

The Rights of Data Subjects – Right to Erasure

What is the right to erasure?

Under Article 17 of the GDPR individuals have the right to have personal data erased. This is also known as the 'right to be forgotten'. The right is not absolute and only applies in certain circumstances.

When does the right to erasure apply?

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

- The personal data is no longer necessary for the purpose which we originally collected or processed it for
- We are relying on consent as our lawful basis for holding the data, and the individual withdraws their consent
- We are relying on legitimate interests as our basis for processing, the individual objects to the processing of their data, and there is no overriding legitimate interest to continue this processing
- We are processing the personal data for direct marketing purposes and the individual objects to that processing
- We have processed the personal data unlawfully
- We have processed the personal data to offer information society services to a child

How does the right to erasure apply to data collected from children?

There is an emphasis on the right to have personal data erased if the request relates to data collected from children. This reflects the enhanced protection of children's information, especially in online environments, under the GDPR.

Therefore, as we process data collected from children, we must give particular weight to any request for erasure if the processing of the data is based upon consent given by a child – especially any processing of their personal data on the internet. This is still the case when the data subject is no longer a child because a child may not have been fully aware of the risks involved in the processing at the time of consent.

Further details about the right to erasure and children's personal data can be found in the ICO guidance on children's privacy.

Do we have to tell other organisations about the erasure of personal data?

The GDPR specifies two circumstances where you should tell other organisations about the erasure of personal data:

- the personal data has been disclosed to others, or
- the personal data has been made public in an online environment (for example on social networks, forums or websites)

If we have disclosed the personal data to others, we will contact each recipient and inform them of the erasure, unless this proves impossible or involves disproportionate effort. If asked to, we will also inform the subject about these recipients.

The GDPR defines a recipient as a natural or legal person, public authority, agency or other body to which the personal data are disclosed. The definition includes controllers, processors and persons who, under the direct authority of the controller or processor, are authorised to process personal data.

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

When does the right to erasure not apply?

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
- For the performance of a task carried out in the public interest or in the exercise of 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

If we refuse to comply with the request for erasure for other reasons

We may refuse to comply with a request for rectification if the request is manifestly unfounded or excessive, taking into account whether the request is repetitive in nature.

If we consider that a request is manifestly unfounded or excessive we may:

- Request a "reasonable fee" to deal with the request (we will base the reasonable fee on the administrative costs of complying with the request. If we decide to charge a fee we will contact the individual without undue delay and within one month. We do not need to comply with the request until we have received the fee), or
- Refuse to deal with the request

In either case we will justify our decision and we will inform the individual without undue delay and within one month of receipt of the request.

We will inform the individual about:

- The reasons we are not taking action
- Their right to make a complaint to the ICO or another supervisory authority
- Their ability to seek to enforce this right through a judicial remedy

We will also provide this information if we request a reasonable fee or need additional information to identify the individual.

How do we recognise a request?

The GDPR does not specify how to make a valid request. Therefore, an individual can make a request for erasure verbally or in writing. It can also be made to any part of our organisation and does not have to be to a specific person or contact point.

A request does not have to include the phrase 'request for erasure' or Article 17 of the GDPR to be a valid request. As long as one of the conditions listed above apply it will be seen as a valid request.

Any of our employees could receive a valid verbal request. However, we have a legal responsibility to identify that an individual has made a request to us and handle it accordingly. Therefore, staff should be aware that the Data Protection Officer (DPO) must be informed immediately of any such request.

The DPO will record details of all the requests we receive and may check with the requester that we have understood their request, as this can help avoid later disputes about how we have interpreted the request.

How long do we have to comply?

We must act upon the request without undue delay and at the latest within one month of receipt.

We will calculate the time limit from the day after we receive the request (whether the day after is a working day or not) until the corresponding calendar date in the next month.

For practical purposes, we will adopt a consistent 28-day period to ensure compliance is always within a calendar month.

We may extend the time to respond by a further two months if the request is complex or we have received a number of requests from the individual. We will let the individual know without undue delay and within one month of receiving their request and explain why the extension is necessary.

Can we ask an individual for ID?

If we have doubts about the identity of the person making the request, we will ask for more information. However, it is important that we only request information that is necessary to confirm who they are.

We will let the individual know without undue delay and within one month that we need more information from them to confirm their identity. We will not comply with the request until we have received the additional information.

Procedure for Dealing with Requests for the Erasure of Personal Data

This procedure outlines the steps to be taken to satisfy data subjects' rights for personal data to be erased. It does not provide details on how specific systems are used to check the accuracy of personal data.

1. When an employee receives a request for erasure (in any form – written, verbally), he or she notes all details on the Personal Data Erasure Request Form (below), or asks the data subject to fill out the form, and immediately informs the Data Protection Officer (DPO), Allan Maule (dpo@kingseducation.com), and their Principal and/or Line Manager.
2. The local Principal or Line Manager appoints a member of their team to deal with the request and informs the DPO accordingly.
3. If the data subject is not known to the employee dealing with the request, proof of identity, in the form of a current passport/driving license is checked. The employee dealing with the request should not copy the identity documents, but record what has been seen and when on the Personal Data Erasure Request Form.
4. The DPO contacts the data subject to request clarification if necessary and inform them that Kings will respond to the request by 28 days from the day after the request was made, or from the day identification documents were presented (if applicable).
5. The DPO investigates whether there is a lawful basis for the erasure and informs the local Principal and IT Manager accordingly.
6. If there appears to be a lawful basis for erasure, the employee dealing with the request searches all records held on computer systems and all paper records and provides a report to the DPO listing where the personal data is held (not copies of the data). The employee dealing with the request should seek assistance from other departments and their IT Manager locally as required to ensure they have checked all data thoroughly.
7. The DPO authorises the erasure of the data if appropriate and the employee dealing with the request will carry out the erasure in conjunction with other departments and their IT Manager as required.
8. The DPO investigates whether the personal data has been shared with third parties or made public. If the request is valid, the DPO contacts any other organisations concerned to inform them of the erasure and informs the data subject of the recipients of the personal data.
9. The employee dealing with the request confirms the erasure of the personal data to the DPO, who formally informs the data subject of the outcome of their request. If we believe there is no lawful basis for erasure, the DPO informs the data subject of the reasons for the decision and their right to lodge a complaint with the supervisory authority and a method to do so.
10. The DPO records all details of the request and keeps this in accordance with the Data Retention Policy and Schedule. The DPO informs the local Principal and IT Manager of the outcome.

Personal Data Correction Request Form

Full Name	
Address	
Contact number	Email address

The Data Protection Officer (Allan Maule – privacy@kingseducation.com) may need to contact you to discuss your request and will need to inform you of the outcome of your request

Please tick the appropriate box below:

Current student	Current Staff	Former Student	Former Staff	Other
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Insert year of leaving:	Insert years from/To:	Please specify:

Please note: You only have to right to request erasure in the following circumstances:

- the personal data is no longer necessary for the purpose which we originally collected or processed it for
- or we are relying on consent as our lawful basis for holding the data, and the individual withdraws their consent
- we are relying on legitimate interests as our basis for processing, the individual objects to the processing of their data, and there is no overriding legitimate interest to continue this processing
- we are processing the personal data for direct marketing purposes and the individual objects to that processing
- we have processed the personal data unlawfully
- we have processed the personal data to offer information society services to a child

Details of the information you want to have erased:

I wish to have the data detailed above erased.

Signed (Data Subject).....

OR Member of Staff taking details (verbally)

Date of Request.....

For Internal Use Only:

Member of Staff receiving request	
Contact number	Email address
Line Manager of member of staff receiving request	
Member of Staff delegated to deal with the request	
Contact number	Email address
Date and Time Line Manager/Principal Informed	
Date and Time Data Protection Officer Informed	

Identity Confirmation of Data Subject:

Member of Staff confirming identity	
Means of confirming identity	
Date and Time identity confirmed	

For DPO Use Only:

DPO contact with data subject to request clarification (if necessary)	Date/Time:
DPO contact with data subject to confirm receipt of request and provide date that Kings will respond to the request by	
DPO informs Principal and IT Manager local to the request and requests them to restrict processing of the data subject's personal data until request is investigated	
Member of staff dealing with request informs DPO of locations of personal data	
DPO authorises erasure of the personal data if the request is deemed valid	
Member of staff dealing with request carries out erasure and confirms completion to DPO	
DPO contacts third parties if the data has been shared or made public and informs them of the request and informs subject of any data recipients	
DPO informs subject of outcome (if request found to be not valid DPO informs subject of the reasons for this and their right to lodge a complaint and methods to do so)	
DPO informs Principal and IT Manager of outcome	