

United Learning – Group Rights of the Data Subject Policy

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Name of Originator/Author (including job title):	Alison Hussain, Company Secretary and Data Protection Officer
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1. Scope

- 1.1 The policy set out in this document applies to all United Church Schools Trust (UCST) and United Learning Trust (ULT) schools and offices. The two companies (UCST and ULT) and its subsidiaries are referred to in this policy by their trading name, 'United Learning'.
- 1.2 Where this policy refers to 'School' or 'Head Teacher', within Central Office this should be interpreted to refer to the department where a member of staff works and their Head of Department.
- 1.3 As a values-led organisation our values of ambition, confidence, creativity, respect, enthusiasm and determination are key to our purpose and underpin all that we do.

2. Interpretation

- 2.1 The following definitions apply to this Policy:
- "Data Subject" means the individual to whom the personal data relates.
 - "Personal data" means any information relating to an identified or identifiable natural person ("data subject");
 - an "identifiable person" is one who can be identified, directly or indirectly, in particular by reference to **an identifier** such as a name, an identification number, **location data**, online identifier or to one or more factors specific to the physical, physiological, **genetic**, mental, economic, cultural or social identity of that person.
 - "Processing" means any operation or set of operations performed upon personal data or sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

3. Policy Statement

- 3.1 Under the General Data Protection Regulation data subjects have the following rights:
- Right to receive transparent information
 - Right of access by the data subject
 - Right to rectification
 - Right to erasure
 - Right to restriction of processing
 - Right to data portability
- 3.2 United Learning will facilitate the exercise of these data subject rights by putting in place appropriate procedures and staff training to ensure that any such requests are dealt with free of charge and within one month of receipt unless the request is manifestly unfounded or excessive.



Procedure

4. Responsibility

- 4.1 The Group Data Protection Officer is responsible for ensuring that appropriate procedures and training are in place to ensure compliance with this policy statement and the law.
- 4.2 The schools' Data Protection Lead is responsible for implementing the policies and procedures at school level and must ensure that all staff receive training regarding these policies.

5. Training

- 5.1 All staff who may receive communications from parents/pupils/the general public will be trained to recognise such requests and to know who within their school/office they should be passed to.

6. Identity

- 6.1 Upon receipt of a request the individual responsible for the response must take reasonable steps to establish the identity of the requestor. What constitutes reasonable steps will depend on the circumstances and how well known the individual is to the school. The school must ensure that personal data is only discussed with or released to someone who is entitled to receive the information.
- 6.2 The rights referred to in this procedure are the data subject's rights. An individual with parental responsibility may exercise their child's rights on their behalf if the child is not yet capable of understanding their rights themselves. A general rule of thumb is that a child is deemed capable of exercising their rights at the age of 12. However, this is dependent on each individual so the school will have to make a judgement in each case. If the school deems the pupil to be capable of exercising their own rights pupil's consent must be obtained before the requested information is released to the parent.

7. Clarification

- 7.1 If the school holds a large amount of information regarding the data subject you may ask him/her to specify which information the request relates to.

8. Response deadline

- 8.1 All requests should be responded to within one month. Requests should be responded to by electronic means unless otherwise requested by the data subject. When providing the data subject with their personal data the procedure for the secure transfer of personal data must be followed.
- 8.2 In the case of complex requests the UK GDPR allows us to extend the response deadline by two months. Any decision to extend the response deadline must be approved by the Group Data Protection Officer prior to communicating this to the data subject.

9. Refusing a request

Where a school considers a request from a data subject to be manifestly unfounded or excessive the request must be referred to the Group Data Protection Officer, who will decide whether the school should:

- charge a fee, based on the administrative cost, for taking the action requested OR
- refuse to act on the request.

10. Relevant Policies and Procedures

10.1 Colleagues dealing with a request under this procedure should also refer to:

- Group Data Sharing policy
- Subject Access Request procedure
- Third party request for personal data procedure
- Handling disclosures safely
- Application of exemptions policy
- Procedure for transferring data securely



Guidance on the Rights of the Data Subject

11. Rights of the Data Subject

11.1 The GDPR confers the following rights on individuals:

- Right to receive transparent information
- Right of access by the data subject
- Right to rectification
- Right to erasure
- Right to restriction of processing
- Right to data portability

11.2 This document will give a brief description of each right ...

12. Right to receive transparent information

12.1 The information that individuals have a right to receive is set out in the Group's privacy notices policy.

13. Right of access by the data subject

13.1 Individuals have a right to a copy of the personal data that we hold about them. Please refer to the subject access request policy for further information.

14. Confirming identity

14.1 It is imperative that personal data is only released to an individual who is entitled to it. The GDPR requires us to take reasonable steps to confirm identity. What is reasonable depends on the circumstances and we must not introduce additional barriers to making a request unless necessary. For example it would not be reasonable to require a current member of staff to produce a passport and utility bill when they make a subject access request (SAR). However, if a former member of staff makes a SAR via email and their address does not match our records it would be reasonable to verify identity by asking for a copy of photo ID and a utility bill prior to responding to the request.

15. Parent requests for information – when to ask a pupil for consent

15.1 Parents of children in independent or academy schools do not have a right to a copy of their child's educational record. Any such request must be dealt with as a subject access request under the UK GDPR and associated legislation. Parents making such a request will often cite the Education (Pupil Information) (England) Regulations 2005 but these only apply to maintained schools.

15.2 Requirements on academies are derived from Part 6 of the Schedule to the Education (Independent School Standards) Regulations 2014. Under Part 6, academies must provide an annual written report of each registered pupil's progress and attainment in the main subject areas taught, to the parents of that registered pupil (except that no report need be provided where the parent has agreed otherwise). There are no other legal requirements to provide parents with information about their child.

- 15.3 When a parent makes a request for their child's personal data it is important to remember that the right to subject access is the pupil's right. This right may be exercised by someone with parental responsibility only when the child is not capable of exercising their own rights. If the pupil is capable of exercising their rights themselves then you must obtain the pupil's consent prior to responding to the SAR. A template consent form is available on the Hub [here](#).
- 15.4 A general rule of thumb is that a child is deemed capable of exercising their rights at the age of 12. However, this is dependent on each individual and the school must make a judgement in each case. What matters is that the child is able to understand (in broad terms) what it means to make a SAR and how to interpret the information they receive as a result of doing so. When considering borderline cases, you should take into account, among other things:
- 15.5 where possible, the child's level of maturity and their ability to make decisions like this;
- the nature of the personal data;
 - any court orders relating to parental access or responsibility that may apply;
 - any duty of confidence owed to the child or young person;
 - any consequences of allowing those with parental responsibility access to the child's or young person's information. This is particularly important if there have been allegations of abuse or
 - ill treatment;
 - any detriment to the child or young person if individuals with parental responsibility cannot access this information; and
 - any views the child or young person has on whether their parents should have access to information about them

16. Treating those with parental responsibility equally

- 16.1 Adults with parental responsibility are entitled to receive information about their child on an equal basis. This means that routine information about a pupil should be shared with both parents. The requirement to obtain a pupil's consent when responding to a SAR does not mean that a pupil (or one parent) is entitled to prevent the other parent from receiving school reports.
- 16.2 In cases where a school does not know the whereabouts of a non-resident parent, it should make the resident parent aware that the other parent is entitled to be involved in their child's education and request that information is passed on.
- 16.3 If the resident parent refuses to share information with the other parent and also refuses to provide contact details so that the school can deal direct with the non-resident parent, the school can do nothing more.
- 16.4 If the non-resident parent subsequently contacts the school and requests access to information, the school should provide it to that parent direct, after taking reasonable steps to satisfy itself that the individual is, in fact, the child's parent.



16.5 Schools are not required to seek the consent of the parent with whom the child resides before either recording the contact details of the non-resident parent, or sending them their child's prescribed statutory educational information.

17. What information should be provided?

17.1 Upon request a data subject is entitled to receive:

17.1.1 Confirmation that we are processing their personal data

17.1.2 A copy or transcript of the personal data that we are processing

17.1.3 A description of the purposes for which the processing is taking place

17.1.4 Who the personal data has been/will be shared with (if applicable)

17.1.5 The existence of the right to rectification, erasure or restriction of processing of personal data

17.1.6 The right to complain to the Information Commissioner's Office (ICO)

17.1.7 The GDPR clarifies that the reason for allowing individuals to access their personal data is so that they are aware of and can verify the lawfulness of the data processing.

18. Finding the personal data

18.1 If a request specifies a specific piece of information then we do not need to provide all the personal data held. However, if the request asks for all personal data then all electronic and manual systems identified in the record of processing activities will need to be searched.

19. Co-mingled personal data

19.1 The right to subject access must not adversely affect the rights and freedoms of others. All search results must be reviewed, and the personal data of other individuals must be redacted prior to the information being released. For more information about making redactions please refer to the guidance on exemptions and the guidance on making disclosures safely.

20. Refusing a request

20.1 The GDPR does not introduce an exemption for SARs that relate to large amounts of data but we may be able to consider whether such a request is manifestly unfounded or excessive. As stated in the policy and procedure, any such decisions must be referred to the Company Secretary.

21. Right to Rectification

21.1 If we hold an inaccurate record regarding an individual he/she has the right to require us to rectify the record without undue delay. The GDPR does not mention records of opinions expressed about an individual. However, under the Data Protection Act regime a dispute about the accuracy of an opinion did not render the record of that opinion inaccurate.



22. Right to Erasure

22.1 An individual is able to request the deletion of personal data when there is no compelling reason for its continued processing. This is not an absolute right to be forgotten. An individual has a right to have personal data erased and to prevent further processing when:

- When the personal data is no longer needed in relation to the purpose for which it was originally collected
- When the legal basis for processing is consent and the individual withdraws consent
- When there is no overriding legitimate interest for continuing the processing
- The personal data was unlawfully processed
- The personal data has to be erased in order to comply with a legal obligation.
- The personal data is processed in relation to the offer of information society services to a child.

23. Refusing to comply with a request for erasure

23.1 We can refuse to comply with a request for erasure if the personal data is processed for the following reasons:

- for exercising the right of freedom of expression and information,
- for compliance with a legal obligation,
- for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller,
- on the grounds of public interest in the area of public health,
- for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes,
- or for the establishment, exercise or defence of legal claims.

24. The Right to Restrict Processing

24.1 When the right to restrict processing applies we may still store the personal data but may not further process it. We would be required to restrict the processing of personal data in the following circumstances:

- accuracy of the personal data is contested by the data subject, for a period enabling the controller to verify the accuracy of the personal data;
- the processing is unlawful and the data subject opposes the erasure of the personal data and requests the restriction of their use instead;
- the controller no longer needs the personal data for the purposes of the processing, but they are required by the data subject for the establishment, exercise or defence of legal claims;

- where the data subject has objected to processing pending the verification whether the legitimate grounds of the controller override those of the data subject.

25. The Right to Object

25.1 Where the legal basis for processing the personal data is the legitimate interests of United Learning the individual may object to this processing. We must cease the processing of the personal data unless we can demonstrate compelling legitimate grounds for the processing which either override the interests, rights and freedoms of the data subject or are for the establishment, exercise or defence of legal claim

