



Responding to data subjects' rights – a guide

Background

The General Data Protection Regulation (GDPR) will come into effect on 25 May 2018.

The GDPR will replace the Data Protection Act 1998 (DPA) and is considered to advance the protection of personal data and respect for privacy. Many of the GDPR's concepts and principles are similar to those in the DPA, however there are new elements and significant enhancements. For example, there is a greater emphasis on the documentation that data controllers must keep to demonstrate their accountability and the ability for the ICO to issue fines of up to 20m Euros or 4% of an organisation's global turnover (whichever is higher) in the event of a breach.

Introduction

Data subjects have specific rights under GDPR in order to control the processing of their personal data. Some of these rights are absolute, i.e. the University needs to comply with them no matter what, and others are qualified, i.e. don't apply when processing personal data on certain legal bases.

If you are contacted by a data subject wishing to exercise their rights, the data protection team is happy to help on data-protection@nottingham.ac.uk.

Determining the legal basis for processing personal data

Please see 'Identifying a lawful (legal) basis for processing – a guide' allied to this fact sheet.

1. The right to be informed

Every one of us has the right to know what is being done with our data. Within GDPR, this is contained in the privacy notice, which needs to contain multiple fields prescribed by the Regulation. Essentially it tells a data subject what data is being processed, what purpose it is being processed for, the legal basis on which the processing is taking place, how the data is being shared and who with, how long it is being kept for and what rights a data subject has with respect to their data, which is the subject of this guide. The University is producing three main privacy notices for students (and applicants), members of staff and 'third parties' – those we process personal data for who are neither staff nor students of the University, such as school and business partners to whom we send newsletters.

The general privacy notices should cover the bulk of personal data processing carried out by the University, and the relevant notice should be linked to in the introductory email when making initial contact with a data subject whose personal data the University will be processing.



The general privacy notices will be up on the University website from the end of April 2018. If you are carrying out processing that does not appear to be covered by any of these notices, please contact the data protection team on data-protection@nottingham.ac.uk.

2. The right of access

Data subjects have the right to access their personal information and can request it from any organisation processing it. A data subject also has the right to confirmation that their data is being processed.

When a data subject requests their personal data, this is called a Subject Access Request and is dealt with under strict guidelines given by the regulation. Personal information must be supplied to the data subject within one month, so if you receive an enquiry related to subject access please contact the data protection team as soon as possible on data-protection@nottingham.ac.uk.

3. The right to rectification

Personal data should be rectified if it is inaccurate or incomplete. If inaccurate information has been supplied to others, they will need to be informed of any rectification carried out so they can ensure their data is accurate. Rectification must be carried out within one month (which can be extended for a further two if the matter is particularly complex).

4. The right to erasure

Also known as 'the right to be forgotten', this is the right of an individual to request the deletion or removal of personal data where there is no compelling reason for its processing. This right is heavily qualified and if you receive a request regarding this right the data protection team can help you with it on data-protection@nottingham.ac.uk.

Does not apply when...

Personal data is being processed on the basis of statutory obligation (Article 6(1)(c)) or performance of a public task (Article 6(1)(e)).

5. The right to restrict processing

When a data subject requests restriction of processing, the University can continue to store the data but do nothing else with it. This applies when an individual contests the accuracy of the personal data held; processing should be restricted until the accuracy of the data has been verified. It can also be used when the individual requires the data to pursue a legal claim or where processing of the data has been objected to (see below) and whether or not to uphold the objection is being considered.

6. The right to portability

This is mainly relevant to data subjects wishing to change banks or utility companies.



Only applies when...

Personal data is being processed on the legal bases of consent (Article 6(1)(a)) or contract (Article 6(1)(b)).

Does not apply when...

Personal data is being processed on the basis of performance of a public task (Article 6(1)(e)) or legitimate interest (Article 6(1)(f)).

7. The right to object to processing

This right only applies under certain circumstances. If the objection is raised when the processing is based on performance of a public task or legitimate interests, it must be honoured unless there are grounds for processing which outweigh the rights and freedoms of the individual. If the data is processed for direct marketing purposes, processing must stop immediately. It may be possible to refuse to comply with this right where the personal data is processed for research purposes. If you require guidance with this, please contact the data protection team on data-protection@nottingham.ac.uk.

Only applies when...

Personal data is being processed on the legal grounds of performance of a public task (Article 6(1)(e)) or legitimate interests (Article 6(1)(f)).

8. Withdrawal of consent for processing

While not listed as a right under GDPR, it is essential to remember that if an individual withdraws their consent for processing of their personal data, having previously given it, processing of their personal data needs to cease from that point.

If you require guidance with any of the themes in this guide, please contact the data protection team on data-protection@nottingham.ac.uk.