

# Provision of Consent to Process Personal Data

Policy Owner	Finance Director (University Secretary)
and Deputy Chief Executive	
Date created	2013
Due for review	2016
Approval route	Manager, Secretariat



## Provision of Consent to Process Personal Data and Data Protection Statements

The First Principle of the Data Protection Act (DPA) 1998, is that personal data should be processed “fairly and lawfully”. One of the conditions for fair and lawful processing is that the data subject (the individual whose data is to be processed) gives his/her consent.

The Act does not give a definition of what constitutes consent, but the EU Directive that led to the 1998 Act describes it as:

*“... any freely given specific and informed indication of his wishes by which the data subject signifies his agreement to personal data relating to him to be processed”.*

If the data subject has to “signify” agreement, then some active communication must take place. So a failure by the data subject to respond to a request for consent should not be taken as an indication of consent.

The method of obtaining consent must be appropriate to the particular circumstances. For example, if the relationship with the data subject is intended or is likely to continue after the end of the purpose for which the data is being obtained, then the consent should cover those circumstances. This would apply to any anyone whose personal data is entered onto the CRM database after making a course enquiry, or anyone entered onto OSS upon registration and who will be eligible to become a member of the Alumni of LJMU.

A data subject has the right to withdraw consent to the processing of their personal data at any time, and any request from an individual must be acted upon.

Whilst agreement can be obtained verbally, you should wherever possible, obtain it in writing. This can be achieved by including on all forms that capture personal data, a statement clearly explaining the purpose(s) the personal data will be used for, who it may be shared with and how long it will be kept. The statement should also make it clear, that by signing the form, the data subject is giving their consent to process their personal data. Examples of statements in use at LJMU that you can adapt are provided at the end of this guidance note.

### **Consent for the Processing of “Sensitive” Personal Data**

Some personal data is defined under the Act as “sensitive”; racial or ethnic origins, political opinions, religious beliefs, union membership, physical or mental health (including disabilities), sexual life, the commission or alleged commission of offences and criminal proceedings. Understandably, the level for obtaining consent for processing of this data is greater and it must be “explicit”. LJMU staff must not process any personal data defined as “sensitive” without the informed and written consent of the data subject. In addition to the DP statement included on all forms capturing personal data, the individuals should be provided with an information leaflet providing more specific detail about the processing of their data.

## **Opt-ins and Opt-outs**

Personal data may be used for more than one purpose. For instance, the main purpose may be for the administration of a CPD course, but you may have a secondary purpose in wanting to contact the course attendees at a later date as part of an evaluation survey or to notify them of other courses they may like to attend. In informing the data subjects of all the purposes for which their personal data is or may be used, it is customary to give them the option to indicate whether they wish their personal data to be used for a secondary purpose.

There are two ways of doing this; by asking them to tick a box actively saying LJMU can contact them (opting-in) or to tick a box to say they do not wish to be contacted (opting-out). The DPA provides no specific guidance on this, but recommended good practice is the use of the opt-in. LJMU has adopted the practice of opting-in. If this practice of opting-in presents you with difficulties because, for example, funding providers insist on use of the opt-out, you should contact the LJMU Data Protection Officer for guidance.

## **Further Advice**

If you have any questions about the provision of consent for processing personal data, would like assistance in writing your own DP statements and guidance notes, or would like any data protection advice, please contact the LJMU Data Protection Office on 0151 231 3116, or e-mail [Secretariat@ljmu.ac.uk](mailto:Secretariat@ljmu.ac.uk)

## **Examples of Data Protection Statements**

### External Examiner's Expense Claims Form

LJMU requires the personal data on this form in order to process your expenses claim. The data may be shared with the Inland Revenue or the University's auditors for tax and auditing purposes. The data is retained for 6 years after the end of the current financial year for Inland Revenue requirements.

### External Examiner's Guidance Handbook

LJMU requires you to provide some personal data on the expense claims form in order to process your expenses claim. The data may be shared with the Inland Revenue or the University's auditors for tax and auditing purposes. The data is retained for 6 years after the end of the current financial year for Inland Revenue requirements.

LJMU is registered as a Data Controller with the office of the Information Commissioner as required under the Data Protection Act 1998. The University only processes personal data in accordance with the Data Protection Act and for the purposes notified to the Information Commissioner.

### Personal Mitigating Circumstances Form

The personal information you have provided on this form will be used to consider the impact of any unforeseen circumstances, which may have impacted on your performance during assessment(s). All information, including 'sensitive data', is held and processed within the terms of the Data Protection Act 1998, and LJMU's Data Protection Notification and is only shared with members of the relevant PMC Committee or Panel, who review your PMC application.

The information will only be used for the purpose outlined above, and will be held separately from your academic record. The information will be destroyed one year following the completion of the programme of study to which this PMC claim refers.

### LJMU Student Application Form

I understand that the University will use this information for the purposes of admissions and to form part of a subsequent student record if I am accepted. I give my consent to the processing of my data and to use it for statistical information and reporting that will not identify me. I agree to abide by the University's policies and procedures.

## LJMU Student Application Form Guidance Notes

Liverpool John Moores University is registered as a Data Controller with the office of the Information Commissioner as required under the Data Protection Act 1998. The University only processes prospective student data in accordance with the Data Protection Act and for the purposes notified to the Information Commissioner. The information you provide on your application form will be used for the following purposes:

- To enable your application for entry to be considered.
- To enable the institution to initiate your student record should you be accepted.
- To compile statistics for use by the University or for reporting to relevant Government agencies and departments, but no information that will identify you as an individual.

If your application is unsuccessful, your application form will be destroyed at the end of the admissions cycle for the year you have applied.

## Pre-Employment Medical Questionnaire (includes sensitive personal data)

I understand that the University will use this information for the purposes for a pre-employment health check and identify any assessments for needs to support my employment. I give my consent to the processing of my data.

## Pre-Employment Medical Questionnaire Guidance Notes

To the applicant:

The information you provide in this questionnaire will be used for the following purposes:

- To enable the LJMU Occupational Health Unit to advise on your medical capability for employment
- To identify any needs assessment to support your employment as required by UK Disability Discrimination Legislation

Liverpool John Moores University is registered as a Data Controller with the office of the Information Commissioner as required under the Data Protection Act 1998. The University only processes data in accordance with the Data Protection Act and for the purposes notified to the Information Commissioner.

Your medical information will be not be shared with anyone outside the Occupational Health Unit without your written consent. The information will be held by LJMU for a period of time determined by relevant UK Health & Safety legislation.

### Student Fee Statement

Liverpool John Moores University is registered as a Data Controller with the office of the Information Commissioner as required under the Data Protection Act 1998. The University only processes student data in accordance with the Data Protection Act and for the purposes notified to the Information Commissioner.

The personal information on this form is used for the purposes of fee administration only. If your fees are paid by a parent, guardian or sponsor, this information may be shared with the fee payer. Should you persistently fail to pay the agreed fee, the University will pass this information to a debt Collection Agency.

### Bank Mandate: Student Enrolment Form

Liverpool John Moores University is registered as a Data Controller with the office of the Information Commissioner as required under the Data Protection Act 1998. The account information you provide is used for the purposes of fee administration, and will be shared with your bank or building society to allow LJMU to collect payments. If, as the account holder, you are not the registered student, this information will not be shared with any other data controller.

### Example Where Personal Data is to be Shared with a Third Party

Data collected via this form will be held on the EU Grants Databases and will be used to manage and monitor the delivery of EU Structural Funds Programmes. Personal data will be treated in accordance with the Data Protection Act of 1998. The University is registered as a Data Controller with the Office of the Information Commissioner.

Information provided may be shared with other Government Departments or Agencies for the purposes of audit, research, meeting statutory obligations and for the prevention and detection of fraud. Personal data will not be made public in any way which identifies individuals. Certain data will be passed to the European Commission in compliance with EC Regulations.

If any person on whom data is held, wishes to request details of their personal data being held on the EU Grants central database they may contact the Central Database Administrator.

### Extract from an LJMU Letter of Appointment

You acknowledge that during the course of your employment it will be necessary for the University to maintain personal records on you. All information concerning you which is personal data and which is processed by the University for the purpose of data protection legislation for the time being in force shall be processed only in accordance with such legislation. By signing this contract of employment, you consent to the processing and disclosure of such data by the University, both inside and, where necessary, outside the European Economic Area for the purposes of processing such data for personnel management, administration and Health & Safety purposes.

Change	Author	Date	Review	Route