

Procedure for an Objection to Processing Personal Data

Article 21 of the GDPR gives individuals the right to object to the processing of their personal data and allows individuals to ask us to stop processing their personal data. The right to object only applies in certain circumstances, whether it applies depends on our purposes for processing and our lawful basis for the processing.

Processing based upon public task or legitimate interests

An individual can object where we are relying on legitimate interests, which we do in most cases as most of our use of personal data is to provide employment or direct health care. An individual must give specific reasons why they are objecting to the processing of their data and these reasons should be based upon their particular situation.

In these circumstances this is not an absolute right, and we can continue processing if:

- we can demonstrate compelling legitimate grounds for the processing, which override the interests, rights, and freedoms of the individual, or
- the processing is for the establishment, exercise, or defense of legal claims.

Direct marketing or use of images

As a healthcare provider we rarely do this, but an individual can ask us to stop processing their personal data for direct marketing at any time. This is an absolute right and there are no exemptions or grounds for us to refuse. Therefore, if we receive an objection to processing for direct marketing, we must stop processing the individual's data for this purpose.

However, this does not automatically mean that we need to erase the individual's personal data, in most cases it will be preferable to suppress their details. We would retain just enough information about them to ensure that their preference not to receive direct marketing is respected in future.

How do we recognise a request?

The GDPR does not specify how to make a valid request, therefore, an individual can make an objection verbally or in writing. It can also be made to any part of our organisation and does not have to be to a specific person or contact point and it does not have to include the phrase 'objection to processing' or Article 21 of the GDPR, as long as one of the conditions listed above apply.

Any of our employees could receive a valid verbal request. However, we have a legal responsibility to document that an individual has made a request to us and handle it accordingly. Therefore, staff should be aware that the Data Protection Officer (DPO) must be immediately informed of any such request. The DPO will record details of all the requests we receive, and may check with the requester that we have understood their request, as this can help avoid later disputes about how we have interpreted the request.

How long do we have to comply?

We must act upon the request without undue delay and at the latest within one month of receipt. We will calculate the time limit from the day after we receive the request (whether the day after is a working day or not) until the corresponding calendar date in the next month. For practical purposes, we will adopt a consistent 28-day period to ensure compliance is always within a calendar month. We may extend the time to respond by a further two months if the request is complex or we have received a number of requests from an individual. We will let the individual know without undue delay and within one month of receiving their request and explain why the extension is necessary.

Can we ask an individual for proof of identity?

If we have doubts about the identity of the person making the request, we will ask for more information. It is important that we only request information that is necessary to confirm who they are, and that the data we hold is about them, or someone they have a lawful responsibility to.

We will let the individual know without undue delay and within one month if we need more information from them to confirm their identity. We will not comply with the request until we have received the additional information.

Do we always need to erase personal data to comply with an objection?

Where we have received an objection to the processing of personal data and we have no grounds to refuse, we need to stop processing the data. This may mean that we need to erase personal data as the definition of processing under the GDPR is broad and includes storing data. However, as noted above, this will not always be the most appropriate action to take.

Erasure may not be appropriate if we process the data for other purposes and we may need to retain the data for those purposes.

If we refuse to comply with an objection for other reasons

We may refuse to comply with an objection if the request is manifestly unfounded or excessive, taking into account whether the request is repetitive in nature.

If we consider that a request is manifestly unfounded or excessive, we may:

- request a "reasonable fee" to deal with the request
(we will base the reasonable fee on the administrative costs of complying with the request. If we decide to charge a fee, we will contact the individual without undue delay and within one month. We do not need to comply with the request until we have received the fee),
- refuse to deal with the request.

In either case we will justify our decision in writing.

What we will do if we refuse to comply with an objection

We will inform the individual without undue delay and within one month of receipt of the request.

And we will inform the individual about:

- the reasons we are not taking action
- their right to make a complaint to the ICO or another supervisory authority
- their ability to seek to enforce this right through a judicial remedy.

We will also provide this information if we request a reasonable fee or need additional information to identify the individual.

Procedure for Responding to an Objection

This procedure outlines the steps to be taken to satisfy a data subject's right to object to the processing of personal data.

1. When an employee receives an objection in any form – written or verbally, s/he notes all details on the Personal Data Objection Form (below) or asks the data subject to fill out the form, and immediately informs the Data Protection Officer (DPO), and their Lead and/or Line Manager.
2. The local Lead or Line Manager appoints a member of their team to deal with the request and informs the DPO accordingly.
3. If the data subject is not known to the employee dealing with the request, proof of identity, is requested. The employee dealing with the request should not copy the identity documents, but must record what has been seen and when on the Personal Data Objection Form. The form is passed to the DPO.
4. If the request relates to direct marketing or use of images, the DPO will ensure that the necessary changes are made to prevent the data subject from receiving any further direct marketing. This may or may not include deleting the data subject's data.
5. If the objection relates to processing based on legitimate interests, the DPO works with the department processing the data to determine whether the objection should be upheld or refused.
6. If the objection is upheld, the DPO will ensure that the necessary changes are made to comply with the objection.
7. If the objection is refused, the DPO will formally inform the data subject of the outcome of their request and their right to lodge a complaint with the supervisory authority together with a method for doing so.

The DPO records all details of the request and keeps this in accordance with the data retention policy and schedule. The DPO informs the Head of Department and Clinical Systems Manager of the outcome.

Personal Data Objection Form

Full name:	
Address:	
Contact number:	Email address:

The Data Protection Officer may need to contact you to discuss your request and will need to inform you of the outcome of your request

Please tick the appropriate box below:

Current staff <input type="checkbox"/>	Current patient <input type="checkbox"/>	Former staff <input type="checkbox"/>	Former patient <input type="checkbox"/>	Other <input type="checkbox"/>
		Insert year of leaving	Insert date of birth	Please specify

Details of data – type (health/employment/other), **location** (if known), **purpose of processing:**

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I wish to object to the processing of my personal data as detailed above.

Signed by data subject.....

Or member of staff taking details (verbally)

Name

Date of Request.....

For internal use only:

Member of staff receiving the request:	
Contact number:	Email address:
Line manager of member of staff receiving the request:	
Member of staff delegated to deal with the request:	
Contact number:	Email address:
Date and timeline manager/lead informed:	
Date and time Data Protection Officer informed:	

Confirmation of identity of data subject:

Member of staff confirming identity:	
Means of confirming identity:	
Date and time identity confirmed:	

For DPO use only:

DPO contact with data subject to request clarification (if necessary):	Date/time:
DPO contact with data subject to confirm receipt of request and provide date by which the Trust will respond	Date/time:
DPO informs subject of outcome and, if appropriate, their right to lodge a complaint and methods to do so:	Date/time:
DPO informs Head of Department and Clinical Systems Manager of outcome:	Date/time: