

Data Protection Complaints

Standard Operating Procedure

Aim of the procedure

SOAS is registered as a Data Controller with the Information Commissioner's Office. This means we are responsible under Data Protection Legislation (together the UK General Data Protection Regulation and Data Protection Act 2018) for the processing of personal data in respect of all operations where we decide the purpose and means of the processing.

SOAS takes seriously its obligations to protect the rights and freedoms of data subjects. The School is committed to building privacy by design and default into our systems and services, to minimise any risks to data subjects that might arise through our processing activities. Our policies and procedures relating to data protection can be found on our website here:

<https://www.soas.ac.uk/infocomp/dpa/>

However, we recognise that there may be circumstances in which members of our community or members of the public raise concerns or complaints about the way SOAS is processing their personal data. This procedure gives SOAS a framework for managing data protection complaints consistently and transparently, to ensure fair and equitable outcomes for complainants. It will also clarify the relationship between this procedure and other complaints and grievance procedures at SOAS (see [section 1.4](#) below and appendix 1) and related data protection procedures, such as our [Data Breach Reporting Procedure](#) and our [Data Subject Access Request appeal process](#).

It is quite common and reasonable for individuals to raise complaints about their personal data with the department which is primarily responsible for managing the personal data in question. If that does happen, the recipient of the complaint should advise the complainant to send the complaint to the Information Compliance team using the contact details set out in [section 4.1](#), or forward the complaint to the Information Compliance team on their behalf.

1. Scope and interpretation

- 1.1. This procedure applies to you if your personal data is processed by SOAS. If that is the case, you are regarded as a "data subject" under the law. The term data subject will be used throughout this procedure.

- 1.2. Personal data is processed by SOAS if the data forms part of a business activity carried out under the authority of the School.
- 1.3. This procedure only applies to complaints relating to infringements of data subjects' data protection rights.
- 1.4. If your complaint contains concerns that your data protection rights and freedoms have been infringed alongside other complaints or as part of a wider complaint (i.e. about services provided by SOAS, misconduct by other staff or students, or employment issues) you should submit your complaint under the relevant procedure for students: <https://www.soas.ac.uk/student-complaints/file136280.pdf> or staff: <https://www.soas.ac.uk/hr/procedures/emprel/grievance/> in the first instance.
- 1.5. If you have a complaint about SOAS's response to your Freedom of Information request you should follow our [FOI and EIR appeals process](#), while complaints about our Freedom of Information Publication Scheme should follow the steps in the [Feedback and Complaints](#) page of the scheme.
- 1.6. If you have a complaint about the way SOAS has responded to your Data Subject Access Request (DSAR), you should follow our [DSAR appeals process](#).
- 1.7. If you are exercising your rights under the Data Protection Legislation by asking for your data to be restricted, erased, corrected or updated, or you are objecting to our processing of your data, would like us to send your data to another IT environment in an open source format, or are asking not to be subject to automated decision-making or would like a human to review any automated decision-making to which you are subject, these requests will be handled by SOAS directly and a response issued within one month. Please write to the contact details given to you when we collected the data, or to the contact details in [section 4.1](#) below. If you are unhappy with the outcome of our response to your request, or you do not hear from us within one month, you can make a complaint under this procedure. If it is not possible to complete your request within one month, we will write to you to let you know about the delay and the reasons for it.
- 1.8. Data breaches are investigated separately under our [Data Breach Reporting Procedure](#). However, complaints from data subjects about damage or distress they experienced as a consequence of a data breach caused by SOAS are eligible and can be considered under this procedure.
- 1.9. The terms "data subject", "processing", "personal data", "data breach", and "data controller" take the meaning given in Article 4 of the UK GDPR.

2. Confidentiality

- 2.1. Your complaint will be treated in confidence. We will only share your identity or the details of your complaint with a third party with your consent, or if it is necessary to do so to fully investigate your complaint.
- 2.2. Records relating to your complaint will be held securely in restricted areas of the School's network and restricted cloud storage provided by our contracted processors. The records relating to your complaint will be retained in line with our data retention policies (for six years from the end of the calendar year in which the final action on your complaint takes place at the time of writing).
- 2.3. It may be necessary during the investigation to reveal to you the identities and personal data of staff or other third parties involved in responding to the complaint. This information will be provided to you only as required, and you must respect the confidentiality of third parties at all times.
- 2.4. You have the right to access a copy of your personal data. Guidance on how to request your personal data can be found here <https://www.soas.ac.uk/infocomp/dpa/access/>

3. Representation

- 3.1. Complaints made under this procedure cannot be made anonymously.
- 3.2. A third party may submit the complaint on your behalf with your written and signed authorisation, subject to approval by the Information Compliance Manager or their delegate.
- 3.3. You have the right to be accompanied at any meeting arranged under this procedure to investigate your complaint. Students may choose to be accompanied by a fellow student or Students' Union representative, and staff by a work colleague or a trade union representative. Other complainants may bring a relative or friend. This procedure does not permit any party to have legal representation at meetings. The identity of your representative should be made known to other parties to the meeting prior to the date of the meeting.
- 3.4. If you need us to make any reasonable adjustments under the Equality Act (2010) in connection with meetings or other proceedings under this procedure, please inform the Information Compliance team in advance.

4. Internal complaints

- 4.1. If you have a complaint about SOAS's processing of your personal data, please write to the Information Compliance team describing your complaint in as much detail as possible, either by email at dataprotection@soas.ac.uk, or by post to:

Information Compliance
SOAS University of London
Thornhaugh Street,
Russell Square,
London
WC1H 0XG

- 4.2. The Information Compliance Manager or their delegate will write an initial letter to you, usually within 5 working days, to acknowledge receipt of your complaint. The letter will inform you:

- a) Whether your complaint is eligible for consideration under this procedure. If it is not considered eligible, you will be told why.
- b) The terms of your complaint, and the breaches of the Data Protection Legislation to be investigated, so that the complainant can understand the scope of the investigation
- c) The expected deadline for completion of the investigation

- 4.3. The Information Compliance Manager or their delegate will aim to conclude the formal investigation and provide you with an outcome within 20 working days of sending you the initial letter.

- 4.4. At the end of the investigation the investigator will provide you with an investigation report. The report will usually summarise the complaint and investigation process, including further evidence gathered from yourself, colleagues or any other relevant third party, and an assessment of the extent to which specific concerns raised in the complaint contravene SOAS's data protection policies and procedures and Data Protection Legislation, to help you better understand the outcome of the investigation. The outcome section of the report will tell you whether your complaint is:

- a) Fully upheld
- b) Partially upheld

c) Not upheld

4.5. In the report, the investigator will set out any recommendations proposed by SOAS. The investigator may recommend the case is referred for further consideration under the relevant student or staff internal disciplinary procedure. This might include, for example, cases where the investigation identifies a serious breach of SOAS's data protection policies and procedures by an individual subject to said policies and procedures, or an infringement of Data Protection legislation.

4.6. The formal investigation report marks the final stage of SOAS's Data Protection Complaints procedure. SOAS will aim to put in place any recommendations within one calendar month of the date of the report, where possible.

5. Your Right to an External Review

5.1. If you reject the outcome of the formal investigation, you can make a complaint to the Information Commissioner's Office (ICO) using their online reporting tool here <https://ico.org.uk/make-a-complaint/your-personal-information-concerns/>, or by calling 0303 123 1113.

5.2. Whilst you have the right to make a complaint to the ICO without seeking a remedy through this procedure, we recommend that you follow this procedure in the first instance to expedite the resolution of your complaint.

5.3. If the formal investigation finds that a person has processed personal data for which SOAS is the Data Controller which would infringe sections 170-173 of the Data Protection Act (2018), they may refer the matter for consideration under the relevant student or staff SOAS disciplinary procedure, the right to lodge a complaint with the police against the infringing person in respect of one or more of the criminal offences listed below will not be prejudiced:

- a) Unlawfully obtaining, disclosing or retaining personal data
- b) Re-identifying de-identified personal data
- c) Altering, defacing, blocking, erasing, destroying or concealing personal data to prevent disclosure to a data subject

5.4. If the police investigate a SOAS employee about an offence listed in section 5.3 above, SOAS will consider whether internal disciplinary procedures should continue or be paused until the outcome of the police investigation is known.

6. Governance and approval

- 6.1. This procedure is owned by the Information Compliance Manager in their capacity as SOAS's Data Protection Officer.
- 6.2. This procedure shall usually be reviewed every two years, or sooner if it is deemed necessary by operational needs or changes to relevant legislation.
- 6.3. This procedure will be approved by Executive Board.

Appendix 1 – Relationship with other procedures

It is important that complaints or appeals are considered correctly, and the School has a range of procedures, each designed to consider complaints as fairly and efficiently as possible. The list below summarises the circumstances in which each procedure applies, although you are also advised to review the most up-to-date version of the procedure on the SOAS website.

Academic appeals

1. Appeals Procedure 2015-2016

- To appeal an examination or assessment result (i.e. taught module results, degree awards, research degree viva outcome).
- To appeal against progression decisions (i.e. progress from one year of a degree programme to the next, upgrade from MPhil to PhD).
- To appeal against withdrawal from a programme of study (i.e. student's enrolment on the programme of study is terminated due to not meeting progression requirements, failure to comply with regulations and/or procedures, assessment failure etc).

Harassment and equality

2. Dignity@SOAS Policy

- Where a student's complaint relates to harassment, bullying or discrimination, whether sexual, racial, or of any other kind.
- Harassment can include assault, threatening behaviour or abusive remarks.

Further advice about this policy can be obtained from one of SOAS's Dignity Advisers.

Students' Union

3. Students' Union complaints policy

- To complain about the Students' Union, its societies or staff members.

Student conduct

4. Student Disciplinary Procedure

- To complain about the conduct of another student.

SOAS contractors

5. To complain about the service provided by a SOAS contractor (e.g. lift maintenance, groundskeeping) or the behaviour of one of their employees, students should write to the Student Casework team in the first instance.

SOAS service provision

6. Student Complaints Procedure

- To complain about any other issue, such as dissatisfaction with teaching or supervision, or with the service provided by a professional services department or faculty office.
- To complain about the conduct of a member of staff, a complaint should normally be made through the Student Complaints Procedure in the first instance. In some cases the case may be immediately referred for investigation under the staff or student disciplinary procedure or a referral for further investigation under a disciplinary procedure may be an outcome of a Student Complaints Procedure investigation or appeal.

Grievances about employment matters

7. Grievance Procedure for Support, Research, Teaching & Scholarship and Casual Staff and the Grievance Procedure for Teaching & Research (Academic) Staff

- Staff should use the staff grievance procedures to raise concerns relating to any aspect of their employment
- If you are a staff member and you are complaining about student misconduct, you should make a report under the Student Disciplinary Procedure using the Serious Student Misconduct form

Complaints about admissions

8. Feedback and complaints procedures: Admissions process

- The complaints section of this procedure should be used by applicants who wish to complain about a decision not to offer them a place at SOAS
- Complaints about academic judgement will not be considered

Appendix 2 - Types of complaints

To assist complainants and SOAS staff, the types of data protection complaints which would be eligible for investigation under this procedure are listed below. This list is indicative and not exhaustive.

- SOAS has processed the data subject(s) personal data without a lawful basis (breach of Article 6 of the GDPR)
- SOAS is relying on the wrong lawful basis for processing the data subject(s) personal data (breach of Article 6 of the GDPR)
- SOAS processed personal data without consent (where required), or where consent does not meet the standards set in Article 7 of the GDPR (breach of Art 6 & 7 of the GDPR)
- SOAS failed to act on a Subject Rights Request within one month (breach of Arts 12 & 15-22 of the GDPR)
- SOAS failed to provide an adequate information notice (breach of Arts 13-14 of the GDPR)
- SOAS failed to uphold one or more of the data protection principles (breach of Article 5 of the GDPR)
 - data processed unlawfully – see lawful bases – or unfairly or without informing individual – see failure to provide notice;
 - processing for an additional incompatible purpose;
 - processing excessive personal data;
 - processing inaccurate or out of date personal data;
 - processing personal data beyond the terms set out in our retention policies;
 - not keeping data secure
- Complaint about damage or distress arising from a personal data breach caused by SOAS
- SOAS made a restricted transfer of personal data to a third country without safeguards