

EDINBURGH NAPIER UNIVERSITY

DATA PROTECTION LEGISLATION (GDPR and DPA 2018)

TABLE 2: EXAMPLES OF THIRD PARTIES WHO MAY REQUEST DISCLOSURE OF PERSONAL DATA

THIRD PARTY	BASIS FOR DISCLOSURE	NOTES/COMMENTS
Families	Consent	<p>Parents and relatives of a student have no general legal right to be given information about that student. Do not disclose or discuss any student issues with parents unless it is clear that student consent (ideally in writing) has been given. Institutional procedures, however, may be discussed freely with anyone. It is possible therefore to explain to a parent what, in principle, happens when a student must retake examinations, spend a year on industrial placement, make a complaint etc. but the specific circumstances of an individual student must not be discussed without consent.</p> <p>There may be occasional, exceptional circumstances where the need to gain consent before disclosing to parents or relatives may be waived by authorised University staff. These are explained in s. 8.3 of the Code</p>
The Police	Schedule 2 Part 1(2) of the Data Protection Act 2018 (DPA)	<p>Disclosures to Police officers are not compulsory except in cases where the institution is served with a Court Order requiring information. However, the DPA does permit the disclosure of data where it is sought for “the prevention or detection of crime” and/or “the apprehension or prosecution of offenders”. All such requests are to be directed to the University’s Information Governance Manager who will decide in each individual case whether a disclosure may be made and maintain a central log of such disclosures. The Police will be expected to submit their Force’s data protection form, with the signature and badge number of the investigating officer, and confirm that they wish to contact a named individual about a named criminal investigation, regardless of whether that individual is suspect or witness, and that failure to release the data would prejudice their investigation.</p>

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UK Border Agency	Schedule 2 Part 1(4) of the Data Protection Act 2018 (DPA)	<ul style="list-style-type: none"> • <p>The University is required to provide student data to the UK Visas and Immigration Agency under the Points Based Immigration System. Requests are dealt with by the International Office and they will maintain a central record of disclosures made. Any requests concerning staff must be directed to the Director of People and Services or his/her depute</p>
Embassies and High Commissions	Consent	<p>Enquiries from Embassies and High Commissions must be treated with extreme caution. Some students choose to have little or no contact with their Embassies, despite the fact that it could disadvantage them in matters such as transferring funds from their home countries. However, the extent of the relationship is a matter for the student, not the University, to determine. Forward requests from Embassies and High Commissions to the International Office for attention or advice. Normally, you will be asked to seek the express consent of the student concerned before releasing information.</p>
Surveys and questionnaires	Consent	<p>The University participates in the National Student and the Destination of Leavers from HE Surveys and students are informed of these at matriculation. All other requests for student involvement in surveys or questionnaires should be directed to the Director of School Support Services in the first instance.</p>

The Child Support Agency (CSA)	Consent	The Child Support Agency (CSA) does not have a legal right to request information from the University. However, it does have statutory powers to require information under the Child Support (Information, Evidence and Disclosure) Regulations 1992 from the individuals themselves. The University may be approached by the CSA for information about the status of a student e.g. if a student has been identified as a non-resident parent the CSA requires evidence of their student status to calculate the maintenance payments that the student should make. In this instance it is the responsibility of the student to provide the CSA with this information. Do not disclose information to the CSA without the consent of the student but instead offer to pass on the enquirer's contact details to the student (neither confirming nor denying that the student attends Edinburgh Napier University) in order that the student can contact the enquirer if they wish to.
Professional Bodies	<p>Contract with body or statutory requirement</p> <p>Consent</p>	<p>The University should ensure that in cases where particular degree courses lead to professional recognition, accreditation, exemption or registration are told at matriculation that their final result including if necessary failure, will be sent to the relevant professional body.</p> <p>However in cases where an ad hoc request is made seeking the details of a student in a particular academic discipline, then such enquiries can only be responded to with the student's consent.</p>
Council Tax Registration Officers	<p>Schedule 2 Part 1(2) of the Data Protection Act 2018 (DPA)</p> <p>Consent</p>	<p>Student data may be disclosed to Council Tax officers as necessary without consent and on a need to know basis. The University's students who live in the Edinburgh and Fife Councils' areas are advised at matriculation that their data will be passed to these two councils.</p> <p>For all other Councils student consent should be sought.</p>

Department of Health/Environmental Health Officers	Schedule 1 Part 1(3) of the Data Protection Act 2018	See Table 1 for cases of notifiable disease for which there is a statutory obligation to disclose. Where the disease is serious but not notifiable, the University may choose to disclose to protect the vital interests of the individual and this would be permissible under the legislation. In such cases refer to 8.3 of the Code for guidance on how to handle and respond to such a request.
Other educational establishments	Consent generally but limited information can be disclosed under Legitimate interests* of the student in some cases (unless data is Special Category)	The University may be asked for information about current or former students by other educational establishments. This occurs usually when a former student is seeking entry to a course at another institution and disclosures will usually be in the best interests of the student. All students are informed at matriculation that such disclosures may be made and therefore subject to appropriate security checks, the minimum data normally e.g. attendance and award details may be released. If more information is sought, the relevance of this should be queried and if in any doubt consent should be sought.
Employers and Recruitment Agencies	Consent generally but limited information can be disclosed under Legitimate interests* of the student in some cases (unless data is Special Category)	The University may be asked for information about current or former students by their current or potential employers, recruitment agencies etc and usually this is when a student has applied for a job. All students are informed at matriculation that such disclosures may be made and therefore subject to appropriate security checks, the minimum data normally e.g. attendance and award details may be released. If more information is sought, the relevance of this should be queried and if in any doubt consent should be sought.
Sponsors	Article 6(1)(b) of the GDPR for certain information Consent for Special Category Data	In cases where a student receives formal sponsorship i.e. financial assistance with fees and/or living costs from some person or institution, on sight of evidence of a contractual relationship between the student and the sponsor, the University <i>may</i> disclose basic limited information about attendance and performance, subject to necessary security checks. However, where e.g. the student's studies have been suspended due to ill health, this must not be disclosed without explicit written consent.

Overseas Institutions	Legitimate interests / consent Articles 6(1)(e) for certain information which the student has already been informed of, Consent required for further information	In cases where the University has formal exchange links with overseas HEIs an agreement will usually be in place and students should be advised that there will be a limited flow of their data. Where the data transfer is to an institution within the EEA consent will not be required but where it is outwith the EEA, it is advisable to seek consent before the exchange takes place.
Landlords	Consent	Landlords have no right to request personal data including confirmation of whether or not a tenant is a student at the University. Where appropriate staff may elect to pass on a message by phone or email to the student in question, <u>without</u> confirming that the individual is a student.
Alumni representatives and overseas agents	Consent	Students are advised on matriculation that their details will be passed to the University's Development Office for alumni purposes. However consent to alumni operations thereafter is obtained at the point of registration
Census	Consent	Census Officers have no statutory right to request student data. The University will co-operate with the distribution of census forms but consent is required for any disclosures

*Legitimate interests – if relying on legitimate interests as the legal basis for processing you must conduct a legitimate interests test, as follows:

- Purpose test – is there a legitimate interest behind the processing?
- Necessity test – is the processing necessary for that purpose?
- Balancing test – is the legitimate interest overridden by the individual's interests, rights or freedoms?

For further information see: <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/legitimate-interests/what-is-the-legitimate-interests-basis/>