

High Tunstall College of Science



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Subject Access Request Policy

Revised	- December 2023
Stakeholder Consulted	- Staffing, Staff Welfare and Finance Committee
Review Date	- December 2024
Responsibility for Review	- Senior Teacher (Achievement and Standards)

This is a new policy and therefore all sections are considered new and should be read by all designated readers.

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Statement of intent

At High Tunstall College of Science, we take seriously our duties under the statutory requirements regarding under Article 15 of the UK GDPR.

A subject access request (SAR) is a request made by, or on behalf of, an individual for the information which they are entitled to ask for under Article 15 of the UK GDPR. At name of college, we are committed to upholding the right of individuals to obtain a copy of their personal data, as well as other supplementary information, to provide transparency in how and why the college uses such data. This policy sets out how the college will:

- Recognise and respond to SARs
- Provide the information requested
- Always consider student wellbeing
- Refuse requests, where appropriate.

Routine verbal enquiries and correspondence that covers information that is provided routinely and can be managed quickly in the normal course of the college's business, e.g., a request by a staff member to see their employment contract, are not considered to be SARs and are not considered under this policy.

1. Legal framework

- 1.1. This policy has due regard to all relevant legislation including, but not limited to, the following:
 - The Data Protection Act 2018
 - The General Data Protection Regulation (GDPR)
 - The Freedom of Information Act 2000
 - The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004
 - Education (Pupil Information) (England) Regulations 2005
 - DfE (2022) 'Keeping children safe in education'.
- 1.2. This policy has been created with regard to the following guidance:
 - ICO (2018) 'Guide to the General Data Protection Regulation (GDPR)'
- 1.3. This policy also has due regard to the college's policies including, but not limited to, the following:
 - Data Protection Policy
 - Freedom of Information Policy
 - Records Management Policy.

2. Definitions

- 2.1. In line with the Data Protection Act 2018 the following definitions for the college roles are:
- 2.2. SIRO – Senior Information Risk Owner
- 2.3. SPOC – Single Point of Contact
- 2.4. DPO – Data Protection Officer (Veritau).

3. Roles and Responsibilities

- 3.1. The governing board is responsible for:
 - Ensuring the college respects the rights of individuals to obtain copies of their personal information.
 - Ensuring the college obtains legal advice as required when handling SARs.
- 3.2. The headteacher is responsible for:
 - Ensuring all staff understand how to recognise a SAR
 - Ensuring relevant staff receive detailed training on handling SARs in line with their job responsibilities
 - Ensuring the wellbeing of students is always taken into account when handling SARs.
- 3.3. The Senior Teacher (Achievement and Standards) (SIRO) is responsible for:

- Informing and advising the college and its employees about their obligations to comply with the GDPR and the DPA 2018 in relation to SAR's by the college
 - Monitoring the college's compliance with the GDPR and the DPA 2018 in regard to processing of SAR's.
- 3.4. The Compliance Officer (SPOC) is responsible for:
- Overseeing the management of all SARs received by the college
 - Ensuring all relevant staff understand their roles and responsibilities in relation to complying with SARs
 - Identifying which staff members should receive specific training on SARs.
- 3.5. The Admin Team Leader is responsible for:
- Receiving initial communications and / or correspondence on SAR's
 - Informing the Compliance Officer (SPOC) of the SAR request and providing administrative support to the resolution of the request
 - Organising the administration, compilation and correlation of data required to satisfy the SAR
 - Administration of the transmission or delivery of the SAR to the requestor.
- 3.6. The DSL will be responsible for:
- Advising the SPOC as necessary on possible safeguarding concerns when handling SARs
- 3.7. All staff will be responsible for:
- Identifying SARs and understanding the next steps
 - Making entries on the SAR Log as appropriate
 - Following instructions and advice from the SPOC on how to handle SARs.

4. Handling requests

- 4.1. Anyone whose personal data is controlled by the college can submit a SAR, including students, parents, staff, volunteers and governors. Where a request is made for data for which the college is a processor but not a controller, it will inform the requester and refer them to the controller.
- 4.2. The college will treat any request where it is clear that an individual is asking for their own personal data, and which is outside of the college's normal course of business, as a SAR. The SPOC will determine whether enquiries that are not formal requests for information should be processed as a SAR on a case-by-case basis.
- 4.3. The college may receive requests for personal data which refer to the Freedom of Information Act 2000 in error – these will still be processed as SARs. Legitimate freedom of information requests will be handled in line with the college Freedom of Information Policy.

- 4.4. All office staff, and any other staff identified by the SIRO, will receive specific training on how to identify a SAR and the next steps to take. All SARs will be forwarded to the SPOC, upon receipt, for oversight. The college will treat all SARs the same regardless of how they are received, e.g., in writing, verbally or through social media.
- 4.5. The SAR will be acknowledged as soon as possible to the requester, with a timeframe set out for the response. Requests will be responded to within one calendar month from the date received, e.g., a request on 1 January will have a deadline of 1 February. Where there is no corresponding calendar date, the date for response is the last day of the following month, e.g., a request on 31 August will have a deadline of 30 September. Where the corresponding date falls on a weekend or public holiday, the deadline will be the next working day.

Identity verification

- 4.6. To avoid personal data being sent to someone who does not have a right to access it, the college administration will ensure it is satisfied that the identity of the requester or the person the request is made on behalf of is known. Requests for identity verification will be made promptly. The deadline for responding will begin only after the requester's identity has been verified against college records by the administration staff.
- 4.7. Alternatives to requesting formal identification will be considered, and formal identification will only be requested to verify a requester's identity where necessary, e.g., who they are is not obvious to the college, or there is the possibility of deception. The SPOC will determine what information the college requires to verify an individual's identity and explain to them what they need to provide.

Requests by a pupil

- 4.8. Where a request is from a student the college will consider the extent to which the student is mature enough to understand their rights. Typically, a student will be presumed to possess sufficient maturity from the age of thirteen, but the college will decide on a case-by-case basis.

Where the college is confident the student understands their rights, it will respond directly to the student. If not, the student will be informed that they will need to ask their parents or carers to make a request on their behalf.

Complex requests

- 4.9. Where a request is deemed to be complex, the response deadline will be extended by an extra two calendar months. The individual will be notified within one month of receiving their request of the decision, with a clear explanation of why it has been deemed complex.
- 4.10. In deciding whether a request is complex, the SPOC will consider the college's circumstances and the specifics of the requests. Examples of where a request may be complex include, but are not limited to, the following:
- Technical difficulties in retrieving the information, e.g., it is electronically archived
 - Applying an exemption that involves large volumes of particularly sensitive information
 - Clarifying potential issues around disclosing information about a student to a legal guardian
 - Any specialist work involved in obtaining the information or communicating it in an intelligible form
 - Clarifying potential confidentiality issues around the disclosure of sensitive medical information to an authorised third party
 - Specialist legal advice is required
 - Searching large volumes of unstructured manual records.
- 4.11. Requests involving a large volume of information will be considered a factor that can add to the complexity of a request, but a request will not be deemed complex solely on this basis.

Third party requests

- 4.12. The college will ensure the third party is entitled to act on behalf of the individual, e.g., by requesting a written authority signed by the individual confirming they give the third-party permission to act on their behalf.

Where there is insufficient evidence to satisfy the college that the third party is authorised to act on the individual's behalf, the SAR will not be complied with. A response will be provided to the requester to explain this.

Where the college believes an individual may not understand the nature of the information being disclosed and is concerned about disclosing excessive information, the college will contact the individual to make them aware and may agree to send the response directly to the individual rather than the third party.

Simultaneous requests

- 4.13. Where an individual makes a number of other requests relating to other rights, e.g., the right to erasure and the right to data portability, each request will be managed separately. The deadline for the SAR will be extended by two months; the individual will be notified with an explanation as soon as possible, and within one month at the latest.

5. Requests on behalf of a student

- 5.1. Where a parent makes a request to see what the data the college holds about their child, the college will first check if:
- The requester has parental responsibility
 - The student is aged 13 or older and has given their consent for a parent or carer to act on their behalf
 - Releasing the information to an absent parent or carer would cause the student distress or result in safeguarding concerns.
- 5.2. The college will allow parents to exercise their child's rights on their behalf where authorisation is provided, or it is evident that this is in the child's best interests. The college will consider the following when a parent, or someone else authorised by the student, makes a SAR on the pupil's behalf:
- Any court orders relating to parental access or responsibility that may apply
 - The duty of confidence owed to the student
 - Any consequences of allowing those with parental responsibility, or those authorised to act on their behalf, access to the student's information
 - Any detriment to the student if individuals with parental responsibility, or their authorised representatives, cannot access this information
 - Any views the student has on whether others should have access to information about them.
- 5.3. The DSL will be consulted if there is information of a sensitive nature that it may not be in the best interests of the student to be shared. The college will not provide a student's personal data, including their educational record, to a parent or carer if there is a court order in place that limits the exercise of their parental responsibility.
- 5.4. Where a student authorises someone other than a parent or carer to make a SAR on their behalf, the college will not respond if there are reasonable concerns that the student is acting against their own best interests, e.g., they are being pressured to make the SAR. Such concerns will be reported to the DSL immediately.

- 5.5. Requests by a parent or carer to view their child's educational record are separate to a SAR and will be handled in line with The Education (Pupil Information) (England) Regulations 2005.

6. Seeking clarification

- 6.1. Where it is not fully clear what personal data the individual wants, the college will ask for clarification as soon as possible, with an explanation, to specify the information or processing activities the request relates to before responding.

Clarification will not be required in usual circumstances and will be limited to requests where it is genuinely required in order to respond and where the college processes a large amount of information about the individual.

- 6.2. The deadline for responding to the request will be paused until clarification is received, and the requester will be made aware of this. Once the requester responds, the deadline will resume with an extension by the number of days taken for a response.

Where the college receives a request that is genuinely unclear whether an individual is making a SAR, the time limit to respond will apply from the date that clarification is received.

- 6.3. Where the requester responds repeating the original request or declines to provide any additional information, the SAR will be complied with by making reasonable searches for the information.

7. Charges

- 7.1. Requesters will not typically be charged for the college's compliance with a SAR. The college may, however, decide to charge a reasonable fee for administrative costs where:

- A request is manifestly unfounded or excessive
- An individual requests further copies of their data following a request.

In determining a reasonable fee, the administrative costs will be considered for:

- Assessing whether the college processes the information
- Locating, retrieving and extracting the information
- Providing a copy of the information, e.g., photocopying, printing and postage costs
- Communicating the response to the individual, including contacting the individual to inform them that the college holds the requested information
- Staff time in performing all of the above.

The costs of staff time will be based on the estimated time it will take staff to comply with the specific request, charged at a reasonable hourly rate.

Requests for a fee will be sent as soon as possible, and within one calendar month of receiving the SAR. When requesting a fee, the costs will be explained to the individual, including a copy of the criteria used to determine it. The individual will be notified if the college intends to charge, even if the information is not being provided.

Where a charge is determined, the SAR will not be complied with until it is paid. Where no response is received within one month, the SPOC will decide if it is appropriate to close the request on a case-by-case basis.

8. Finding and sending information

Finding information

8.1. The college will make reasonable efforts to find and retrieve the information requested. Searches will not be conducted that are unreasonable or disproportionate to the importance of providing access to the information. To determine this, the following will be considered:

- The circumstances of the request
- Any difficulties involved in finding the information, e.g., if technical expertise is required
- The fundamental nature of the right of access.

If certain information is determined to be unreasonable or disproportionate, the college will still search for any other information within the scope of the SAR. The SPOC will consult with the DPO who will have regard to guidance from the ICO on finding and retrieving information to ensure adherence to UK GDPR for all SARs.

8.2. Routine management and changes as part of the college's processing activities will be allowed to proceed as normal for personal data in line with the Data Protection Policy and Records Management Policy; however, the SPOC will ensure that all staff understand that data must not be amended or deleted with the intention of preventing its disclosure under a SAR.

Sending information

8.3. Individuals will receive the following information:

- Confirmation that the college is processing their personal data
- A copy of their personal data
- Other supplementary information.

8.4. In addition to the above, the information below will be supplied:

- The college's purposes for processing
- Categories of personal data being processed
- Recipients or categories of recipient the college has or will be disclosing the personal data to
- The retention period for storing the personal data or, where this is not possible, the criteria for determining how long it will be stored
- The individual's right to request rectification, erasure or restriction or to object to processing
- The individual's right to lodge a complaint with the ICO
- Information about the source of the data, if the college did not obtain it directly from the individual
- Whether or not the college uses automated decision-making, including profiling, and information about the logic involved, as well as the significance and envisaged consequences of the processing for the individual

- The safeguards provided where personal data has or will be transferred to a third country or international organisation.
- 8.5. If the information above is provided in the college's privacy notice, a link to or a copy of the notice may be provided instead.
- 8.6. Prior to sending any personal data, information will be thoroughly checked to see if anything should be redacted, e.g., references to other individuals. The destination, e.g., email or postal address, will be checked to ensure it is correct. The SPOC will work with the college administration to ensure information is sent securely, with consideration given to the nature and sensitivity of the data.
- 8.7. Information provided will be explained, where necessary, to ensure it is easily understandable, e.g., clarifying the meaning of an attendance code.
- 8.8. Where a SAR is made verbally or through social media, the college will ask for an appropriate delivery address for the response. The college will respond to all SARs in a commonly used electronic format unless the requester asks for it to be provided in another commonly used format. Information will typically be provided via copies of relevant sections of original documents.
- 8.9. Where the response is requested to be verbal, the college will accept, provided the individual's identity is confirmed and only a small amount of information is requested. A record will be kept of the date, who provided the information, and what was shared.
- Reasonable adjustments will be made to the format of the response, as required, to facilitate and comply with SARs made by an individual with a disability, in line with their specific needs.
- 8.10. Where the college has concerns, e.g., about security, over the method the individual has requested their information, the SPOC will contact them as soon as possible to explain the college's concerns and ask for an alternative address or method.

9. Exemptions and refusing requests

- 9.1. SARs will be refused wholly or in part where:
- An exemption applies
 - It is manifestly unfounded or manifestly excessive
 - Complying would cause serious harm to the physical or mental health of any individual, provided the college has obtained an opinion within the last six months from an appropriate health professional that the serious harm test is met.
- 9.2. All SARs will be considered on a case-by-case basis and in the context in which it is made before a decision is made to refuse to it. Where an individual genuinely wants to exercise their right to access, the college will not refuse the SAR without strong justification.
- 9.3. Following a refusal, the college will inform the individual of:
- The reasons why

- Their right to make a complaint to the ICO
 - Their ability to seek to enforce their right through the courts.
- 9.4. The college will be as transparent as possible on the reasons for withholding information; however, where telling an individual that a particular exemption applies would prejudice the purpose of that exemption, the response will be generalised.
- 9.5. A record of when and why a decision was made to refuse a SAR, in whole or in part, will be maintained on the SAR Log.

Manifestly excessive requests

- 9.6. The college will refuse to comply with a SAR wholly or partly where it is determined to be manifestly excessive, i.e., it is clearly or obviously unreasonable. The SPOC will consider whether the request is proportionate when balanced with the burden or costs involved in dealing with it, and consider the following circumstances:
- The nature of the requested information
 - The context of the request, and the relationship between the college and the individual
 - Whether a refusal to provide the information, or even acknowledge if the college holds it, may cause substantive damage to the individual
 - The college's available resources
 - Whether the request largely repeats previous requests and a reasonable interval has not elapsed
 - Whether it overlaps with other requests.

Information about other individuals

- 9.7. Where the information requested would mean disclosing information that identifies another individual, the SAR will be refused wholly or partly unless:
- The other individual consents to the disclosure
 - It is reasonable to comply with the request without the other individual's consent.
- 9.8. The SPOC will determine on a case-by-case basis whether it is reasonable to comply without the other individual's consent.

9.9. Considerations will include:

- Information the person making the request may have, or may get hold of, that could enable them to identify another individual referred to
- Whether names can be deleted, or documents edited, so that information on another individual is not included, while still complying with the request
- The type of information that would be disclosed, e.g., if it is of a sensitive nature, if it is already known or generally available to the public
- Any duty of confidentiality owed to the other individual
- Any steps taken to try to get the other individual's consent
- Whether the other individual is capable of giving consent
- Any stated refusal of consent by the other individual.

9.10. All staff will be made aware that, under the Data Protection Act 2018, if an individual requests information that is also the personal data of an education worker, it is reasonable for the college to disclose information about them without their consent, provided the worker is:

- An employee of an LA that maintains a college
- A teacher or other employee at a voluntary-aided, foundation or foundation special college, an academy college, alternative-provision academy, independent college or non-maintained special college.

Education data

9.11. Education data is personal data which consists of information that forms parts of a pupil's educational record and is not data concerning health. Most of the personal information held by the college about a particular student will typically be considered to form part of the student's educational record, including a statement of SEN. Information that teaching staff keep solely for their own professional use will not form part of a student's educational record.

Child abuse data

9.12. Child abuse data is personal data consisting of information about whether the data subject is, or has been, the subject of, or may be at risk of, child abuse. This includes physical injury to, and physical and emotional neglect, ill-treatment and sexual abuse of, an individual aged under 18. The college is exempt from providing child abuse data in response to a SAR from someone:

- With parental responsibility for an individual aged under 18
- Appointed by a court to manage the affairs of an individual who is incapable of managing their own affairs

The exemption will only apply to the extent that complying with the request would not be in the best interests of the student.

Health data

9.13. Health data will not be disclosed in response to a SAR, unless:

- Within the last six months the college has obtained an opinion from the appropriate health professional that the serious harm test for health data is not met; the appropriate health professional will also be reconsulted if it would be reasonable given the circumstances
- The college is satisfied that the individual it is about has already seen, or knows about, the health data.

Exam scripts and exam marks

9.14 Students do not have the right to copies of their answers to exam questions but can access the information recorded by the person marking the exam.

Where a student makes a SAR for this information before the results are announced, special rules will apply for how long the college has to comply with the request. The information will be provided within five months of receiving the request, or 40 days of the exam results being announced if this is earlier.

10. Record keeping

10.1. All requests will be recorded on the college's SAR Log upon being received and updated as appropriate. Each entry will document:

- The date the SAR was received
- The data subject's name and address
- The name of the requester, if made on another individual's behalf
- The type of personal data requested
- The deadline for responding
- Whether a charge will be made for the response
- The reason why a request has been refused, where applicable.

11. Monitoring and review

This policy will be reviewed every two years by the SIRO & SPOC and the headteacher. The next scheduled review date for this policy is December 2025.