



INDIVIDUAL RIGHTS PROCEDURE

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1. Procedure Statement

1.1 This is the Individual Rights Procedure (“Procedure”) of Edintervention.

1.2 The UK General Data Protection Regulation (the retained EU law version of the General Data Protection Regulation (EU) 2016/679) (“GDPR”) provides certain rights to individuals in respect of their personal data. These procedures provide a framework for responding to requests to exercise those rights.

1.3 This Procedure applies to all Edintervention staff, governors, directors, volunteers and contractors.

1.4 This Procedure will be reviewed and updated in accordance with documented review dates, though Edintervention reserves the right to update this Procedure at any time where it is more immediately necessary to do so e.g. because of operational changes, court or regulatory decisions, or changes in regulatory guidance.

2. Individual Rights

2.1 There are a range of individual rights that those about whom we process personal data may exercise. The most common type of individual right is a **Subject Access Request**. However, there are also other individual rights that are less commonly exercised such as:

2.1.1 **Rectification** – this a right to have inaccurate personal data rectified.

2.1.2 **Erasure** – this is a right which enables an individual to request the deletion or removal of their personal data (sometimes referred to as the “right to be forgotten”).

2.1.3 **Objection** – this a right which enables an individual to object to their personal data being processed.

2.1.4 **Restriction** – this is a right which enables an individual to request that processing of their personal data is restricted.

2.2 Collectively, for the purpose of the Procedure, we refer to these different requests as **Individual Rights**. These Individual Rights are generally not absolute, which means that there are circumstances when a particular request can be refused. This Procedure sets out our approach to responding to each type of request, which has proper regard to the relevant law set out under the GDPR and DPA.

Receipt of Request

2.3 Requests to exercise individual rights can be made in any form, which includes being made verbally, by email, social media or any other method of communication. It is the responsibility of all of us to recognise requests and to ensure that they are properly handled.

2.4 On receipt of an individual rights request, this should be communicated by email. This

can be done by contacting nick@edintervention.co.uk. The Director of Finance and Administration will triage the request to check whether the request is an individual rights request and which type. The request will then be sent to the DPO by email (DPO@wearehy.com).

3. Subject Access Requests

3.1 If the DPO confirms that the individual has made a **subject access request**, this section of the Procedure must be followed. This is the most common individual right. Staff are encouraged to watch the HYin5ive data protection tutorial on these requests: [click](#)

3.2 A subject access request, commonly referred to as a SAR, gives individuals the right to obtain a copy of their personal data, as well as other supplementary information, unless an exemption applies.

3.3 On receipt of a **subject access request**:-

(a) The DPO will open a new case file on its case management system: Insight Legal. The DPO will provide a unique case reference number, and log the date on which the request was received to ensure that the relevant timeframe of one month for responding to the request is met.

(b) The DPO may advise the us to confirm the identity of the requester where appropriate. Where a parent or carer (or any other person who purports to have personal responsibility) makes the request, the DPO may advise that proof of their relationship to the child is obtained. Proof of identity may include a passport, driving licence and / or the child's birth certificate. This is a security measure to ensure that personal data is only disclosed to those who are entitled to receive it.

(c) Where the requester is making a request to access a child's personal data,

the DPO will advise as to whether the child's consent must first be obtained. As a general rule, if the child is over 13, their consent will be necessary unless they are not able to properly understand the request that is being made.

- (d) Where the request is either (A) unclear, and further information is needed to process the request and / or (B) the request is likely to result in large quantities of personal information being retrieved from searches, the DPO may advise that the request be clarified before responding. The time limit for responding to the request is paused until clarification is provided.
- (e) Where the request is 'complex', or a number of requests have been received from the same requester, the DPO may advise that the 1 month time limit for responding can be extended by upto a further 2 months.
- (f) The DPO will prepare an initial acknowledgment letter that must be sent by Edintervention to the requester.

4. Searches

- 4.1 Reasonable searches will be undertaken to locate personal information falling within the scope of the request. Edintervention will have regard to advice given by the DPO as to the extent of the searches that need to be carried out.

5. Refusal of the request

- 5.1 There are circumstances where, even though the requested personal information is held, it is exempt from disclosure and should not be provided to the requester (either in part or full). In the context of education, consideration of exemptions is of vital importance, particularly when the nature of the personal information being requested could put a child at risk of serious harm. Edintervention will make the DPO aware of any facts or circumstances that may give rise to concerns about disclosing personal information, no matter how small those concerns may be. The DPO will advise on whether an exemption should be applied.

5.2 There are also other circumstances which may give rise to refusal where the request is:

5.2.1 manifestly unfounded; or

5.2.2 manifestly excessive.

5.3 A request may be **manifestly unfounded** if:

5.3.1 the individual clearly has no intention to exercise their right of access. For example, if an individual makes a request, but then offers to withdraw it in return for some form of benefit; or

5.3.2 the request is malicious in intent and is being used to harass with no real purpose other than to cause disruption. Examples of this include if the individual:

5.3.2.1 explicitly states, in the request itself or in other communications, that they intend to cause disruption;

5.3.2.2 makes unsubstantiated accusations against Edintervention or specific employees which are clearly prompted by malice;

5.3.2.3 targets a particular employee against whom they have some personal grudge; or

5.3.2.4 systematically sends different requests to Edintervention as part of a campaign, e.g. once a week, with the intention of causing disruption.

5.4 A request may be **manifestly excessive** if it is clearly and obviously unreasonable. This will require consideration of factors set out in guidance provided by the ICO: [click](#)

5.5 In all cases, the DPO will consider the applicability of these exemptions, and provide advice to Edintervention accordingly.

6. Response

- 6.1 Before providing the personal data to the requester, we will review the disclosure (unless it has instructed the DPO to do so: [click](#)) to see if it contains the personal data of other data subjects. If it does, this personal information may be redacted, unless those other data subjects have consented to the disclosure of their personal data being disclosed, or it is reasonable to disclose it without their consent (taking into account, for example, the type of data and whether the other person has expressly refused consent).
- 6.2 Edintervention will send the response letter and a copy of the personal data to the requester in a commonly used electronic form (unless the data subject either did not make the request by electronic means or has specifically requested not to be provided with the copy in electronic form) within one month of receipt of the request (or by the extension date if an extension has been required).

7. Responding to requests to rectify personal data

- 7.1 On receipt of a request for **Rectification**, the same initial steps set out at 3.3 will be followed.
- 7.2 Individuals have the right to have their inaccurate personal data rectified. Rectification can include having incomplete personal data completed, for example, by an individual providing a supplementary statement regarding the data. As with subject access requests, the request can be refused if an exemption applies (see 5.1-5.5).
- 7.3 Assuming that there is no exemption to be applied, we will take reasonable steps to assess the accuracy of personal data, and where it is not accurate, rectify it. The assessment of accuracy can be complex in some instances e.g. when the personal data in question records an 'opinion' about the requester which the requester disagrees with. Opinions are, by their nature, subjective, and it can be difficult to conclude that the record of an opinion is inaccurate. In this instance, as long as the record shows

clearly that the information is an opinion and, where appropriate, whose opinion it is, it may be difficult to say that it is inaccurate and needs to be rectified. The DPO should be consulted where complex issues arise concerning accuracy.

- 7.4 Whilst the accuracy of the personal data is being verified, the DPO may advise that a restriction is placed on processing to avoid any risk of adverse impact on the individual.
- 7.5 If we are satisfied that the personal data is accurate, we will prepare a response letter which will confirm that we are satisfied that the personal data is accurate, the reasons for the decision and their right to complain to the ICO. It is also good practice to place a note on record indicating that the individual challenges the accuracy of the data and their reasons for doing so.
- 7.6 Where we are satisfied that the personal data is inaccurate, then the inaccurate personal data will be rectified. We will also communicate the rectification of the personal data to each recipient to whom the personal data have been disclosed (for example, its third-party service providers), unless this is impossible or involves disproportionate effort.

8. Responding to requests for the erasure of personal data

- 8.1 On receipt of a request for **Erasure**, the same initial steps set out at 3.3 will be followed.
- 8.2 Individuals have the right to have personal data erased. This is also known as the 'right to be forgotten'. The right only applies to personal data held at the time the request is received. It does not apply to personal data that may be created in the future. The right is not absolute and only applies in certain circumstances.
- 8.3 As with subject access requests, the request can be refused if an exemption applies (see 5.1-5.5). Assuming that there is no exemption to be applied, it is important to seek the advice of the DPO in relation to a request for erasure.

8.4 Reasons why the individual will have the right to have their personal data erased include:

8.4.1 The personal data is no longer necessary for the purpose it was originally collected.

8.4.2 Where consent was the legal basis for collecting the data, consent is withdrawn.

8.5 Reasons why the individual will not have the right to have their personal data erased include:

8.5.1 Where the personal data is held to comply with a legal obligation;

8.5.2 Where the personal data is held for the performance of a task carried out in the public interest or in the exercise of official authority where applicable;

8.5.3 Where the personal data is held for the establishment, exercise or defence of legal claims.

8.6 If we decide that the personal data can be erased, a response letter will be sent to the requester. The response letter will confirm that we are satisfied that the personal data may be erased. We will also contact each recipient that the personal data has been disclosed to, unless this proves impossible or involves disproportionate effort, confirming its decision.

8.7 Where we decide that the personal data cannot be erased, a response letter will be sent which includes the reasons for the decision and their right to complain to the ICO.

9. Responding to requests to object to the processing of personal data

9.1 On receipt of an objection to processing, the same initial steps set out at 3.3 will be followed.

- 9.2 Individuals have the right to object to the processing of their personal data at any time. An objection may be in relation to all of the personal data held about an individual or only to certain information.
- 9.3 As with subject access requests, the request can be refused if an exemption applies (see 5.1-5.5). Assuming that there is no exemption to be applied, it is important to seek the advice of the DPO in relation to an objection to processing. The right to object only applies in certain circumstances. Whether it applies depends on the reasons for processing and the lawful basis for processing.
- 9.4 Individuals have the absolute right to object to the processing of their personal data if it is for direct marketing purposes. Individuals can also object if the processing is for:
- 9.4.1 a task carried out in the public interest;
 - 9.4.2 the exercise of official authority vested in us where applicable.
- 9.5 In these circumstances, the right to object is not absolute. The DPO will advise on whether the objection should be upheld or not on a case-by-case-basis.
- 9.6 If we decide that an objection should be upheld, a response letter will be sent. The response letter will confirm that we are satisfied that the objection should be upheld.
- 9.7 Where we decide that an objection should not be upheld, a response letter will be sent communicating the decision. The response letter will include the reasons for the decision and their right to complain to the ICO.

10. Responding to requests to restrict the processing of personal data

- 10.1 On receipt of a request to **Restrict**, the same initial steps set out at 3.3 will be followed.
- 10.2 Individuals have the right to restrict the processing of their personal data in certain circumstances. This means that an individual can limit the way that we use their personal data. This is an alternative to requesting erasure. The right is not absolute and only applies in certain circumstances.
- 10.3 As with subject access requests, the request can be refused if an exemption applies (see 5.1-5.5). Assuming that there is no exemption to be applied, it is important to seek the advice of the DPO in relation to a request to restrict processing.
- 10.4 Reasons why the individual will have the right to have a restriction placed on their personal data include:
- 10.4.1 the individual contests the accuracy of their personal data and the we are verifying the accuracy of the personal data;
 - 10.4.2 the personal data has been unlawfully processed (i.e. in breach of the lawfulness requirement of the first principle of the UK GDPR) and the individual opposes erasure and requests restriction instead;
 - 10.4.3 We no longer need the personal data but the individual needs us to keep it in order to establish, exercise or defend a legal claim; or
 - 10.4.4 the individual has objected to us processing their data, and we are considering whether there are legitimate grounds that override those of the individual.
- 10.5 If we decide that a restriction can be placed on processing, a response letter will be sent. The response letter will confirm that we are satisfied that the restriction should be applied. We will also contact each recipient that this personal data has been disclosed to confirming the restriction, unless this proves impossible or involves disproportionate effort.

10.6 Where we decide that processing cannot be restricted, a response letter will be sent. The response letter will include the reasons for the decision and their right to complain to the ICO.

11. CHANGES TO THIS PROCEDURE

We reserve the right to change this Procedure at any time and notification of any changes will be communicated accordingly.