

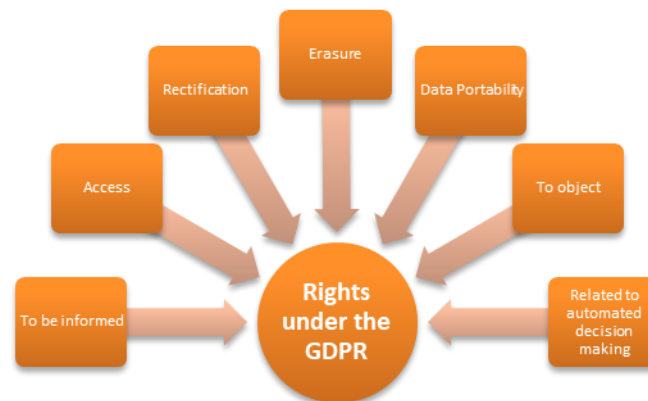
Chartergates Fact Sheet

SUBJECT: RIGHTS UNDER GDPR

Introduction

On 25th May 2018, the General Data Protection Regulation ('GDPR'), supplemented by the Data Protection Act 2018, came into force and replaced the Data Protection Act 1998 ('DPA'). The GDPR has some key changes to the previous data protection framework. In particular, it introduces new individual rights and enhances some of the existing rights already provided under the DPA to ensure fair and transparent [processing](#).

What rights are provided by the GDPR?



✓ *The right to be informed*

Under the GDPR, individuals have the right to be informed, of what [personal data](#) is held and the reasons for processing, in a concise, transparent, intelligible and easily accessible form that is written in clear and plain language and provided free of charge. This right emphasises the need for transparency in the way that organisations use individuals' personal data.

✓ *The right of access*

Similar to the access rights under the DPA, an individual has the right the right to access their personal data so they are aware of and can verify the lawfulness of the processing. However, under the GDPR organisations will no longer be able to charge a fee for complying with the request, unless the request is 'manifestly unfounded or excessive' or is repetitive. Another notable change introduced is the requirement to respond more quickly to access requests, as well as providing the individual with more information.

✓ *The right to data portability*

Closely related to the right to access, is the new right to data portability, which permits individuals to obtain and reuse their personal data for their own purposes across different services. It allows individuals to move,

copy or to transmit their personal data from one IT environment to another in a structured, commonly used and machine-readable form and free of charge.

✓ *The right to rectification*

Almost unchanged is the right to rectification which allows individuals the right to have any personal data rectified if it is inaccurate or incomplete. Where the information has been disclosed to a third party, the organisation will be required to inform them of the rectification where possible.

✓ *The right to erasure*

Previously, the right to erasure under the DPA is limited to processing that causes unwarranted and substantial damage or distress. Significantly, the GDPR strengthens this right as this threshold has been removed and provides individuals with the [right to be forgotten](#) by requesting the deletion or removal of their personal data, where the:

- (a) the individual withdraws consent,
- (b) there is no compelling reason for its continued processing,
- (c) there are no legitimate grounds for processing or
- (d) to comply with a legal obligation.

✓ *Rights in relation to automated decision making and profiling*

Where an automated decision, including profiling, is taken, the GDPR provides safeguards against any potentially damaging decision which has a legal or other significant effect on the individual. Then the individual has the right to obtain human intervention, express their point of view or to obtain an explanation or challenge the decision. However, the right is limited and will not apply if the decision is based on explicit consent, is necessary for entering into or performing a contract with the data subject or is authorised by law.

✓ *The right to object*

The Regulation grants individuals the right to object to the processing of their personal data under certain circumstances, including for direct marketing purpose, scientific or historical research or statistical purposes or processing based on legal grounds. Where an objection is raised, the organisation must stop processing the personal data and the organisation will need to demonstrate that there are compelling reasons for continuing with the processing or that it is necessary in relation to its legal rights.

✓ *The right to restrict processing*

The right to restrict processing is similar to the right to the DPA right to block or suppress the processing of personal data. Under the GDPR, individuals have the right to restrict the processing of their personal data, where one of the following circumstances applies:

- (a) The individual contests the accuracy of the personal data. The processing will be restricted until the accuracy of the personal data can be verified;

- (b) The processing is unlawful, and the individual opposes erasure and requests the restriction of the use instead;
- (c) Where the data controller no longer needs to process the data, but the individual needs the personal data to establish, exercise or defend any legal claims;
- (d) When an individual object to processing (based on legitimate interests) then the individual can request restriction pending verification that there is legitimate basis for processing overriding the individual's interests.

Summary

Due to the ramifications of not complying with the requirements of the GDPR, it is essential that you review all procedures to ensure that these appropriately address and cover the rights of the individuals. If you require any help or assistance, contact us now.

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