



PROTOCOL

Statutory Function : Data Subject Rights

Work Function : Handling Data Subject Requests for Rectification, Erasure, Restriction or Objection

Protocol Custodian : Data Protection Officer

Brief

A Data Subject may request the data controller to rectify, restrict or block, erase or destroy such data relating to them as is inaccurate as well as any other personal data which contain an expression of opinion which is based on the inaccurate data. This protocol sets out the circumstances and processes for managing such requests. Data is inaccurate if it is incorrect or misleading as to any matter of fact.

Such requests have a statutory timeframe and specific requirements for action and should be processed and recorded centrally by the Data Protection Officer. Data Subjects are entitled to a response to their request within 30 calendar days. Their request may not be agreed following a review of the data held (for example if the data is found to be accurate).

There is no fee for this service.

Protocol Process

Stage	Process	Action
1	Establish Bona Fides of Request	Check that the person making the request is either the Data Subject or someone who is authorised to act on their behalf.
2	The request has been received in writing	If the requestor is not the Data Subject, has a copy of the Power of Attorney or a Proof of Authority to act been provided? Is the Data Subject a Child? Does the person making the request have evidence that he/she has parental rights in regard to the data subject?
3	Establish Validity of Request	Is the person making the request able to do so? Is there sufficient information to identify/locate the data?
4	Issue written acknowledgement to requestor	Calculate the 30 calendar day deadline for response. Email or post letter. Return any original documents supplied.
5	Undertake Initial Departmental Investigations	Locate all of the records which contain the data in question. Check for factual accuracy taking into account request from applicant.
6	Identify the Lawful basis for processing the data	If relying on consent based processing, people will have a stronger right to have their data erased.
7	Determine if the data should be rectified, erased, blocked and have restrictions.	Service lead to confirm to DPO which entries (if any) they consider to be inaccurate and noting the correction that needs to be made.
8	Inform Third Party recipients of the erroneous data, that it has now been corrected, destroyed or blocked.	Determine which Third Party recipients it is possible to inform. Is there Risk? Keep a record.
9	Write to the applicant informing them of the outcome of the review and the action that has, or has not, been taken.	Provide details of reasoning behind any refusal to comply. Identify condition of lawful processing. Provide evidence of any corrections. Explain the right of appeal.

Requests for Correction of Records

The School will review the personal data that is held and consider each entry which the Data Subject has identified as inaccurate. In some cases it may be that the Data Subject has suggested alternative wording to appear in the records and this should be considered by the relevant teacher.

School lead to confirm to DPO which entries (if any) they consider to be inaccurate and noting the correction that needs to be made, which entries they considers to be accurate and should stand as originally recorded; and which entries should be blocked, erased or destroyed. If the request was for automated decisions to be manually reviewed this should be done keeping evidence of the decision making process.

A new entry should then be made in the record which states that the Data Subject has raised concerns about the accuracy of the record. Depending upon whether there are corrections, the entry should then confirm that, where applicable, corrections have been made in the relevant parts of the records and that otherwise the records are confirmed as not requiring correction and have been noted as such. Care should be taken not to obliterate the original and correction fluid should not be used on manual records. Notes should be made of the date and request for correction.

Where there is a dispute of accuracy, the most appropriate course of action is often to insert the Data Subject's opinion alongside that of the original entry. The School Lead should then ensure that a copy of the Data Subject's concerns and any response is inserted into the Data Subject's record. The School Lead should make copies of each page/entry of the newly annotated records and these copy documents should be provided to the Data Subject either as evidence of change or as evidence of consideration.

For paper records, where it has been determined that the records should be blocked or erased, this should be done using a permanent marker pen. For electronic records the School Lead must evidence the decision making process regarding the removal of the information. This must highlight the risk to the individual or family or staff if the information is left in the record.

Where it has been determined that the records should be destroyed, the relevant sheets should be removed from the record and shredded.

Where it is reasonably practicable to do so, the School/SAcademy Lead must also notify any third parties to whom the data has been disclosed of the rectification, blocking, erasure or destruction.

If information has been included/filed/written/uploaded/entered in the wrong person's record, the DPO should be informed. The erroneous information/entry needs to be removed and inserted into the correct record and an explanatory note entered.

Appeals/Review Process

Should the Data Subject remain dissatisfied with the outcome and the action taken by the School, if they have not already done so, they may choose to make a formal complaint. Finally, the Data Subject may raise their dissatisfaction with the Information Commissioner and ask for an assessment to be undertaken regarding the outstanding matter, or they make take their own legal advice and action through the Courts.

Compensation

A Court has the power to award compensation to the Data Subject if they are satisfied that they have suffered damage due to any contravention by a data controller and there is a substantial risk of further contravention.

Checks and Balances

Do not assume that the requestor has the authority over this data. Seek evidence. Where the Data Subject is a child, ensure that the requestor has parental responsibility and consider the age of the child. If the child is old enough to understand the concept of privacy, consider getting their consent or suggesting they make their own request. (in the UK you need parental consent for anyone under the age of 13. For children over 13 you can rely on the consent of the child if the child has no issues which would call in question their right ability to understand what it means to give consent and what it means to withdraw consent.

Consider carefully any opinions expressed that are being challenged. If these are opinions of medical practitioners, they may well be valid albeit contentious. If a request is refused, then it should be noted on the record that it is objected to and subject to disagreement with the Data Subject.

Unless there is clear evidence of risk, or a clear error where records have been, for example, entered on the wrong person's file, then notes should be added to the existing record highlighting the error. This is to ensure an audit trail of the correction and can aid in communications with the ICO. Extreme care should be exercised before any records are permanently destroyed. The DPO must be informed before such action is instigated and the. If there is insufficient evidence of risk then the entry should be marked "entered in error" and left in the record.

Right to be Forgotten

The right to erasure/be forgotten does not apply where there is a lawful condition of processing other than consent unless the School no longer needs the data for the purposes for which it was obtained. Where consent is the **only** basis for lawful processing, the right to be forgotten applies and must be actioned.

Simple Process Summary

Validate and acknowledge request providing 30 calendar day deadline



Log centrally by Mrs Glenda Taylor



Send to relevant member of staff to locate and review the erroneous data



Mrs Taylor to discuss with Mrs Blakeley and DPO whether or not the request is to be agreed



Mrs Taylor to erase, rectify, restrict or otherwise cease processing of personal data and provide evidence to the DPO that this has been done



Mrs Taylor to inform the requestor of the outcome of their application, along with evidence or reasons for the request being refused



Mrs Taylor to update the update Log