

## Rights of Data Subjects

### Overview of rights

<b>The right to be informed</b>	Data subjects should be clear about what, why and in what way, Personal Identifiable Information (PII) will be processed.
<b>The right of access</b>	Data subjects have the right to learn what PII is held on them by whom and why
<b>The right of rectification</b>	Data subjects can request corrections to their PII
<b>The right to erase</b>	Data subjects can request to be forgotten
<b>The right to restrict processing</b>	Data subjects can ask organisation to stop processing their PII
<b>The right to data portability</b>	Data subjects can ask for their PII in machine readable format or to have it sent to another organisation
<b>The right to object</b>	Data subjects can object to organisation processing their PII
<b>Automated decision making and profiling</b>	Protection against targeted marketing and decision making

### Rights in more detail

**The right to be informed:** covers your necessity to provide fair processing information. This is typically through a privacy notice. It places emphasis on the need for transparency over how Personal Data is used. The material you give regarding the processing of Personal Data must be:

- Concise, transparent, understandable, and easily accessible
- Communicated in clear and plain language, especially if addressed to a child
- Free of charge

Information obtained directly from Data Subjects:

- At the time the data is obtained
- Typically, it is a **Privacy Notice**

Information that is not obtained directly from Data Subjects:

- Within one month of having obtained the data
- In cases where the data is used to communicate with the individual, at the latest, when the first communication takes place

**The right of access:** The GDPR clarifies that the reason for allowing individuals to access their Personal Data is so that they remain aware of and can verify the lawfulness of the processing.

Under the GDPR, individuals will have the right to obtain:

- Confirmation that their data is being processed
- Access to their Personal Data
- Other supplementary information – this largely corresponds to the information that should be provided in a privacy notice.

The mechanism for this is called a **Subject Access Request: see template provided.**

**The right of rectification:** Data Subjects are entitled to have their Personal Data corrected if it is inaccurate or incomplete.

If you have disclosed the PII to third parties:

- You must inform them of the correction (where possible)

- You must also inform the Data Subjects which third parties have the information.

You must respond within one month:

- The period of compliance may be extended by a further two months. This is in cases where the requests are complex or multiple
- In such an instance, the individual must be informed within one month of the receipt of the request and an explanation as to why the extension is necessary.

If action is not taken in response to a request for rectification, adequate reasoning explaining why must be communicated along with informing the requester about their rights to contact the ICO.

**The right to erase:** Individuals have a right to have their personal data erased and to prevent processing in some specific situations, these include:

- Where the personal data is no longer necessary regarding the purpose for which it was originally collected/processed
- When the individual withdraws consent
- When the individual opposes the processing and there is no superseding legitimate interest for continuing the processing
- If the personal data was unlawfully processed (i.e. otherwise in breach of the GDPR)
- If the personal data must be removed to comply with a legal obligation
- If the personal data is processed in relation to the offer of information/society services to a child (**if a child request erasure even if they have previously given consent you must do so**)

You can refuse to comply with a request for erasure where the personal data is processed for the following reasons:

- To exercise the right of freedom of expression and information
- To conform with a legal obligation for the performance of a public interest task or exercise of official authority
- For public health purposes in the public interest
- For archiving purposes in the public interest, historical or scientific research, or statistical purposes
- The exercise or defence of legal claims

**The right to restrict processing:**

When processing is restricted, it is possible to store the personal data, but you are not permitted to further process it (pause processing). When restriction is lifted you must inform data subject.

- You can retain just enough information about the individual to guarantee that the restriction is respected in the future.

Processing should be restricted when:

- Where an individual contests the accuracy of the personal data, you should restrict the processing until you have verified the accuracy of the personal data
- Where an individual objects to the processing (where it was obligatory for the performance of a public interest task or for legitimate interests), and you are considering whether your organisation's legitimate grounds outweigh those of the individual.
- If you no longer require the personal data but the individual requires the data to establish, exercise or defend a legal claim.
- When processing is unlawful, and the individual opposes erasure and requests restriction instead

**The right to data portability:**

The right to data portability enables individuals to acquire and reuse their personal data for their own purposes across different services:

- This allows individuals to move, duplicate, or transfer personal data easily from one IT environment to another in a safe and secure way, without hindrance to usability

- It allows consumers to take advantage of applications and services that can use this data to help them save money, or help them understand their spending habits

The right to data portability only applies:

- To personal data that an individual has provided to a Controller themselves
- Data Sets for which consent has been given
- Where the processing is based on the individual's consent or for the performance of a contract
- When processing is carried out by automated means.

#### **The right to object:**

The Right to Object is used in cases where the Lawful basis of processing is other than Consent (for which it is merely necessary to withdraw consent)

Individuals have the right to object to processing:

- Which uses "Legitimate Interests" or "the performance of a task in the public interest" or "exercise of official authority", including profiling.

Organisations processing data in the categories on the previous slide should:

- Inform data subjects of their right to object "at the point of first communication" and in their privacy notice
- This must be explicitly brought to the attention of the data subject and shall be presented clearly and separately from any other information
- Identify ways that can be used to object which should be appropriate to how the data is collected and processed (eg if they are carried out online, it is essential that you offer an option for individuals to be able to object online)
- Respond to an objection within one month
- If you reject the Right then explain why and remind individuals of their ability to seek redress from the ICO

#### **Automated decision making and profiling:**

Safeguards for individuals are introduced by the GDPR to protect against the possibility that a harmful decision is made without human intervention:

- Such rights work similarly to those existing under the DPA.

Individuals possess the right not to be subject to an agreement when it:

- Is focused on automated processing
- Results in a legal or equally important impact on the individual

If you wish to require more information regarding rights, you can do this by consulting the Information Commissioners Office (ICO) website or for more specific enquiries at

[ben@dmpayrollservices.co.uk](mailto:ben@dmpayrollservices.co.uk).