will send it by recorded delivery (or other suitable mode recommended by the postal services) to the address you have given on the completed form, unless you have requested otherwise e.g. by password protected document in encrypted email.

8. Future SARs and retention periods

- a) The University has the right under the Act to decline a SAR where it has already complied with an identical or similar SAR, unless a reasonable interval has elapsed between compliance with the previous SAR and the making of a new SAR.
- b) The University will normally retain the documents relating to the handling of a SAR for two years following completion of the request, but this retention period may be extended in individual cases.

9. Complaints

If you are dissatisfied with the way in which the University has handled your request for personal information please direct your complaint or concern* in the first instance to the Information Governance Manager in:

Governance Services
Room 5 B. 18
Sighthill Campus
Edinburgh
EH11 4BN
Tel: 0131-455-6257
dataprotection@napier.ac.uk

*Please note that the personal information you supply to the University with your complaint will be processed in accordance with the provisions of the Act and will be entered into a filing system which is only accessed by or shared with authorised University staff or our agents. The information will be used by the University for (a) processing your complaint under the University's Complaints Handling Procedure and (b) statistical and audit purposes.

If you remain dissatisfied you may write to:

The University Secretary
Sighthill Campus
Edinburgh
EH11 4BN

Alternatively, you have the right to appeal direct to the [UK Information Commissioner](#) (ICO), who has responsibility for overseeing the Act, about the handling of your personal data by the University. The contact details Che ICO's Scottish office are:

UK Information Commissioner's Office
45 Melville Street
Edinburgh
EH3 7HL

Tel: 0131 244 9001; Email: Scotland@ico.gsi.org.uk

Appeals can be made online using the following link: <https://ico.org.uk/make-a-complaint/>

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