1. Introduction

At Dublin and Dún Laoghaire Education and Training Board (DDLETB) your privacy and data protection rights are very important to us. Data Protection is the safeguarding of the privacy rights of individuals in relation to the processing of personal data, in both paper and electronic format. The General Data Protection Regulation and Data Protection Act 2018 lay down strict rules about the way in which personal data and special categories of personal data are collected, accessed, used and disclosed ("processed"). Under the Data Protection Act, individuals ("data subjects" are entitled to make a request for access to their personal data. Data subjects also have the right to have their personal data rectified if found to be incorrect, erased or the processing of their personal data restricted.

2. Purpose of the procedure

The purpose of this procedure is to ensure that DDLETB complies with the provisions of the Data Protection Act regarding the rights of data subjects and to enable individuals to submit data access requests and requests for rectification, erasure or restriction of the processing of their personal data where required. Full details of data subject rights can be downloaded from a link on the Data Protection Commission's website. https://www.dataprotection.ie/en/individuals.

3. Making a request.

When requesting personal data, a data subject (or in the case of a parent/guardian making an access request on behalf of a student, personal information in relation to their child) should familiarise themselves with the procedure of making a request.
All data subject access requests are processed by DDLETB's Data Protection Team in DDLETB's Head Office.

4. Submitting the request

All requests in relation rights of access to your personal data held by DDLETB should be submitted to in writing to DDLETB's Data Protection Team by email to dataprotection@ddletb.ie or alternatively use our online form **Data Access Request Form** which will greatly assist DDLETB in processing your request.

5. Timeline

A decision on your request will be made within 1 month of receipt of your request. If your request is considered complex, DDLETB may extend the time frame for responding to your request by a further 2 months. You will be informed in writing of any extension to time within 1 month of receipt of your request

6. Fees

There is no fee payable by you to make an access request. DDLETB must deal with your request for free. However, where DDLETB believes a request is manifestly unfounded or excessive (for example where an individual makes repeated unnecessary access requests) DDLETB 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).

7. Identification

In order to ensure that personal data is not disclosed to the wrong person, you may be required to provide proof of identity before any personal data is released to you. Acceptable forms of identification include copy of passport or copy of driving licence. Copies are acceptable in most cases. However, DDLETB reserves the right to ask to see original documents where necessary. If you are required to provide copies of such documents to DDLETB, they will be securely destroyed once we have verified your identity.

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 considered for release. No information will be supplied that relates to another individual.

This is provided for in the DDLETB's Data Processing Policy. The right of access under the Data Protection Act is the right of the data subject. However, there may be some data held by the school/Centre which may be of a sensitive nature and DDLETB will have regard to the following guidance issued by the Office of the Data Protection Commission in relation to releasing such data outlined in **Appendix A.**

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8. Process

On making an access request, any individual (subject to the restrictions in **Appendix A Notes A and B below**) about whom DDLETB 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 the Data Protection Act 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.

On receipt of the access request form, a member of the Data Protection Team will be appointed to 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). It may be necessary for a member of the Data Protection Team to contact you if further details are required with a view to processing your access request.

The member of the Data Protection Team 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 and 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. The Data Protection Team will ensure that the information is supplied promptly and within the advised timeframes.

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, the Data Protection Team will check each item of data to establish:

- If any of the exemptions or restrictions set out under the Data Protection Act 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.

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- 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.

Where DDLETB may be unsure as to what information to disclose, they reserve the right to seek legal advice.

The Data Protection Team will ensure that the information is provided in an intelligible form (e.g. codes explained) or will explain, will number the documents supplied and will have the response "signed off" by an appropriate person.

Where a subsequent or similar access request is made after the first request has been complied with, DDLETB has discretion as to what constitutes a reasonable interval between access requests, and this will be assessed on a case-by-case basis.

Where you as an individual data subject may seek to rectify incorrect information maintained by DDLETB, please notify DDLETB 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. Where DDLETB declines to rectify or delete the personal data as you have instructed, DDLETB may propose to supplement your personal record, pursuant to section 6(1)(b) Data Protection Act.

In circumstances where your access request is refused, DDLETB 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

9. Request for CCTV

Where requests are made for CCTV footage, an application must be made in writing, and the timeframe for response is 1 month. All necessary information such as the date, time, and location of the recording should be given to DDLETB to assist in dealing with your request. Where the image is of such poor quality as not to clearly identify an

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individual, it may not be considered personal data. In providing a copy of personal data, DDLETB may provide the materials in the form of a still/series of still pictures, USB, with relevant images or shared file. 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.

10. Right to Complain

If you are unhappy with the outcome of your request, you may make a complaint to the Data Protection Commission who will investigate the matter for you. Contact details and further details on your rights under the Data Protection Act are available on the Data Protection Commission's website www.dataprotection.ie

Any additions or amendments to this or related procedures should be submitted to the Corporate Services Department for consideration. The procedure will be reviewed annually considering any legislative or other relevant developments.

Further Information

If you have any queries in relation to this procedure, please contact: DDLETB, Corporate Services Department via the Data Protection Team Email dataprotection@ddletb.ie

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11. Appendix A
Exceptions to the Rule of Right of Access

There are a number of exceptions to the general rule of right of access, including those specified in Notes A and B in Appendix A.

Note A: Access requests by students

- A student aged **eighteen years or older** (and not suffering under any medical disability or medical condition which may impair his or her capacity to give consent) may give consent themselves.

- If a student aged **eighteen years or older** has some disability or medical condition which may impair his or her ability to understand the information, then parental/guardian consent will be sought by the school before releasing the data to the student.

- A student aged from **twelve up to and including seventeen** can be given access to their personal data, depending on the age of the student and the nature of the record, i.e. it is suggested that

    - If the information is ordinary, routine or non-controversial (e.g. a record of a test result) the student could readily be given access

    - If the information is of a sensitive nature, it would be prudent to seek parental/guardian consent in writing before releasing the data to the student. Where the parent/guardian does not give their consent to releasing the data to the student, legal advice should be sought

    - If the information is likely to be harmful to the individual concerned, parental/guardian consent should be sought before releasing the data to the student.

- An access request may be made by a child's parent or guardian on the student's behalf. The consent of the child need not be obtained. However, DDLETB must note that the right of access is a right of the data subject themselves (i.e. it is the right of the student).

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- *Each case will be assessed on its own merits and considering the following (non-exhaustive) list of factors which should be taken into consideration in the assessment of whether a child should be capable of exercising their own data protection rights:
    - The age and maturity (for example as demonstrated by interactions between the child and the organisation in question) of the child;
    - The type of request (access request, erasure request, right to object, etc.);
    - The context for the processing and the type of service offered by the controller (e.g. social media platform, doctor-patient relationship, online shopping platform, etc.);
    - The type of personal data at issue (e.g. child seeking access to medical data, child seeking erasure of photos of themself on social media, child seeking to update their email address on a platform). The DPC considers that in cases where the exercise of a child's data protection rights involves access to special category personal data, particularly such as medical data, or access to other sensitive types of data, such as social work data, that careful consideration should be given to whether the release of such personal data could cause serious physical or mental harm to the child in question
    - Whether enabling the child to exercise their data protection rights themself is in the best interest of the child (i.e. do they understand the consequences of erasing certain types of personal data, will they fully comprehend what it is they are receiving as part of an access request, will receiving certain information be detrimental to their well-being?)
    - Whether the child is seeking to exercise their rights with the assistance/ participation/ knowledge of a parent/ guardian or expert third party/ advocate.

- In any of the circumstances outlined above, 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 school/DDLETB 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.

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- In some cases (i.e. where the information is ("**health data**"), it is advised that the data be supplied by the medical practitioner.

- In any of the circumstances outlined above, if the data contains **social work data** and disclosure would be likely to cause serious harm to the physical or mental health of the individual, the school/DDLETB is not permitted to release the data to the individual.

**Refer to DPC Guidance - Fundamentals Child Oriented Approach to Data-Processing -Page 34.*
https://www.dataprotection.ie/en/dpc-guidance/fundamentals-child-oriented-approach-data-processing

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Note B: Exceptions to note:

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

Health data to a patient 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 DDLETB 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 DDLETB 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 school/DDLETB by an individual (other than one of the school's/ETB's employees or agents) while carrying out social work, DDLETB is not permitted to supply that information to the data subject without first consulting that individual who supplied the information.

The Data Protection Act state that the following data is **exempt** from a data access request:

1. Section 5 of the Data Protection Act provides that 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.

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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 school/DDLETB on foot of a claim for damages or compensation and where releasing the estimate would be likely to prejudice the interests of the school/DDLETB 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 school/DDLETB and their solicitors in relation to a case against the school/DDLETB should not be disclosed to the claimant pursuant to a data access request.

4. Section 4 of Data Protection Act states that 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 school/DDLETB 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. Section 4 also states that where personal data consists of **expressions of opinion** about the data subject made by another person, the data subject has a right to receive that expression of opinion except where that expression of opinion was given in confidence, and on the clear understanding that it would be treated as confidential.

6. The obligation to comply with an access request does not apply where it is impossible for the school/DDLETB to provide the data or where it involves a disproportionate effort.

Contact our DPO

If you have any queries, please contact dataprotection@ddletb.ie

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