

RIGHT TO ERASURE

THE RIGHT TO ERASURE (the Right to be Forgotten) is one of 8 rights in the General Data Protection Regulation (GDPR). The GDPR comes into force in the UK on the 25th May 2018. Along with the new Data Protection Bill it is the biggest shake up of data protection law in the UK since 1998.

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What is the right to erasure?

The right to erasure is also known as the right to be forgotten.

The right to erasure means you can request your data be “removed” from an organisations system.

“Erasing” your data prevents it from being processed further.

The GDPR makes it easier for you seek erasure of your data you no longer have to prove the use of your personal data has caused substantial distress or had damaged you in some way before it can be removed.

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When can you request your right to erasure?

You can request your data be erased if:

- It is no longer necessary for the organisation to continue to keep it or use it. For example you are no longer an employee, customer or patient.
- You have withdrawn your consent. For example if you no longer want to receive marketing information you can request your details are removed from a mailing list.
- You object to your data being processed by an organisation. You can only do this if it is not a legal requirement for you to provide personal data.
- The organisation has broken the data protection law and has processed, shared or used your data without your consent or in any other illegal way.
- The personal data has to be removed for a legal reason.
- The personal data of a child under the age of 16 is being used by a paid-for service online without the consent of a parent or guardian.

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When your right to erasure cannot be used

You cannot request your personal data be erased or “forgotten”:

- If the data has been processed in order to comply with the law.
- If it is to be used for a public health reason.
- If your data is seen to be necessary for an archive, research, historical, scientific or statistical purpose.
- If the personal data is needed in relation to a national security issue.

RIGHT TO ERASURE

Who do I contact to request erasure of my data?

You will need to contact the “data controller” of the organisation who is responsible for the processing of the data.

The contact details of the data controller will be in:

- the privacy notice;
- the privacy policy or
- wherever the organisation outlines their data protection on their website.

If you cannot find details of the data controller you should contact the Information Commissioners Office (www.ico.org.uk).

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What happens to your data?

Under the right to erasure:

- Your data will no longer be processed, used, shared or retained by the organisation.
- Any links to your personal data will be erased, for example the data will no longer appear in a search of a system or database.
- All copies and replications of your data will be removed.

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What do I do if my data has been published online?

If the data is publicly available online the data controller must inform all third parties who have access to the data that you have requested the data be erased.

Any third party must then:

- ensure they also delete the personal data
- erase any reference to the data on social media, online forums and websites.

If the data is part of a news story it may be protected by the freedom of expression exemption and cannot be erased.

The freedom of expression exemption allows journalists, academics, artists and writers to use personal data as their right to freedom of expression as part of their work.

If data about you appears in a news article, blog post or an academic study, that information may be published widely both on and off line.

Unless you are able to prove a specific harm was caused to you by the publication of the personal data and the harm outweighs the public interest, it is unlikely you will be granted the right to erase the data.

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Don't forget

- The right to erasure is the same as the “right to be forgotten”.
- Erasing personal data means the data is no longer processed and any copies or links to the data are removed.
- You can request your personal data is erased under 6 specific situations.
- Right to erasure protects children under the age of 16 if their data has been processed by a paid for online service..