

## Making Subject Access Applications under the Data Protection Act 1998

Under the Data Protection Act (DPA) 1998, an individual has the right "to have communicated to him in an intelligible form (i) the information constituting any personal data of which that individual is the data subject, and (ii) any information available to the data controller as to the source of those data (Data Protection Act 1998 s.7 c)". This is done by means of what is normally referred to as a "section 7 Subject Access Request".

Thus, as an employee you are entitled to approach the University for any personal data it holds about you. You are NOT entitled to obtain personal data about anyone else: if documents relating to you include mention of others, that data is likely to be redacted to preserve the confidentiality of the other people concerned. The DPA only covers *personal* data; other documents you might want to see, such as University policies, minutes of Senate and Council meetings etc., fall under the Freedom of Information Act.

It is considered reasonable for the Data controller to make a charge to cover the copying etc. of the data, and the University's current practice is to charge the statutory £10. It is also considered reasonable to ask the subject making the access request to give an indication of where the data can be found, i.e. it is NOT reasonable to submit a blanket request for anything the University might happen to have anywhere on campus which mentions your name. If there is a specific document you want to see, you should give the date, title and author of that document if known, and an indication of where you believe it is held. The University is required to provide the information requested within 40 days if you have paid the fee and made the request in reasonable terms.

The definition of what constitutes "personal data" has been restricted by recent case law, and employers are increasingly likely to reject Subject Access Requests if they think they can.

If you want to make an SAR you should:

- address your request to The Information Compliance Manager, Legal Services, The University of Birmingham, Edgbaston, Birmingham, B15 2TT, UK. The current Compliance Manager is Dawn Jeynes (d.jeynes@bham.ac.uk)
- state explicitly that you are making a Subject Access Request under the Data Protection Act 1998
- enclose a cheque for £10 made payable to The University of Birmingham
- state that you want any personal data held about you, both centrally by HR and locally in the personnel records of your Department, School and College (unless you are sure you want something else).
- name any specific document concerning you which you want (e.g. a copy of a reference, an SDR/PDR report, a letter written about you by a particular employee of the University). Take care though: if you get any details wrong, the University may reply saying the document you have requested does not exist!
- allow the statutory 40 days for a reply
- sit down with a strong cup of tea when you get the data - there are likely to be nasty surprises in it.

If the University does not comply with the requirement to provide the data in 40 days, or tells you that it is withholding data which you believe you are entitled to see, or denies the existence of a document which you are sure exists, you should complain to the Information Commissioner. And of course, get advice from BUCU.