Our Contact Details

infocompliance@warwick.ac.uk

https://warwick.ac.uk/services/idc
How Many Requests do we Receive?
TOTAL - 68

2017 - 2018

- Right to Access: 48
- Right to Erasure: 7
- Right to be Informed: 1

TOTAL – 34... So far!

2018-2019

- Right to Access: 27
- Right to Erasure: 6
- Right to Restrict Processing: 1
Failure to Comply
Why should we comply?

- Bound by statute to do so, failure to suitably reply = a breach of the legislation
- Individual may complain to ICO who may investigate and issue a Decision Notice
- Reputational damage
- Fines
Right to Access

Implemented November 2018
Right to Access Process

‘Without undue delay’ and no later than... ONE MONTH

- Request and ID received and logged (clarification sought if required)
- Request sent to Departments for collation of information regarding individual
- Data collated, reviewed, redacted
- Information sent to Requestor by email or post

20 DAYS

10 DAYS (ish!)
Right to Erasure
(“right to be forgotten)’’
Guidelines for Staff
Implemented March 2019
Guidelines for Staff – Right to Erasure Request (Right to be forgotten)

Applies to a living Individual

What is a Right to Erasure?

Who can apply for a Right to Erasure?

How do I recognise a Right to Erasure Request?

How can an individual make a Right to Erasure Request?

Upon what grounds can an individual apply?

What is the University’s procedure?

What will happen if I ignore a Right to Erasure Request?

Real life examples

Case before the ECJ
Living Individual
GDPR and DPA 2018

• Applies - to identifiable living individuals

• “Personal Data”
any identifying information by reference to an identifier e.g. name, employee, opinion etc.
What is a right to erasure request?

• Individual applies to the University to delete all or some of their personal data which we are processing to be removed.

• “Processing” – includes anything we do with the personal data e.g. collection, use, storage, destruction etc.

• Can we comply with this request? (facts of the case and exemptions under GDPR)
• **Who can apply for a Right to Erasure request?**
  - anyone whose personal data is held by the University

• **How do I recognise a Right to Erasure request?**
  
  “I want the University to erase everything they hold on me”

  “I want the University to delete my records”
How can an individual make a Right to Erasure request?

The University’s website
https://warwick.ac.uk/services/idc/dataprotection/

Further information and form to be emailed:
https://warwick.ac.uk/services/idc/dataprotection/righttoerasure/

Contact the IDC team Immediately

Request received by Department
What grounds can an individual apply for right to erasure?

- The University no longer requires the personal data
- Consent withdrawn by the individual
- Objection to processing of their information
- Objects to marketing including profiling
- No legal ground for processing
- Erase data to comply with the law

Please seek support from the IDC team if you are unsure about this.
# Right to Erasure Process

**‘Without undue delay’ and no later than... ONE MONTH**

<table>
<thead>
<tr>
<th>Step</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Request and ID received and logged (clarification sought if required)</td>
</tr>
<tr>
<td>2</td>
<td>Request sent to Departments to assess what personal data on the requestor they hold</td>
</tr>
<tr>
<td>3</td>
<td>Department to determine whether information is being held with a lawful basis or can be deleted</td>
</tr>
<tr>
<td>4</td>
<td>Data is either deleted or held in line with the RRS</td>
</tr>
<tr>
<td>5</td>
<td>Requestor is informed of the outcome of their request</td>
</tr>
</tbody>
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**5 WORKING DAYS**
What happens if you ignore a request?

• Adverse impact on the individual
• Complaint to the University and ICO
• ICO administer sanctions
• Cost of staff dealing with the request
• Reputational damage to the University
• Risk the Individual will sue the University
Example of Right to Erasure request made to the University

Example 1
Student requests that payments made in 2018 for degree course are erased by finance

Example 2
An ex employee of the University wants us to delete the reference the University received prior to them being employed.

Example 3
You apply for a course and enrol. You never pay for the course or attended the course and want everything the University holds on you removed.
Case before the ECJ
Cases before the ECJ
Pre GDPR

European Court of Justice

Google Spain v AEPD and Mario Costeja González
Automated Decision Making including Profiling
GDPR applies to automated decision making including profiling
What is automated decision making and profiling?

• **automated individual decision-making** (making a decision solely by automated means without any human involvement); and;

• **profiling** (automated processing of personal data to evaluate certain things about an individual. In particular to **analyse** or **predict** aspects concerning that individual’s performance at work, economic situation, health, behaviour, location or movements etc. Profiling can be part of an automated decision-making process.

- Data can be sold to companies
- Transparency should be covered in a privacy notice.
Examples

Automated Decision Making

• an online decision to award a loan;
• Car Insurance, credit card etc. and;
• a recruitment aptitude test which uses pre-programmed algorithms and criteria.
Example of Automated Decision making and Profiling

Speeding Fines

Example Imposing speeding fines purely on the basis of evidence from speed cameras is an automated decision making process that does not necessarily involve profiling.

It would, however, become a decision based on profiling if the driving habits of the individual were monitored over time, and, for example, the amount of fine imposed is the outcome of an assessment involving other factors, such as whether the speeding is a repeat offence or whether the driver has had other recent traffic violations.
Responding to requests not to be subject to automated decision-making

• Individuals have the right in certain circumstances not to be subject to a decision solely on automated processing of their persona data; unless

• Exemptions apply – no choice but to rely on automated decision making; unless it:
• (1) is necessary for entering into, or the performance of, a contract between us and them;

• (2) is authorised by applicable law (e.g. for the purposes of fraud and tax evasion) which lays down suitable measures to safeguard their rights, freedoms and legitimate interests; or

• (3) is based on their explicit consent.
‘Without undue delay’ and no later than...ONE MONTH

If you do receive request immediately contact the IDC team.
Right to be Informed

Guidelines for Staff

Implemented May 2018
What is the Right to be Informed?

• Privacy Information (Art 13 and 14 GDPR)
What to Provide

☐ The name and contact details of our organisation
☐ The contact details of our data protection officer
☐ The purposes of the processing – i.e. car parking permits, conference registration
☐ The lawful basis for the processing
☐ The retention periods for the personal data
☐ The rights available to individuals in respect of the processing
☐ The right to withdraw consent
☐ The right to lodge a complaint with the ICO
How does the University comply?

- Main Privacy Notices
  - Student privacy notice
  - Staff privacy notice
  - Third parties and visitors to site privacy notice
  - Alumni privacy notice
  - Enquiry and applicant privacy notice
  - Research privacy notice
Ad-Hoc Privacy Notice

The University of Warwick will process your personal data \textit{[insert what personal data: xxxxx]} for the purpose(s) \textit{[insert purposes: xxxxx.]}.

The legal basis for processing this personal data is \textit{[inset what the condition for processing is: xxxxx.]}.

Your personal data will not be shared or disclosed to any third parties external to the University of Warwick. \{except \textit{[insert externals: xxxxx]} who will process your personal data for the purpose(s) \textit{[insert purposes: xxxxx.]}\}

Your personal data \textit{[delete where appropriate: will/will not]} be transferred outside of the EEA, will be kept securely by the University of Warwick and will be retained for \textit{[insert how long it will be kept and used for: xxxxxx]}.

The University of Warwick is the Data Controller of this information and is committed to protecting the rights of individuals in line with Data Protection Legislation. Please visit the University’s Data Protection webpages \url{https://warwick.ac.uk/services/idc/dataprotection/} for further information in relation to your rights and how the University processes your personal data. The University’s Data Protection Officer, A Bajaj, can be contacted through \texttt{DPO@warwick.ac.uk} and any requests or complaints should be made in writing to the University’s Data Protection Officer.
Exemptions

- The individual already has the information;
- Providing the information to the individual would be impossible;
- Providing the information to the individual would involve a disproportionate effort;
- You are required by law to obtain or disclose the personal data i.e. criminal investigation
- You are subject to an obligation of professional secrecy regulated by law that covers the personal data.
Right to Restrict Processing

Guidelines for Staff
What is the Right to Restrict Processing?

• Article 18 of the GDPR
• An individual can make a request for restriction verbally or in writing
• We have one calendar month to respond to a request
When does the right to restrict processing apply?

- The individual contests the accuracy of their personal data and you are verifying it;
- You no longer need the personal data but the individual needs you to keep it in order to establish, exercise or defend a legal claim;
- The data has been unlawfully processed and the individual opposes erasure and requests restriction instead.
How do we restrict processing?

- Moving Data
- Making Data unavailable
How long do we have to comply?

- Must act upon the request without undue delay
- The latest within one month of receipt of the request
Right to Data Portability
Article 20 of GDPR
What is the right to data portability and when does it apply?

- Allows individuals to receive personal data they have provided to a controller, in a structured and machine readable format.
- Also involves the individual having the right to request that a controller transmits this data to another controller.
What kind of data does this apply to?

- Data that is held electronically and data that is provided to an organisation.

- Personal data resulting from observation of an individual’s activities

- This does not include any additional data that you have created based on the data an individual has provided to you.
Right to Object

Article 21 of GDPR
What is the right to object?

- Article 21 of the GDPR

Organisation uses personal data for:

- a task carried out in the public interest
- for its legitimate interests
- for scientific or historical research, or statistical purposes, or
- direct marketing.
Direct Marketing

- An individual can ask you to stop processing their personal data for direct marketing at any time.

- Absolute Right

- Challenges:
  - Do we need to erase the individual’s personal data?
  - Recognising a request
  - Complying with the request within the required time limit
Right to Rectification (Art.16 of GDPR)
What is the ‘right to rectification’?

The right to have inaccurate data rectified, or completed if incomplete.

Data subjects need to prove that data is inaccurate/incomplete.

When is data inaccurate?

Informing third parties of the request.

Individuals can request restriction of processing while we are considering the matter.
What are some of the challenges for us?

- Recognising requests
- Rectifying opinions or mistakes
- Ensuring our systems enable us to rectify data.
How to Help us Respond to SARs

Useful tips for departments
To help us respond to SARs on time, please:

Send request to [infocompliance@warwick.ac.uk](mailto:infocompliance@warwick.ac.uk) as soon as received.

Tell us if you need clarification or if you have any concerns about releasing the data.

Tell us if you need extra time before internal deadline due and your reasons.

Only provide the data relevant to the request (ex. filter through spreadsheets).

Provide data electronically or on a USB stick.
How to handle email correspondence for SARs

- Search for emails using the terms provided by us
- Read the emails and filter through them
- Include any other correspondence that falls in the scope of request
- Do not send us more data than we have asked for.
Our role

- Communicate with requester
- Narrow down the request/seek clarification
- Liaise with departments to collate data
- Review all correspondence received
- Redact the files if necessary
- Prepare final response.