The Data Protection Act 1998 and Requests for Personal Information from Third Parties

Guidance for Staff Working with Student Information

Introduction
The University often receives requests for the personal information (personal data) of its students from third parties. This guidance is intended to provide advice to staff on how such requests should be handled to ensure compliance with the Data Protection Act 1998.

The University tells students how their information will be used, and in what circumstances and to whom it may be disclosed, through the Data Protection Statement which they agree to at enrolment (http://www.rec-man.stir.ac.uk/data-protection/info-staff.php). The University should not process their personal information in any other way without explicit consent.

As a general rule, you should never disclose personal data to anyone other than an employee of the University with a legitimate work interest in the information, without consent.

HOW TO HANDLE COMMON TYPES OF THIRD PARTY REQUEST

Requests for references or confirming qualifications

Advise the requestor that we require explicit consent from the student before we can release information (be careful not to confirm whether or not the student is or was attending the University in your response).

Form of consent
- The consent must be in writing (fax or letter) and include the signature of the individual as well as sufficient information (full name, address, date of birth, dates and subjects of study) to allow us to identify them, and be satisfied as to their identity.
- For a current student, a message from their University of Stirling email account will be sufficient evidence of identity.

In instances where the 3rd party seeking information suspects an individual has falsely claimed to have a qualification from Stirling, refer to the Data Protection Officer (DPO)/Records Management Office for advice.

Requests from parents, friends or relatives

No release without explicit consent of the student.

It is acceptable to advise them that we will accept a message and, if having checked our records and such a person exists, will pass it on. This avoids disclosing any information about the student, including whether or not they are at the University.

Requests from organisations providing financial support

The University routinely notifies public funding bodies and the Student Loans Company of changes to a student’s status. These disclosures are covered in our notification to the Information Commissioner and through the Data Protection Statement for students (which refers to the statement that the University will disclose to relevant fee paying authorities contained within the Data Protection Guide).
Current bodies disclosed to are the SLC, SAAS, Research Councils, LEAs in England & Wales and the Northern Ireland Education and Library Boards.

Information should not be disclosed to bodies other than these (e.g private funders) without evidence of student consent.

**Requests from Home Office/Immigration and Nationality Directorate/UK Visas**

The University often receives requests for information on attendance and other details relating to international students. Currently the University is under no legal obligation to provide this information, although this situation may change shortly. Currently, we can only do so if persuaded that we are legally able without contravening the DPA.

Do not release information in response to such requests. Refer the matter to the Data Protection Officer/RM Office for advice.

**Requests from law enforcement officials**

The University is not legally obliged to provide information to the police, unless presented with a court order. However, the University may choose to release information under the Act’s Section 29 exemption where the police, or other law enforcement agencies, can demonstrate to our satisfaction that non-release would be likely to prejudice the prevention/detection of crime or apprehension/prosecution of offenders.

The University will aim to support police investigations where possible. However, the University is obliged to manage personal information in accordance with the DPA.

Requests from the police should:
- be in writing
- refer to the relevant part of the DPA (normally Section 29(3))
- be signed and counter signed, the latter by a senior officer
- be for specific information about a specific individual. While this may not always be the case, the information requested should be relevant and limited.
- state that the personal data requested are required for the stated purposes and that failure to provide the information will, in their opinion, be likely to prejudice the investigation.

All such requests should be referred to the Data Protection Officer/RM Office for advice.

**Disclosures required by law**

There are circumstances where the University is legally obliged to disclose information about an individual to a third party if this is required by law, enactment or court order. Such disclosures are made in accordance with section 35(1) of the Act.

With such requests, we must ensure that any legal obligation (details of legislation and relevant section) is correctly described by the requestor in writing.

All such requests should be referred to the Data Protection Officer/RM Office for advice and validation.
**Information provided for Council Tax purposes**

The University routinely provides the local Councils with details of current students for Council Tax exemption purposes. Students living outwith such council areas may ask for certification for this purpose and we are legally obliged to provide them with this.

Occasionally, students object to this processing and request that we do not pass their details to the Council. They are entitled to do so under the Act, but only where they can show that doing this would cause them “substantial damage or substantial distress”.

Refer any objections to processing to the DPO/RM Office for advice.

**Information about deceased students**

The DPA only applies to living individuals, thus a deceased student's personal information is potentially disclosable under the Freedom of Information (Scotland) Act 2002 (FoISA). However, in doing so we must be sure that the individual whose information is sought is in fact deceased and that disclosure does not infringe the DP rights of any third parties (e.g. parents).

No information should be released unless sufficient evidence of death is provided. Such evidence may include:
- Student already recorded as deceased on records system
- Notification of death in writing by next of kin
- Obituary or confirmed newspaper report of death (but not if there are insufficient details to conclusively identify the student on our system)
- Death certificate.

Details of relatives of a deceased student should not be disclosed.

Consideration should be given to the sensitivities of the deceased student's family where a request for disclosure is sought in the immediate aftermath of a death (e.g. by the media). Advice should be sought from senior management in such cases.

If it appears that the information may fall within the scope of one of the exemptions under the FoISA, please refer to the RM Office for advice.

**Other requests**

This guidance is not exhaustive and other types of 3rd party request will inevitably arise which are not covered.

In such cases, please refer to the DPO/RM Office for advice.

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