## The General Data Protection Regulation (GDPR)

### Terminology

**Data:** means information in a form which can be processed. It includes both automated data and manual data.

**Personal data:** means data relating to a living individual who is or can be identified either from the data or from the data in conjunction with other information that is in, or is likely to come into, the possession of the data controller. This can be a very wide definition depending on the circumstances.

**Special category (sensitive/personal) data:** data relating to a person's racial origin; political opinion or religious or other beliefs; physical or mental health; sex life or sexual orientation; criminal convictions or the alleged commission of an offence; trade union membership. A data subject has additional rights in relation to the processing of any such data, and consequently a data controller has additional responsibilities.

**Processing:** means performing any operation or set of operations on data, including:

- obtaining, recording or keeping data;
- collecting, organising, storing, altering or adapting the data;
- retrieving, consulting or using the data;
- disclosing the information or data by transmitting, disseminating or otherwise making it available;
- aligning, combining, blocking, erasing or destroying the data.

**Data subject:** is an individual who is the subject of personal data.

**Data controllers:** are those who, either alone or with others, control the contents and use of personal data. Data controllers can be either legal entities such as companies, Government Departments or voluntary organisations, or they can be individuals such as G.P.s, pharmacists or sole traders.

**Data processor:** is a person or an organisation that processes personal data on behalf of and under the instruction of a data controller, but does not include an employee of a data controller who processes such data in the course of his/her employment.

### Background to General Data Protection Regulation

The GDPR (2016/679) was initially published by the European Commission in January 2012. After four years of negotiation, it was finally adopted on 27 April 2016. Following a two year implementation period, the GDPR came into force across the European Union on **25 May 2018**. It will replace the existing Data Protection Directive 95/46/EC. The GDPR introduces substantial changes to European data protection law, along with financial penalties for non-compliance. The Regulation will replace the current European legislative framework under the 1995 Data Protection Directive ("**Directive**") on which the primary Irish data protection law, the Data Protection Acts 1988 and 2003 (the "**Acts**") is based.

The current system of various national laws, that transposed the Directive, resulted in a fragmented regulatory system for data controllers operating in the European Union. As the Regulation will have direct effect, it should allow for the application and enforcement of a more standardised data protection law across the EU. The reforms will also specifically address some current technological challenges and opportunities in respect of the processing of personal data in the current digital age, including profiling, data portability and the 'right to be forgotten'.

**Personal data**, both automated and manual, are data relating to a living individual that is or can be identified, either from the data or from the data in conjunction with other information. Some personal data, i.e. those relating to specific categories like a person's racial origin; political opinion or religion or other beliefs; physical or mental health; sex life or sexual orientation; criminal convictions or the alleged commission of an offense; trade union membership; are classed as **special category** (formerly called sensitive/personal data) and offer data subject additional protection rights.

**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 Data Protection Act 1988 and the Data Protection (Amendment) Act 2003 confer rights on individuals as well as responsibilities on those persons processing personal data.

**Accountability and responsibility for complying with Data Protection:** As an organisation ACD needs to collect and use personal data (information) about its staff, students and other individuals, who come into contact with the College. The purposes of processing data include the organisation and administration of courses, examinations, research activities, the recruitment and payment of staff, compliance with statutory obligations, etc.

ACD, when it acts as the Data Controller of personal data, has overall responsibility for ensuring compliance with Data Protection legislation. However, all employees and students of ACD, who separately collect and/or control the content and use of personal data are individually responsible for compliance with the legislation.

## ACD and Data Protection Principles

ACD performs its responsibilities under the legislation in accordance with the eight **Data Protection Principles** outlined in the above Acts, and undertakes to:

- **Obtain and process information fairly:** The College obtains and processes personal data fairly and in accordance with its statutory and other legal obligations;
- **Keep it only for one or more specified, explicit and lawful purposes:** It keeps personal data for purposes that are specific, lawful and clearly stated. Personal data will only be processed in a manner compatible with these purposes;
- **Use and disclosure only in ways compatible with these purposes:** It only uses and discloses personal data in circumstances that are necessary for the purposes for which it collected and keeps the data;
- **Keep it safe and secure:** It takes appropriate security measures against unauthorised access to, or alteration, disclosure or destruction of data and against accidental loss or destruction;

- **Keep it accurate, complete and up-to-date:** It operates procedures that ensure high levels of data accuracy, completeness and consistency;
- **Ensure it is adequate, relevant and not excessive:** Personal data held by the College are adequate, relevant and not excessive in data retention terms.
- **Retain for no longer than is necessary:** The College has a policy on retention periods for personal data (currently under review);
- **Give a copy of his/ her personal data to that individual, on request:** The College has procedures in place to ensure that data subjects can exercise their rights under the Data Protection legislation.

**GDPR – New regulations**

**The General Data Protection Regulation (GDPR)** which took effect on 25 May 2018, extended the earlier data protection framework under the EU Data Protection Directive. As a regulation, GDPR does not generally require transposition into Irish law (regulations have 'direct effect'). Organisations involved in processing personal data of any sort need to be aware that the regulation addresses them directly in terms of the obligations it imposes.

**Key GDPR data management principles:**

**1) Lawful, fair and transparent processing;**
**2) Purpose limitation;**
**3) Minimisation of processing;**
**4) Data accuracy/quality;**
**5) Storage limitation;**
**6) Integrity and confidentiality;**
**7) Accountability.**

GDPR emphasises transparency, security and accountability by data controllers and processors, while at the same time standardising and strengthening the right of European citizens to data privacy.

Data protection principles that were already in place before GDPR came into force remain relevant. However, GDPR extends them further in order to strengthen the personal data rights in the following ways:

- **Data subjects can request to have their data erased by an organisation, where, for example, the organisation has no legitimate reason for retaining the data – i.e.,** ***Right to be forgotten;***

- **Data subjects can obtain their data from an organisation and can have that data transmitted to another organisation - i.e.,** ***Data portability;***

- **Data subjects can object to the processing of their data by an organisation in certain circumstances;**

- **Data subjects can request to not be subject to (with some exceptions) automated decision making, including profiling.**

Data subjects for whom the College holds personal data also have the following rights in relation to the processing of their personal data (subject to certain limited exceptions):

1. **The right to obtain access to personal data**. Data subjects have the right to be provided with copies of their personal data along with certain details in relation to the processing of their personal data.
2. **The right to information**. Data subjects have the right to be provided with certain information, generally at the time at which their personal data is obtained.
3. **The right to rectification**. Data subjects have the right to have inaccurate personal data that a controller holds in relation to them rectified.
4. **The right to object and restrict processing**. Data subjects have the right to require that a controller restricts its processing of their data in some circumstances, and have the right to object to the processing of their personal data in certain circumstances.
5. **Rights in relation to automated decision making**. Data subjects have the right not to be subjected to processing which is wholly automated and which produces legal effects or otherwise which significantly affects them, and which is intended to evaluate certain personal matters, such as creditworthiness or performance at work, unless one of a number of limited exceptions applies.
6. **The right to request erasure of personal data**. Under certain circumstances a data subject has the right to request the erasure of their personal data.

To exercise your rights contact the Academic Office directly by email, in writing or by phone.

**ACD Student records retention schedule**

Note: This retention schedule will be reviewed periodically in light of experience and any legal or other relevant indications.

*In light of the General Data Protection Regulation (GDPR) this schedule is currently under review.*

| General classes of records held by Academic Office | Default retention period | Final disposition |
|---|---|---|
| Student registration forms | Duration of studies | Destroy by confidential shredding |
| Changes to registration records | Duration of studies | Destroy by confidential shredding |
| Changes to biographical records | Duration of studies | Destroy by confidential shredding |
| Deferral, withdrawal and applications for transfer | Duration of studies | Destroy by confidential shredding |
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| Records of unsuccessful direct applicants for undergraduate and postgraduate courses | Thirteen months | Destroy by confidential shredding |
| Student file (general correspondence) | Duration of studies | Destroy by confidential shredding |
| Overseas recruitment | Duration of agreement with agent | Destroy by confidential shredding |
| Examination papers | Indefinitely | Archive |
| Examination scripts | Thirteen months | Destroy by confidential shredding |
| External examiners' reports | Indefinitely | Archive |
| Examination board meeting records | Indefinitely | Archive |
| Records of written projects/examination grades | Indefinitely | Archive |
| Formal signed result sheets and broadsheets | Indefinitely | Archive |
| Conferring records | Indefinitely | Archive |
| Alumni records | Indefinitely | Archive |

**College records retention schedule**

Note: This retention schedule will be reviewed periodically in light of experience and any legal or other relevant indications.

*In light of the General Data Protection Regulation (GDPR) this schedule is currently under review.*

| General classes of records | Description of contents | Default retention period: | Final disposition: |
|---|---|---|---|
| **ADMINISTRATIVE** | | | |
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| College committees, sub-committees | Agenda, minutes, reports | Indefinitely | Archive |
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| Academic Council | Agenda, minutes, reports | Indefinitely | Archive |
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| Accreditation | Agenda, minutes, reports | Indefinitely | Archive |
| **FINANCIAL** | | | |
| Financial - Budgets file (originals) (file per year) | Details of College budget, revenue figures for college | Indefinitely | Archive |
| Financial - Staffing file | Annual details of staffing, notes on duration of contracts, lists of salary costs | Indefinitely | Archive |
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| Financial - Invoices | | Hold for current year plus 1 year | Destroy by confidential shredding |
| **STUDENT RECORDS** | | | |
| Correspondence with external examiners | Reviews of draft exams, exam scripts and external examiner reports | Hold for current year plus 3 years | Destroy by confidential shredding |
| Meetings with external examiners | External examination board broadsheets and minutes | | |
| | | Indefinitely | Archive |

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|---|---|---|---|
| Grade reviews | Copies of grade review files held in Academic Office | Hold for current year plus one year | Destroy by confidential shredding |
| Examination scripts | | Hold for 13 months | Destroy by confidential shredding |
| Student files (Academic files) | Placement record, references, medical certificates, psychology reports extenuating circumstances etc. | Hold for duration of studies plus one year | Destroy by confidential shredding |
| Correspondence with students | General: leave of absence, deferral, transfer, re-entry, etc. | Hold for duration of studies plus one year | Destroy by confidential shredding |
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| **STAFF RECORDS** | | | |
| Timetables, correspondence etc. | | Hold for the current year plus one year | Destroy by confidential shredding |
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| **PUBLICATIONS** | | | |
| Publications: ACD Catalogue, Quality Assurance Manual, Student handbook etc. | | Indefinitely | Archive |
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