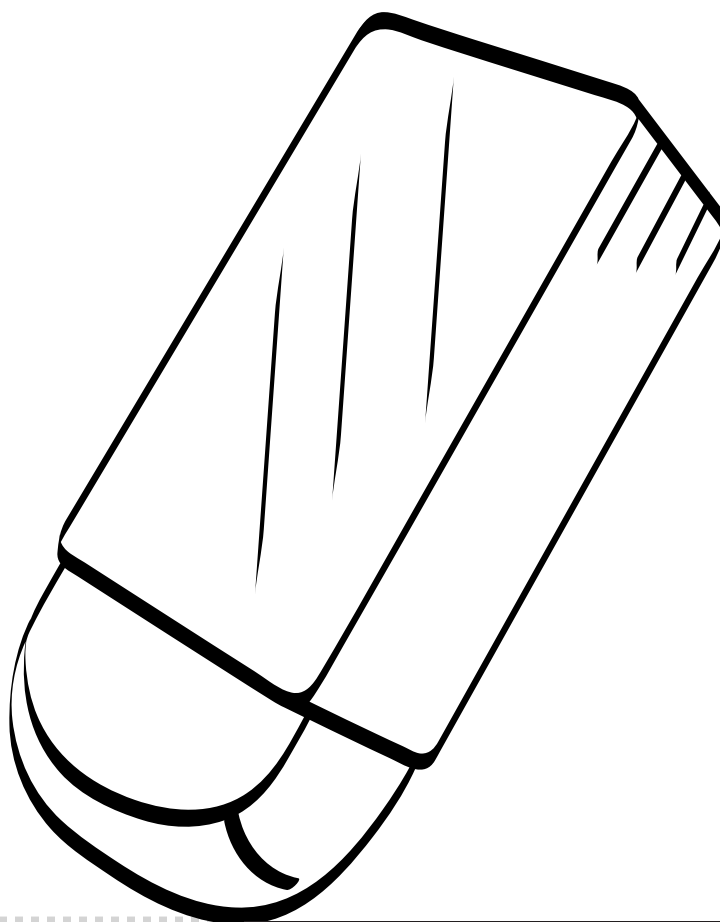


# GUIDANCE: Right to Erasure (guide for data subjects)



## **Guidance: Right to Erasure (guide for data subjects)**

### **Introduction and Summary**

You, and all other living human beings, are at the heart of data protection legislation.

You are referred to in the Law as a **'data subject'** (i.e. you are the subject of any given piece of personal data or information). The Data Protection (Bailiwick of Guernsey) Law, 2017 ('The Law') contains legal rights and responsibilities and specifically aims to strengthen individuals' rights.

This guidance is about the 'Right to Erasure' In simple terms, a right to erasure request gives you the right to require an organisation to erase personal data that an organisation is holding of yours.

### **Q: How do I go about asking an organisation to delete my personal data?**

A: You should contact the organisation and let it know what personal data you want erased. Your request should be in writing. You will then have the documented evidence of what personal data you requested to be erased and when.

### **Q: When can you make a request for erasure?**

A: This right only applies in certain circumstances

- If the personal data is **no longer necessary** for the reasons it was collected by the organisation
- If you gave **consent** for it to be used in the first place and have now withdrawn that consent
- If the organisation **should not have been using it** i.e. it was collected and used unlawfully
- If the personal data is in respect of a **child under thirteen** years of age for social media purpose
- If the organisation is using it for **direct marketing purposes** and you did not provide it for that purpose

### **Q: How long is given for an organisation to respond to an erasure request?**

A: The organisation should respond **within at least one month of receipt**. However, for complex cases, this can be extended to three months, in total, as long as you are told by the organisation there is a delay and why within the initial one month.

The organisation can ask you for additional information (such as ID) to authenticate whether you are who you say you are, and that the personal data requested relates to you. This is to avoid personal data about one individual being sent to another, accidentally or as a result of deception. The key point is that they **must be reasonable** about what ID they ask you for. They should not request an inordinate amount of information if your identity (or the identity of the child you are requesting erasure on behalf) is obvious to them. This is

### **Need further help?**

If you need further clarity on this area, [please contact us](#).

particularly the case, for example, when you have an ongoing relationship with the organisation (i.e., you are a former employee or client).

**Q: Will I be charged for making a data erasure request?**

A: An organisation is not allowed to charge a fee unless it can demonstrate that your request is frivolous, vexatious, unnecessarily repetitive or otherwise excessive. Whatever the outcome, the organisation needs to tell you and explain why.

**Q: Can my request be denied?**

A: If the organisation can **demonstrate** that a request is, as the Law states, “manifestly unfounded, frivolous, vexatious, unnecessarily repetitive or otherwise excessive”, it can refuse to deal with your request.

An organisation can also refuse a request or limit the amount of data provided in the following circumstances:

- When keeping your personal data is necessary for the reasons of freedom of expression and information (this includes journalism and academic, artistic and literary purposes)
- When they are legally obligated to keep hold of your personal data
- When keeping your personal data is necessary for public health
- When keeping your personal data is necessary for establishing, exercising or defending legal claims
- When erasing your personal data would prejudice scientific or historical research, or archiving that is in the public interest

In addition, the Law provides a number of exemptions that, if they apply, may limit the extent of erasure. If any of the above are used, the organisation needs to justify why it’s withheld your data and tell you those reasons. [More information on how organisations must apply these exemptions can be found here.](#)

**Q: If an organisation responds to an erasure request, what will happen?**

A: An organisation should delete your personal data unless an exemption applies (see above)

The organisation should also inform anyone else or any other organisation that you have requested that the personal data be erased.

If the personal data has been made public, such as on an online platform, the organisation must take reasonable steps to advise about the erasure.

**Q: What should you do if the organisation does not respond or you are unhappy with the outcome?**

A: First complain to the organisation. If you are still unhappy, you may submit a complaint to the ODPA.

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