|  |  |  |
| --- | --- | --- |
|  | | |
| **Document: DSR-04-**Release V1.4 | **UK GDPR - Data Subject Rights – The Right to Restrict Processing** | 08.02.2024 |
| **Authorised by:** Jackie Neil | |  |

**Introduction**

The UK GDPR provides for the rights of a natural person over the information that is held on them. The Right to Restrict Processing is not an absolute right and can only be exercised in certain circumstances. For example, if the data subject contests the accuracy of information during a request for rectification, they may also request a restriction to processing during the period of enquiry should there be a contention of the validity of their rectification request.

**Overview**

When a data subject notifies the Data Controller either directly or indirectly via staff, data processors, sub processors etc., that they require information to be subject to a processing restriction, a record of the notification should be made and time-stamped. The ICO is clear that there is no requirement for a formal template for a right to restriction of processing request. The Data Controller is responsible for satisfying the request, so it is important that all parties involved in the data management lifecycle are made aware of this procedure. If you have a Data Protection Officer (DPO), they must be informed when restriction requests are made so that they can monitor progress.

**Prerequisites**

In order to fulfil a restriction request, the Data Controller must understand what data is specifically under question. In some circumstances, the data subject may require a sub-set of information to be restricted for processing. For example, there may be information that is required to be maintained intact to support a defence of a legal or other claim. This information may also be subject to externally regulated retention requirements. In this situation, the data subject would require that the information be restricted from further processing yet to remain as live data. As there are time limitations, knowledge of data management is essential in order to streamline the process. A data mapping process across the organisation should be performed to help identify where information resides both on-site and with any contracted third parties such as Information Systems providers, this will ensure that any ‘upstream’ or ‘downstream’ data repositories can be addressed, this includes data backup services.

**Scope & Limitations**

Although the right of the data subject for personal information processing to be restricted by the Data Controller is enacted within the Data Protection Act 2018, there are considerations that must be made prior to removal of the information:

* Validation of the requestor’s identity where the request is made in person
* Validation of the data subject’s authority where the request is made by a representative such as a lawyer
* You may refuse the request if you consider the request unfounded or excessive. You must notify the data subject if this is the case
* You may be required by law or regulation to continue processing. You must notify the data subject if this is the case
* Consider the time period required for the processing restriction as this must be recorded in the central register.

**Restriction of Information Processing**

Information processing must be restricted only upon consideration of the scope and limitations listed above. Once it is clear that information is in scope and that the requestor is within their rights to restrict processing, the request must be attended to without delay. The data must be restricted from processing for all services and systems, including paper records to ensure completion.

It is appropriate to advise the requestor once the process is complete.

**Time Frame**

Requests must be acknowledged promptly, this can be accomplished during the identity verification stage. The overall process should be completed within 28 days from the day after the request is received. If you are unable to restrict information directly, for example on a back-up copy of the information that is subject to an overwrite process and where individual records cannot be edited without affecting the integrity of other information, notify the data subject of the technical limitations and record the exception in the central register, consider restricting access controls as a compensating measure.

**Procedure**

1. Data subjects must make their request to the Data Controller (this can be any representative of the Data Controller). Where a data subject makes a request to any member of staff, volunteer, contingent worker or third party processor, the request must be directed to the nominated staff member responsible for requests and this direction must be confirmed via a letter or an email to both the data subject and the responsible person. If you have a DPO, they must also be informed of the request and kept informed of the request status throughout the process.
2. The details of the request will be entered in a Data Subject Rights register. This will enable tracking to ensure timelines are adhered to. This information must include the agreed date by which the restriction will cease.
3. Upon receipt of the request, the data controller must make all reasonable efforts to validate the identity of the requestor to ensure they have a legal right to processing restriction of the information requested.
4. Once the data subject’s identity is validated, the controller will consult with the data subject to verify the restriction requirement.
5. The controller will use the services of data processing staff or services to restrict the processing of information whether electronic or paper based, unless it falls outside the terms stated in the section headed ‘Scope & Limitations’. It is important to ensure that any third-party processors also comply with the request for data within scope.
6. Within 28 days of the request, the controller will ensure that all copies of the information subject to the request is restricted. This can be done, for example by limiting access to the data, temporarily removing the information from public view or by moving the information to another system that is inaccessible to the processing function. A record of the actions committed will be listed in the central register.
7. Where information cannot be subjected to the restriction within 28 days of the request, the data subject will be notified that additional time is required along with the reason for delay and anticipated time for completion. Where information cannot be restricted due to technical limitations, the data subject will be informed of the lack of completion and that the limitation of the request has been recorded in the central register.
8. The Data Subject Rights register will be updated to conclude the request activity.

A complete data map will be required to provide the data controller with the necessary information to conduct this procedure effectively. Data retained by any third-party processors must be included in this process with attestations from them when compliant actions are complete.