



Data Protection Officer

## Guidance for External Examiners

### Data Protection Act 1998, General Data Protection Regulation (GDPR – from 25.5.18) and the Freedom of Information Act 2000

1. External examiners should be aware of their responsibilities under the Freedom of Information Act 2000, the Data Protection Act 1998 (DPA) and the new data protection regulation which will supersede the Data Protection Act 1998, the General Data Protection Regulation (GDPR) which will come into effect on 25<sup>th</sup> May 2018. Further details can be provided by the University's Data Protection Officer at [secretariat@ljmu.ac.uk](mailto:secretariat@ljmu.ac.uk)

### The Data Protection Act and the marking of assessed work and exam scripts

2. All external examiners and staff engaged in the marking of examination scripts should note the following:
  - Information recorded by candidates during examinations (e.g. examination scripts) is expressly exempted from the data subject (the student) access rules. This means that the University is under no obligation to permit examination candidates to have access to either original scripts or copies of scripts. However, comments by examiners, both internal and external, whether made on the script or in another form that allows them to be held and applied to the original script (e.g. in a coded table) are covered by the Act.
  - Should a student request to see the examiners' comments, they must be made available. A data subject has the right to request that a copy or summary 'in intelligible form' is provided within the stipulated timescale.\*
  - All examiners need to be aware that the University is obliged to make their comments available (upon formal request) to individual students. To ensure compliance and to simplify the process, should requests be made, examiners are advised to write their comments on a separate sheet which they should attach to the script.

- Where examiners' comments have been made directly onto scripts the annotated script itself is exempt in the event of a subject access request (though may be provided at the discretion of the University). However, if an annotated script is withheld, all comments must be reproduced onto a separate form, which is available to the data subject as a minimum requirement.
- All examiners should be reminded that their comments will be provided to students if requested and should therefore ensure that all comments can be justified and that no careless remarks are made on exam scripts, in emails/correspondence to colleagues, or on mark sheets. Any informal notes passed between examiners in the course of marking an examination script or piece of coursework should be disposed of securely once the final mark has been agreed and there is genuinely no need for the notes to be retained.
- Staff, including external examiners, are advised that examination board minutes can include the personal data of individual students and are therefore accessible to students on request.
- There is currently no exemption of exam scripts within the new General Data Protection Regulation and therefore any such requests will be dealt with by the University's Data Protection Officer.
- \* *This limit is normally 40 calendar days, but in the case of examinations, the Act specifically notes that a request may be made before results are announced. In this case there is a limit of 5 months from the request or 40 days from the announcement of the result, whichever is the earlier. **Please note that this may change within the new General Data Protection Regulation from 25<sup>th</sup> May 2018. Please seek further guidance from the Data Protection Officer after this date.***

### **External examiner reports and examiners' personal information**

3. In general, FOIA requests received by the University for the disclosure of external examiner reports or the personal information of external examiners will be treated on a case-by-case basis. The decision whether to disclose will be made taking into account all relevant factors, including the external examiners' rights under the DPA, whether the public interest supports disclosure, and any relevant exemption from disclosure under the FOIA that may apply. The external examiner concerned will be informed and consulted about the request but, if requested, the University has a statutory duty to consider disclosing the information requested. All requests will be considered by reference to any relevant guidance provided by the Information Commissioner's Office.

4. In line with UK Quality Code for Higher Education Chapter B7: External examining (revised October 2011), external examiner name, position and institution/workplace will be available in programme handbooks. In the event of a student making direct contact with an external examiner, the examiner is advised to refer the query to the Programme Leader.
5. In addition, external examiner reports will be made to all LJMU students on the programme through Boards of Study and via Blackboard, with the sole exception of any confidential report made directly, and separately, to the head of the institution.