



CST GUIDANCE: RELEASING CENTRE ASSESSMENT GRADES AND ARRANGEMENTS FOR RESULTS DAYS

The Confederation of School Trusts (CST) is the national organisation and sector body for academy and multi-academy trusts. This guidance has been prepared with the help of our Platinum Partner, Stone King LLP. It is guidance only. Any law or practice referred to has been paraphrased or summarised. It should not be construed or relied upon as legal advice in relation to a specific set of circumstances. This guidance has been shared with DfE, Ofqual and the Joint Council for Qualifications (JCQ).

Guidance note on releasing the Centre Assessment Grade (CAG) to a student

There are technically three options available to schools and trusts in relation to releasing the Centre Assessment Grade (CAG). This is the grade that the centre sent to the Awarding Organisation, which may be different from the grade awarded to the student following the statistical moderation process.

1. Release the CAG on results day to all students
2. Release the CAG on request
3. Release data held by the centre only in the case of a Subject Access Request

CAGs **must not** be revealed before results day. It would be deemed malpractice to do so.

Option one: Release the CAG on results day to all students

There are risks with this option. It would potentially undermine the awarding process this year and create the situation where there are two grades in circulation. It is potentially confusing for students, parents, employers, universities, sixth form provision and apprenticeship providers.

Choosing this option does not prevent students from being able to exercise their legal right to make a Subject Access Request under the EU General Data Protection Regulation (GDPR). This means they could still make a Subject Access Request for their personal data including information about ranking, other information used to generate the CAG or indeed any other personal data you hold relating to them. Students must not be given the impression that the release of CAG is in exchange for “giving up” their right to make a Subject Access Request.

Option two: Release the CAG on request

On balance, schools and trusts may wish to consider adopting a policy where you say you will release the CAG on request to the student (but not the rank order). This removes the potential adversarial

context of a Subject Access Request and enables a supportive conversation to be had with the student in the days following results day, with a focus on their destination.

Key considerations in relation to this approach:

1. Consider what arrangements you will put in place, for example, a student who makes such a request is invited in to meet with a member of staff to discuss the CAG, the difference to the awarded grade (if there is a difference), the student's preferred destination and how the school can support this.
2. Ensure that your policy is known – you may wish to write to students to ensure they know they can request the CAG, how to go about doing so and under what conditions. This ensures that students have equal access to information about how they request their CAG. It may be appropriate to invite students who wish to request their CAG under the policy to make their request to a specific person such as your Data Protection Officer (DPO) or to complete a specific online form. This may help distinguish a request for CAG under this policy from a Subject Access Request under the GDPR. You should ensure that you keep a record of all requests for CAGs made, who the request was made to, by whom and the date in a central log.
3. You must have a process in place to be able to distinguish between a request for the CAG under this policy and a Subject Access Request under GDPR. Under GDPR, Subject Access Requests do not have to be made in writing and do not have to mention the words "GDPR" or "Subject Access Request". It is for the school and trust to be able to recognise that the student is exercising their legal right to make a Subject Access Request.
4. Where it is reasonable and practicable to do so, the Data Protection Officer (DPO) should be involved in all enquiries and applications for CAGs. This is because the DPO will be best placed to recognise and distinguish a request for CAGs under this policy and a Subject Access Request under GDPR. If the DPO is not directly involved in requests for CAG, the person dealing with the requests should have received appropriate training in data protection and also be confident that that they can recognise and distinguish between a Subject Access Request under the GDPR and a request for CAG under this policy.
5. As with Option 1 above, choosing Option 2 does not prevent students from being able to exercise their legal right to make a Subject Access Request under GDPR for their personal data including information about ranking, other information used to generate CAG or indeed any other personal data you hold relating to them. Students must not be given the impression that the release of their CAG is in exchange for "giving up" their right to make a Subject Access Request for other personal data.
6. Although there is no statutory obligation on the school or trust for the policy document to inform students of their legal right under GDPR to request personal data other than their CAG, students will be regarded by GDPR as "vulnerable" and deserving of extra protection. It is therefore important that their legal rights in relation to their data are made clear and transparent. Schools and trusts will be under a legal obligation under GDPR to inform students of their individual legal rights under GDPR (including their right to make a Subject Access Request) and this should already have been made available to students in your Privacy Notice. Schools and trusts should ensure their student Privacy Notice is GDPR compliant, informs

students of their legal right of subject access and is readily accessible. We would recommend including a link to the Privacy Notice from the policy document (if you have one written down) or in any communication to students explaining this policy.

7. Where the CAG is disclosed to the student under this policy, it is expected that they would not be disclosed to their parents or carers unless the student has consented to this. Schools and trusts should obtain written evidence of student consent before releasing their CAG to any third party, including parents and carers.

Option three: Release personal data held by the centre only in the case of a Subject Access Request being made under the GDPR

Schools and trusts may decide not to realise the CAG unless the student makes a Subject Access Request under GDPR.

The CAG, together with ranking and any other information used to generate the exam grade, is the student's personal data. This means that the student is legally entitled to request this information under GDPR. Making such a request is usually referred to as a Subject Access Request or SAR for short.

Under GDPR, unless an exemption applies that allows you to claim an extension of time, you would need to deal with a SAR without delay and at the latest within one calendar month starting from the day the request is received.

However, where a SAR is made for personal data that consists of exam marks or other personal data processed for the purpose of determining the results of an exam, schools and trusts are likely to be able to take advantage of a legal exemption contained within the Data Protection Act 2018 (Exam scripts and exam marks exemption) which modifies the timescale for response.

The exemption works like this: if you receive a SAR before the final exam results are announced, you must provide the requested information **either** within 5 months of receiving the SAR **or** within 40 days of the announcement of the exam results, if this is earlier.

However, if the SAR is received after the results publication date, you will need to comply with the SAR in the usual GDPR statutory timeframe of one calendar month from the day on which the SAR was received.

Because of the way this exemption operates, a student that submits a SAR for their CAG after the final results are announced may be legally entitled to a response to that SAR faster than a student who submitted their request before the final results were announced. The practical consequence of this is that SARs should not necessarily be dealt with on a "first in first out" basis. This will become important if the school or trust is having to deal with multiple SARs from students. Deadlines for responding to SARs should be carefully logged.

Requests for rankings: If you receive a request to disclose rankings either instead of or in addition to CAGs, the school or trust should take advice from its DPO and deal with the request for ranking as a SAR. This is because where personal data relating to ranking is disclosed, there is an increased possibility of also disclosing personal data relating to other students. i.e. the requestor may be able to deduce the rankings of their cohort.

Stone King has produced a practical guidance pack on handling a SAR in the context of the Summer 2020 exam results. It contains detailed guidance, template responses, FAQs and Key tips. (NB. CST members can claim a discount using code CSTSARS2020)

This guidance pack includes:

- **How to identify if the SAR is legally valid;**
- **An overview of your legal obligations as a controller** including time limits for responding to a SAR and circumstances in which those time limits can be extended; how to approach requests made by parents on behalf of students; dealing with “bulk” requests made by multiple students in close proximity to each other; verifying identity of the requestor and requesting clarification of a request;
- **How to identify personal data in the context of handling a SAR;**
- **Applicable exemptions** – an overview of some of the most applicable legal exemptions from the right of access under the Data Protection Act 2018 (“DPA”);
- **Template responses** – various templates to be adapted for use where a SAR is received including an acknowledgement of receipt and a substantive response to a SAR;
- **Practical tips** on effectively dealing with a SAR;
- **Answers to questions** such as *“Can we extend the deadline for dealing with the SAR?” “Will anonymised or pseudonymised information be exempt from a SAR?” “Can we delete records generated as part of the grading and ranking process that we don’t have to deal with SARs? ” “We’ve received a SAR from a parent on behalf of a student. The parent doesn’t live with the student. What do we do?” “Does the SAR include personal data held on a teacher’s personal device?”*

For more information about the guidance pack [click here](#).

Possible actions to take in the coming weeks

Agree a policy with your trust board on which of these options you will pursue. Agree a procedure for communicating this policy.

Talk to local colleges, sixth form providers, universities, apprenticeship providers to explain that in this particular year some individual pupils may not receive the grade they might have received had they sat an exam. Therefore, it is very important that local colleges, sixth form providers, universities, apprenticeship providers and employers give additional latitude. In this year more so than in others, it is important to give students the benefit of the doubt and take a broad approach to evidence.

Results day guidance

A reminder that the embargo for issuing results has moved this year from 6am to 8am, to coincide with the opening of UCAS Track to ensure students are not unsupported in the period before knowing whether their university place has been confirmed.

Consider how you will manage results days. This could be virtual, electronic or inviting students to attend school with the hierarchy of controls in place. Results days are typically emotionally charged for students and their parents. If students are collecting their grades on site, you will need to put in place the hierarchy of controls that you have used over the summer term so that the risks presented by COVID-19 can be managed and mitigated. This will need to be clearly communicated and explained to staff, students and parents.

In particular this means:

- ensuring that those who have coronavirus symptoms, or who have someone in their household who does, do not attend school;
- cleaning hands more often than usual;
- ensuring good respiratory hygiene by promoting the 'catch it, bin it, kill it' approach;
- cleaning frequently touched surfaces often using standard products, such as detergents and bleach;
- minimising contact and mixing as far as possible, by keeping students in small consistent groups. Schools should aim to practise social distancing in line with [current government guidance on social distancing](#).

You could consider the following:

- A staggered timetable or rota with no more than 25 percent of students on site at a time;
- Marking out physical distancing;
- Facilities to wash/ sanitise hands; and
- Request that parents and carers remain off the site while students collect grades.

If you decide to put in a place a process to release and discuss centre assessment grades with students (option two), then this will need to be timetables and staffed. Staff will need to feel confident to manage these conversations.

Students and parents should follow [Coronavirus \(COVID-19\): safer travel guidance for passengers](#) when planning their travel to school, and be encouraged to walk or cycle where possible. Schools and trusts should consider the potential for broader social mixing outside school when deciding their approach and communicate with students about not socialising with each other in groups outside school.

Schools and trusts should continue to make clear to parents that they cannot gather at entrance gates or doors, or enter the site (unless they have a pre-arranged appointment).

Further advice can be found in [protective measures guidance for education and childcare settings](#).

From the start of the Autumn term, schools and trusts should follow the new [school full opening guidance](#).

The national results helpline

The National Careers Service will be delivering the Exam Results Helpline during August 2020. Young people or their parents can contact the helpline on 0800 100 900 to speak to a professionally qualified careers adviser if they need advice on their next steps. The helpline will be open from 8 am to 10 pm from Thursday 13 August until Friday 28 August. After these dates, young people will be able to access ongoing support from the National Careers Service at any time by calling 0800 100 900, visiting nationalcareers.service.gov.uk/contact-us or searching for the National Careers Service on Facebook and Twitter.