

DATA PROTECTION AND THE RIGHT TO ERASURE POLICY

1. OVERVIEW AND PURPOSE

1.1 Under data protection legislation¹, the University processes personal data relating to a number of individuals, such as our staff, students, research participants and other third parties. Under this legislation, those individuals have a number of rights in relation to how their personal data is processed.

1.2 This policy relates to the 'right to erasure', sometimes known as the right to be forgotten.

2. SCOPE

2.1 This Policy applies to any individual who wishes to request erasure of their personal data held by the University, under Article 17 of the UK General Data Protection Regulation (GDPR). The right to erasure is not absolute and only applies in certain circumstances.

2.2 Individuals have the right to have personal data erased if:

- the personal data is no longer necessary for the purpose which the University originally collected or processed it for;
- the University relied on 'consent' as its lawful basis for processing the personal data, and the individual has withdrawn their consent;
- the University relied on 'legitimate interests' as its lawful basis for processing the personal data, but the individual has objected to the processing and there is no overriding legitimate interest to continue the processing;
- the personal data has been processed for direct marketing purposes and the individual objects to that;
- the personal data has been processed unlawfully; or
- the personal data has to be erased in order to comply with a legal obligation.

2.3 The right to erasure does not apply if processing is necessary for one of the following reasons:

- to exercise the right of freedom of expression and information;
- to comply with a legal obligation;

¹ Data protection legislation is any applicable legislation relating to the processing of personal data and includes the Data Protection Act 2018, the UK General Data Protection Regulation and, in certain circumstances, the EU General Data Protection Regulation 2016/679.

- for the performance of a task carried out in the public interest or in the exercise of the University's official authority;
- for archiving purposes in the public interest, scientific research, historical research or statistical purposes where erasure is likely to render impossible or seriously impair the achievement of that processing; or
- for the establishment, exercise or defence of legal claims.

2.4 Under the UK GDPR, there are also two circumstances where the right to erasure will not apply to special category data²:

- if the processing is necessary for public health purposes in the public interest; or
- in certain circumstances, if the processing is necessary for the purposes of preventative or occupational medicine.

3. RESPONSIBILITIES

3.1 University Executive Group (UEG) (on behalf of the University, as Data Controller)

3.1.1 UEG is responsible for ensuring that individuals are able to exercise their right to obtain the erasure of their personal data from the University and shall ensure that systems and processes enable personal data to be erased or to be put beyond use where the right applies.

3.1.2 Where the University engages a third party processor, UEG shall ensure the processor has appropriate technical and organisational measures in place for the fulfilment of the University's obligation to respond to requests for erasure where appropriate.

3.2 Data Protection Officer

3.2.1 The University's Data Protection Officer will act as a point of contact for individuals who wish to request the erasure of their data and will liaise with internal colleagues and teams to comply with the request.

3.3 Staff

3.3.1 All staff are responsible for familiarising themselves with this policy and, in particular, must ensure that:

- Any request for the erasure of personal data is brought to the attention of the Data Protection Officer immediately; and

² Special category data is personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation.

- They act in accordance with any advice or request from the Data Protection Officer to respond to an individual's request for erasure.

4. POLICY

4.1 The UK General Data Protection Regulation (UK GDPR)

4.1.1 The UK GDPR sets out a number of principles relating to the processing of personal data including the following:

- Personal data shall be processed lawfully, fairly and in a transparent manner;
- Personal data shall be collected for specified, explicit and legitimate purposes and, generally, not used for other purposes; and
- Personal data should not be kept in a form that enables an individual to be identified for longer than is necessary for the purposes for which the personal data are processed.

4.1.2 The UK GDPR also provides a number of rights to individuals including the right to erasure (Article 17 of the Regulation): *"The data subject shall have the right to obtain from the controller the erasure of personal data concerning him or her without undue delay and the controller shall have the obligation to erase personal data without undue delay"* where certain grounds apply.

4.2 A request for erasure

4.2.1 An individual can request the erasure of some or all of their personal data or from a particular system or file. The request can be made verbally or in writing. It can be made to any part of the University and does not need to be made to a specific person or contact point. Proof of identity will be required by the University before a request will be considered valid.

4.2.2 The University publishes a *'Right to erasure request form'* (linked below) which assists individuals in making their request and enables the University to respond more quickly. However, individuals are not required to complete this form for their request to be valid.

4.2.3 The University will not generally charge a fee for complying with a request for erasure, unless the request is manifestly unfounded or excessive in which case a reasonable fee may be charged for the administrative costs of complying with the request.

4.3 Dealing with a request for erasure

4.3.1 On receipt of a request and proof of identity, the University will consider whether the individual has a right to erasure of their data. The right to erasure is not absolute and the University will take account of the limitations in the UK GDPR as well as the exemptions within the Data Protection Act 2018, in considering the request.

- 4.3.2 Where the individual has a right to erasure, the University may refuse to comply with the request if it is manifestly unfounded or excessive. The University will take into account whether the request is repetitive in nature. If the request is manifestly unfounded or excessive, the University may refuse to deal with the request or may ask for a reasonable fee to deal with the request.
- 4.3.3 Before the erasure of any personal data, the University will advise the individual as to what will happen to their data when their erasure request is fulfilled, including in respect of backup systems, and the impact on their other data rights under the UK GDPR, such as the right of access.

4.4 What erasure means

- 4.4.1 Where possible, the University will ensure the destruction of personal data, i.e. its irretrievable removal. This will mean physically destroying the data (such as paper records) or permanently removing the data from electronic systems or devices, so that it can never be restored.
- 4.4.2 In some instances, it is not possible to destroy data and, instead it will be deleted so that it is no longer available for use, although it would still be recoverable. This is in line with guidance³ published by the Information Commissioner's Office (ICO) which recognises that it is not always possible to permanently remove data from systems. Instead, data will be 'put beyond use' as follows:
- Personal data has been deleted with no intention on the part of the University to use or access the data again;
 - The University is not able, or will not attempt, to use the personal data to inform any decision in respect of the individual or in a manner that affects the individual in any way;
 - There are appropriate technical and organisational security measures in place in relation to the personal data; and
 - The personal data will be permanently destroyed if, or when, that becomes possible.
- 4.4.3 In dealing with a request for erasure, the University will also take steps to ensure erasure from backup systems as well as live systems. Those steps will depend on the circumstances of the request, the University's Backup Retention Schedule and the technical mechanisms that are available. For example, personal data may remain within the backup environment for a certain period of time until it is overwritten.

4.5 Other organisations

- 4.5.1 The University will tell other organisations about the erasure of personal data in the following circumstances:
- Where the personal data has been disclosed to others

³ https://ico.org.uk/media/for-organisations/documents/1475/deleting_personal_data.pdf

- The personal data has been made public in an online environment

4.5.2 Where the personal data has been disclosed to others, the University will contact each recipient and inform them of the erasure, unless that is not possible or involves disproportionate effort.

4.5.3 Where the personal data has been made public in an online environment, reasonable steps should be taken to inform other data controllers who are processing the personal data to erase links to, copies or replication of that data. When deciding what steps are reasonable, the University will take account of available technology and the cost of implementation.

5. LEGISLATION AND GOOD PRACTICE

5.1 The Data Protection Act 2018 is published here:

<https://www.legislation.gov.uk/ukpga/2018/12/contents/enacted>

5.2 The ICO publishes guidance on individuals' rights with regard to their personal data here:

<https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/>

5.3 Specific guidance about the right to erasure from the ICO can be found here:

<https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/right-to-erasure/>

| Review / Contacts / References | |
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| Policy title: | Data Protection and the Right to Erasure |
| Date approved: | 23 May 2022 |
| Approving body: | University Executive Group |
| Last review date: | May 2022 June 2019 |
| Revision history: | Version 2: May 2022 Version 1: June 2019 |
| Next review date: | May 2025 |
| Related internal policies, procedures, guidance: | Right to erasure request form Data Protection Policy Privacy Notice Master Records Retention Schedule Information Security Policies (including Backup Management Policy & Schedule) |
| Policy owner: | General Counsel, Governance and Compliance |
| Lead contact / author: | Information Manager Head of Information Management and Compliance |