**DATA PROTECTION COMPLAINTS PROCEDURE**

1. **Scope**
   1. Cardiff University takes its responsibilities seriously when processing the personal data it collects during the course of its business. The university is registered as a data controller with the Information Commissioner’s Office and is committed to taking all necessary steps to protect the rights and freedoms of data subjects, respecting privacy and minimising risks as far as possible. We recognise, however, that there may be occasions where individuals have concerns about the way in which their personal data has been processed and have a right to make a complaint.
   2. This procedure applies to the infringement of any data subject whose personal data is processed by Cardiff University during the course of its business. There is no time limit for raising a complaint, however historic issues may limit the availability of evidence for an investigation, e.g. records have been destroyed in line with our records retention schedule or there has been a change of staff. Examples of the type of infringement which may be considered under this procedure can be found at Appendix 1.
   3. All complaints will be managed in a confidential, proportionate, and sensitive way. Information will only be shared with relevant parties who require access to it as part of this procedure. Where the circumstances of the complaint require further investigation, individuals or departmental representatives will be informed about your concerns so that they have an opportunity to respond as part of the investigation process. This is in line with the principles of natural justice and allows for a fair opportunity for the parties to respond to allegations raised. If there is a good reason why you think your complaint should not be shared, you will need to submit a request detailing the reasons why someone should not be given access to your complaint. The Data Protection Officer will consider your request and decide on whether your complaint should be shared.
   4. As part of the investigation process, it may be necessary to provide you with personal information of third parties involved in the complaint. You should note that this is not provided to you as a public domain disclosure and the confidentiality of those third-party individuals should be respected at all times.
   5. If your complaint refers to an issue broader than data protection, please refer to the Cardiff University [Complaints](https://www.cardiff.ac.uk/help/contact-us/complaints) webpage to find the most appropriate procedure. If your complaint relates to the way the university has responded to your subject access request, please follow the instructions provided in the covering letter which issued your response.
   6. Anonymous complaints will not be accepted, except at the discretion of the Data Protection Officer where there is a compelling reason to do so and/or where independent corroborating evidence has been submitted. Where group complaints are made and there is a need to disclose complainant personal data, these may be dealt with separately.
   7. Any data subject may raise a complaint through this procedure. If you are unable to submit a complaint yourself (for example, due to ill health) you may be represented by another person, such as a Students’ Union advisor, Trade Union representative or solicitor. You will need to give written permission for us to correspond with your representative.
2. **Complaints Procedure**
   1. Complaints must be submitted in writing to the Data Protection Officer:

* by email to [inforequest@cardiff.ac.uk](mailto:inforequest@cardiff.ac.uk) or
* by post to Data Protection Officer, Compliance and Risk, University Secretary’s Office, Cardiff University, McKenzie House, 30-36 Newport Road, Cardiff, CF24 0DE

The Data Protection Officer may delegate authority for the conduct of the complaint to another member of the Compliance and Risk team.

* 1. The investigator will acknowledge the complaint within 5 working days and set out:
     1. whether the complaint is eligible under this procedure. Where a complaint is deemed ineligible you will be informed of the reasons or directed to an alternative procedure.
     2. the scope of the investigation, taking account of the issues you have raised and outlining the relevant points of data protection legislation.
     3. The expected deadline for completion of the investigation. Investigations will normally be completed within 20 working days. If it is likely that more time will be required to consider the issues, you will receive an explanation and be provided with a revised timescale. This extra time will normally not exceed a further 20 working days.
  2. The investigation will provide a fair and thorough assessment of the issues and decisions taken pursuant to the legislation. The investigator will review the supporting evidence you provide and gather further information and evidence as appropriate. This could be:
* Submitting written questions to you, a relevant individual or departmental representative.
* Meeting with you and any other parties relevant to the complaint in order to seek to understand the facts of the case.
  1. Upon completion of the investigation, you will be notified:
* whether your concerns have been upheld, partly upheld or not upheld;
* a clear explanation of the decision and the considerations taken into account;
* any recommendations proposed by the university, where appropriate;
* information on the next steps if you are dissatisfied with the outcome.
  1. If a recommendation is related to the behaviour of an individual, this may limit the amount of information we are able to share with you. Where appropriate to do so, as provided for under the university’s Data Protection Policy the matter may be considered under the relevant disciplinary code.

1. **External adjudication**
   1. If you remain dissatisfied following the outcome of your complaint, you have the right to apply directly to the Information Commissioner for consideration. The Information Commissioner can be contacted at the following address: Information Commissioner’s Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. Further information is available on their website: [Make a complaint | ICO](https://ico.org.uk/make-a-complaint/)

**Appendix 1 – Types of complaint and points of legislation eligible for investigation**

The following examples set out the types of complaint and the points of legislation whose infringement may be investigated under this procedure:

* Breach of the data protection principles under Article 5 UK GDPR:
  + Data not processed with a lawful basis
  + Data not processed fairly or transparently
  + Data further processed with incompatible purpose
  + Excessive data processed
  + Inaccurate or out of date processing
  + Data retained longer than necessary
  + Data not held securely
* Data not processed with correct lawful basis or special category data condition (Articles 6 and 9 UK GDPR)
* Where lawful basis is consent, data not processed in line with appropriate conditions (Article 7 UK GDPR)
* Unsatisfactory privacy information provided (Article 13 and 14 UK GDPR)
* Failure to respond to individual rights requests within relevant time period (Article 12, 15-22)
* Complaint about the impact of a personal data breach