

# Data Subject Access Policy

## Blackrock College



May 2019

Under Article 15 of the EU General Data Protection Regulation (GDPR) 2016/679 the data subject has the right to obtain from the Data Controller confirmation as to whether or not personal data concerning him or her are being processed, and, where that is the case, access to the personal data and the following information:

1. the purposes of the processing;
2. the categories of personal data concerned;
3. the recipients or categories of recipient to whom the personal data have been or will be disclosed, in particular recipients in third countries or international organisations;
4. where possible, the envisaged period for which the personal data will be stored, or, if not possible, the criteria used to determine that period;
5. the existence of the right to request from the controller rectification or erasure of personal data or restriction of processing of personal data concerning the data subject or to object to such processing;
6. the right to lodge a complaint with a supervisory authority;
7. where the personal data are not collected from the data subject, any available information as to their source;
8. the existence of automated decision-making, including profiling, referred to in Article 22(1) and (4) and, at least in those cases, meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject

The following procedure is provided to ensure compliance with Blackrock College ("the College") obligations under the GDPR and governs the manner in which requests for access to personal data will be managed by the Blackrock College.

A data subject would be required to familiarise themselves with the procedure and to complete the **Data Access Request Form** which will assist the College in processing the access request where personal information (or in the case of a parent/guardian making an access request on behalf of a student, personal information in relation to their child) as a data subject is processed and retained by Blackrock College.

It is important to note that only personal information relating to the individual (or in the case of a parent/guardian making an access request on behalf of a student, only personal information in relation to his/her/their child) will be supplied. No information will be supplied that relates to another individual.

## 1. Important note to students making access requests

The right of access under Article 15 of the EU GDPR is the right of the data subject.

If the data contains health data and disclosure would be likely to cause serious harm to the physical or mental health of the individual concerned, the College is obliged to withhold the data until they have consulted with the data subject's medical practitioner and (in the case of a student under 18 or a student with special educational needs whose disability or medical condition would impair his or her ability to understand the information), parental/guardian consent should also be sought.

Each student request for Access to Personal Data will be assessed individually.

## 2. Important note to parents making access requests on behalf of their child

Where a parent/guardian makes an access request on behalf of their child (a student aged under 18 years), the right of access is a right of the data subject (i.e. it is the student's right). In such a case, the access materials will be sent to the child, not to the parent who requested them. This means that the access request documentation will be sent to the address at which the child is registered on the College's records and will be addressed to the child. The documentation will not be sent to or addressed to the parent/guardian who made the request.

## 3. Individuals making an access request

On making an access request, any individual (subject to the restrictions in Notes A and B below) about whom the College keeps *Personal Data*, is entitled to:

- a copy of the data which is kept about him/her (unless one of the exemptions or prohibitions under GDPR apply, in which case the individual will be notified of this and informed of their right to make a complaint to the Data Protection Commissioner)
- know the purpose/s for processing his/her data
- know the identity (or the categories) of those to whom the data is disclosed
- know the source of the data, unless it is contrary to public interest
- where the processing is by automated means (e.g. credit scoring in financial institutions where a computer program makes the "decision" as to whether a loan should be made to an individual based on his/her credit rating) know the logic involved in automated decisions.

## 4. Data access requirements

**Apply in writing** requesting access to your data under Article 15 of GDPR or, alternatively, request an Access Request Form which will greatly assist the College in processing your access request more quickly. Correspondence should be addressed to the Principal of Blackrock College.

1. You will be provided with a form which will assist the College in locating all relevant information that is held subject to the exceptions and prohibitions outlined in **Appendix A**. The school reserves the **right to request official proof of identity** (e.g. photographic identification such as a passport or driver's licence) where there is any doubt on the issue of identification.
2. On receipt of the access request form, the Data Protection Co-ordinator will check the validity of your access request and to check that sufficient information to locate the data requested has been supplied (particularly if CCTV footage/images are to be searched). Data Protection Co-ordinator in Blackrock College is the Principal.

It may be necessary for the Data Protection Co-ordinator to contact you in the event that further details are required with a view to processing your access request.



3. The Data Protection Co-ordinator will log the date of receipt of the valid request and keep a note of all steps taken to locate and collate the requested data.
4. The Data Protection Co-ordinator will ensure that all relevant manual files (held within a “relevant filing system”) and computers are checked for the data in respect of which the access request is made.

In the normal course of events, the College is obliged to respond to your access request **within one month of receiving the request**. In certain limited circumstances, the one month period may be extended by two months (taking into account the complexity of the request and the number of requests). Where the College is extending the period for replying to your request, it must inform you of any extension, and the reason(s) for the delay in responding, within one month of receiving the request.

There is **no fee payable** by you to make an access request - the College will deal with your request for free. However, where the College believes a request is manifestly unfounded or excessive (for example where an individual makes repeated unnecessary access requests), the College may either charge a fee taking into account its administrative costs in dealing with the request(s), or refuse to act on the request(s).

No personal data can be supplied relating to another individual unless that third party has consented to the disclosure of their data to the applicant. Data will be carefully redacted to omit references to any other individual and only where it has not been possible to redact the data to ensure that the third party is not identifiable would the College refuse to furnish the data to the applicant.

The individual is entitled to a copy of all personal data, i.e.:

- A copy of the data which is kept about him/her (unless one of the exemptions or prohibitions under GDPR applies, in which case the individual will be notified of this and informed of their right to make a complaint to the Data Protection Commissioner)
  - Be advised of the purpose/s for processing his/her data
  - Be advised of the identity (or the categories) of those to whom the data is disclosed
  - Be advised of the source of the data, unless it is contrary to public interest
  - where the processing is by automated means (e.g. credit scoring in financial institutions where a computer program makes the “decision” as to whether a loan should be made to an individual based on his/her credit rating), know the logic involved in automated decisions.
5. Before supplying the information requested to you as data subject (or where the access request is made on behalf of a student aged under 18 years, information relating to the student), the co-ordinator will check each item of data to establish:
    - If any of the exemptions or restrictions set out under the GDPR apply, which would result in that item of data not being released, or
    - where the data is “health data”, whether the obligation to consult with the data subject’s medical practitioner applies, or
    - where the data is “social work data”, whether the prohibition on release applies.
  6. If data relating to a third party is involved, it will not be disclosed without the consent of that third party or alternatively the data will be anonymised in order to conceal the identity of the third party. Where it is not possible to anonymise the data to ensure that the third party is not identified, then that item of data may not be released.

7. **Where a school may be unsure as to what information to disclose, the school reserves the right to seek legal advice.**
8. The Co-ordinator will ensure that the information is provided in an intelligible form (e.g. codes explained) or will provide an explanation.
9. Number the document supplied.
10. **Have the response “signed-off” by the Principal.**
11. The College will respond to your access request within the advised timeframes contingent on the type of request made.
12. Where a subsequent or similar access request is made after the first request has been complied with, the College has discretion as to what constitutes a reasonable interval between access requests and this will be assessed on a case-by case basis.
13. Where you as an individual data subject may seek to rectify incorrect information maintained by the College, please notify the College and a form will be supplied to you for this purpose. You should however note that the right to rectify or delete personal data is not absolute. You have the right to make a complaint to the Data Protection Commissioner about a refusal.
14. In circumstances where your access request is refused, *Blackrock College* will write to you explaining the reasons for the refusal. In such circumstances, you have the right to make a complaint to the Office of the Data Protection Commissioner [www.dataprotection.ie](http://www.dataprotection.ie).
15. **Where requests are made for CCTV footage**, an application must be made in writing and the timeframe for response is **within one month**. All necessary information such as the date, time and location of the recording should be given to the College to assist the College in dealing with your request. Where the image is of such poor quality as not to clearly identify an individual, that image may not be considered to be personal data. In providing a copy of personal data, the College may provide the materials in the form of a still/series of still pictures or digital recordings with relevant images. Other people's images will be obscured before the data is released. If other people's images cannot be obscured, then the images/recordings may not be released.  
There are a number of exceptions to the general rule of right of access, including those specified in **Appendix A**.

**This procedure is regularly reviewed in line with Blackrock College commitment to its responsibilities under data GDPR.**



**Exceptions to note:**

Data protection regulations **prohibit** the supply of:

- **Health data** to **an individual** in response to a request for access if that would be likely to cause serious harm to his or her physical or mental health. This is to protect the individual from hearing anything about himself or herself which would be likely to cause serious harm to their physical or mental health or emotional well-being. In the case of health data, the information can only be released after the College has consulted with the appropriate health professional (usually the data subject's GP).
- *Personal Data* obtained in the course of carrying on social work ("**social work data**") (personal data kept for or obtained in the course of carrying out social work by a Government department, local authority, the HSE etc.) is also restricted in some circumstances if that would be likely to cause serious harm to the health or emotional condition of the data subject concerned. In the case of social work data, the information cannot be supplied at all if the College believes it would be likely to cause serious harm to the physical or mental health or emotional condition of the data subject. If the social work data includes information supplied to the College by an individual (other than one of the College employees or agents) while carrying out social work, the College is not permitted to supply that information to the data subject without first consulting that individual who supplied the information.

**Exemptions from a Data Subject Access Request**

Under Article 23 of the EU General Data Protection Regulation (GDPR) 2016/679 the Union or the Member State law to which the data controller or processor is subject may restrict by way of a legislative measure the scope of the obligations and rights provided for in Articles 12 to 22 and Article 34, as well as Article 5 in so far as its provisions correspond to the rights and obligations provided for in Articles 12 to 22, when such a restriction respects the essence of the fundamental rights and freedoms and is a necessary and proportionate measure in a democratic society to safeguard:

1. national security;
2. defence;
3. public security;
4. the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security;
5. other important objectives of general public interest of the Union or of a Member State, in particular an important economic or financial interest of the Union or of a Member State, including monetary, budgetary and taxation matters, public health and social security;
6. the protection of judicial independence and judicial proceedings;
7. the prevention, investigation, detection and prosecution of breaches of ethics for regulated professions;
8. a monitoring, inspection or regulatory function connected, even occasionally, to the exercise of official authority in the cases referred to in points (a) to (e) and (g);
9. the protection of the data subject or the rights and freedoms of others;
10. the enforcement of civil law claims

The following data is **exempt** from a data access request:

1. The right of access does not apply in a number of cases in order to strike a balance between the rights of the individual, on the one hand, and some important needs of civil society on the other hand. Examples would include the need for state agencies (like An Garda Síochána) to **investigate crime** effectively and the need to protect the international relations of the State.

2. **Estimates of liability:** where the personal data consists of or is kept for the purpose of estimating the amount of the liability of the College on foot of a claim for damages or compensation and where releasing the estimate would be likely to prejudice the interests of the College in relation to the claim, the data may be withheld.
3. **Legally privileged information:** the general rule is that all documentation prepared in contemplation of litigation is legally privileged. So correspondence between the College and their solicitors in relation to a case against the College should not be disclosed to the claimant pursuant to a data access request.
4. The right of access does not include a right to see **personal data about another individual**, without that other person's consent. This is necessary to protect the privacy rights of the other person. If it is reasonable for the College to conclude that redacting or omitting the particulars identifying the third party would both conceal the identity of the third party and enable the data to be disclosed (subject to the redactions), then the data could be disclosed with such redactions. However, if it is not possible to redact or omit the particulars which identify a third party, then the affected data should not be released to the applicant.
5. The obligation to comply with an access request does not apply where it is impossible for the College to provide the data or where it involves a disproportionate effort.
6. Other types of exempt data may also include:
  - Education, Health, Social Work record
  - Examination marks and scripts
  - Safeguarding records
  - Special educational needs
  - Parental records and reports
  - Legal advice and proceedings
  - Adoption and Court records and/or reports
  - Regulatory activity and official statistical information
  - National security, Crime and taxation
  - Journalism, literature and art
  - Research history, and statistics
  - Confidential references

Where the College refuses to hand over some or all of the personal data they hold in relation to a data subject (on the basis of any of the exemptions or prohibitions set out above), the College must advise the data subject of this in writing, setting out reasons for the refusal and notifying the data subject that he or she has the right to complain to the Office of the Data Protection Commissioner about the refusal.

Office of the Data Protection Commissioner at: <https://www.dataprotection.ie/>

#### **Postal Address**

Data Protection Commissioner  
21 Fitzwilliam Square South  
Dublin 2  
D02 RD28  
Ireland

Data Subject Access Policy: May 2019

This policy has been ratified by the Board of Management on 20.08.19.

Signed:



Chairperson, Board of Management

Signed:



Secretary, Board of Management