



Personal Data - the right to rectification and the right to erasure Procedure

This document is part of North Yorkshire Police policy to which all Chief Constable personnel and the functions provided by the Deputy Mayor for Policing as part of the York & North Yorkshire Combined Authority are required to adhere.

Procedure Statement

The purpose of this procedure is to ensure that North Yorkshire Police (NYP) undertakes its obligations in respect of the rights to rectification and erasure of personal data in accordance with the Data Protection Act 2018. This procedure applies specifically to data held on North Yorkshire Police's local recording systems. Different procedures are in place to manage records held on national systems such as the Police National Computer (PNC), National Fingerprint Database (IDENT1) and the National DNA Database (NDNAD). This procedure does not cover personal information that may be held by the North Yorkshire Office of the Police and Crime Commissioner. Rights to rectification, erasure and restriction do not apply to personal data contained in a judicial decision or in other documents relating to a criminal investigation or proceedings which are created by or on behalf of a court or other judicial authority (ICO guidance).

Overarching Policies:

[Records Management Policy](#)

Procedures:

[Data Protection](#)

[Review Retention and Disposal](#)

[Data Procedure](#)

[Collection and Recording of Information](#)

[Data Subject Access](#)

[Deletion of Records from National Police Systems](#)

Other Documents:

[Authorised Professional Practice Management of Police Information](#)

[NYP Retention Schedule](#)

[Information Commissioner Office](#)

[Right to Rectification or Erasure Application Form](#)

[College of Policing Data Protection APP](#)

Process

Individuals have the right to:

- request the deletion or removal of their personal data (where there is no compelling reason to continue processing the data)
- 'block' or restrict processing of their personal data subject to the conditions set out in the Data Protection Act 2018
- to have personal data rectified subject to the conditions set out in the Data Protection Act 2018.

Notification of a Request

To ensure consistency and support compliance with the law, requests will be received and co-ordinated by the Records Management team in Information Management. It is possible for an individual to make a request to any member of the organisation. In these cases, on receipt of a request, colleagues must forward the request with details of the individual to the Records Management Team on the day the request is received. This can be done by e-mail to the Records Management e-mail account.

Individuals can complete the Right to Rectification and Erasure Application form available via the NYP website and submit the request. The completion of the form will ensure the relevant information is provided in order to process the request more efficiently. An individual's request will not be declined if they provide the request by other means, however this may cause a delay if relevant information is not provided at the time.

Verification of Identity

Due to the nature of the personal data NYP process it is anticipated that for the majority of requests it will be proportionate to request copies of identification documents in order to verify a data subject's identity. Individuals will not be expected to resubmit evidence of their identity if they have recently produced relevant documents to NYP for other purposes, for example a Data Subject Access Request. If a request is made directly to an officer or other colleague who knows the individual and they are satisfied that they can confirm their identity they can do this via e-mail to the Records Management e-mail account at the time of sending through details of the request.

Forms of identification are copies of photographic identification, e.g. passport or photographic driving licence AND proof of address such as a council tax bill or bank statement.

A request only becomes valid once we have received satisfactory proof of identification AND the requester has provided us with all the information we need to process the request. If the individual fails to provide the required information they will be informed as soon as possible that further information is required. The request will not be processed until the request becomes valid.

Where a request is deemed to be manifestly unfounded or excessive North Yorkshire Police may:

- request a "reasonable fee" to deal with the request; or
- refuse to deal with the request.

If a "reasonable fee" is requested to cover the administration costs the request will not be processed until the fee is received.

On receipt of a request

On receipt of a valid request, and during the period of determination, the processing of information under consideration must be restricted (*Restriction: “the marking of stored personal data with the aim of limiting its processing for the future” DPA 2018*). This includes notifying other parties with whom the information has been shared.

The Information Management (IM) team dealing with the request will decide case-by-case how restrictions will be applied, taking into account: the need for staff and officers to be able to access information to support investigation, risk assessment and risk management; the status of the record; CPIA requirements; technical limitations; and taking a proportionate approach based on anticipated timescales for a decision and response. In the case of operational information, notification that a request has been received placed onto appropriate Niche fields, and, where possible, shared with other teams or systems where relevant information is held, will usually be proportionate. While a record is under dispute, any necessary processing must be documented for IM reference.

Determination

Each request will be logged, and a review of the request will be undertaken. Consideration will be given to the rights of the data subject under Part 2 General Data Protection Regulation and Part 3 Law Enforcement Directive of the Data Protection Act 2018, the Authorised Professional Practice (APP) for the Management of Police Information (MoPI), and other relevant legislative requirements. MoPI reviews are carried out by the Niche Review, Retention and Disposal (RRD) Team in line with the College of Policing MoPI APP.

In cases where the request is in relation to inaccurate data the determination of inaccurate data will be based on the statement in the Data Protection Act that ‘inaccurate data is data that is incorrect or is misleading as to any matter of fact’. If the reviewer is unable to verify the accuracy of the information in question, they will engage with the relevant staff and officers to establish this where possible. If the request to rectify or erase a record is part of a wider request for a decision to be reversed or amended, or an issue with the actions or decisions of an officer or member of staff, this will be referred to a relevant supervising officer/line manager, or the force complaints or PSD team, for advice or determination as appropriate.

In line with guidance provided by the ICO, it may be relevant to retain data that refers to a mistake that has been made that has subsequently been resolved. Where necessary, data can be updated to reflect that a mistake has been made in addition to including the correct information on the individual’s record.

If we are unable to ascertain whether information is accurate or not, where possible, reasonable and proportionate records should be annotated to indicate that the individual has submitted a challenge in relation to the accuracy of the data and their reasons for doing so, to inform future processing as appropriate.

If the review determines that the information is accurate or that it is not eligible for erasure the individual will be informed of the outcome, and an explanation given for the decision (*limits and conditions apply in certain circumstances, as detailed in the Data Protection Act*). Any temporary restriction placed on processing during the determination period will then be lifted. Individuals have the right to lodge a complaint with the ICO or under Section 163 of the Act.

Where a decision is taken to rectify, erase or restrict the processing of personal data that NYP has shared with other parties, the recipients must be notified and asked to rectify, erase or restrict the data on their records, under section 48(9)(b) of the DPA 2018. In some cases it will be appropriate for the NYP team already sharing with the third party to address this, with the guidance and support of the Information Management team dealing with the request.

Application of the Right to Erasure

Personal data must be erased without undue delay if:

- the processing of the personal data will infringe the data protection principles;
- safeguards for archiving and processing of sensitive personal data cannot be met; or
- there is a legal obligation to erase the data.

If the outcome of a review determines that the request for erasure is granted, where possible physical deletion will take place. Where deletion is not technically possible steps will be taken to place the data beyond use or access to the data will be restricted to limit future processing. Individuals will be informed of the outcome once completed.

Response Times

All requests must be acted upon without undue delay and a response provided to the data subject within one month of receiving the valid request. In line with guidance provided by the ICO the time limit should be calculated from the day the request is received (whether a working day or not) until the corresponding calendar date in the next month. If there is no corresponding date because the following month is shorter, the response must be made by the last day of that following month.

Extension to Timescales

If a request is complex or a number of requests have been made by the individual the time to respond can be extended by a further two months. In such cases the individual must be informed without undue delay and within a month of receiving a request. The individual must be provided with the reasons why the extension is necessary.

Disclosure

If personal data has been disclosed to others, including making it public on an online environment, and then subsequently erased or rectified on request, efforts will be made to inform the recipient(s) of the erasure or rectification, unless to do so proves impossible or involves disproportionate effort.

Responsibilities

Senior Records and Data Quality Officer

- Be overall point of contact for correspondence
- Liaise with customers as required
- Respond to customers in line with timescales and following procedures
- Provide advice and decision making in relation to complex cases
- Provide direction as to whether a “reasonable fee” or refusal is appropriate

- Consult with the Data Protection Officer and Legal Services where required and raise risks and complex cases to the Records & Niche Manager or Information Management Lead as appropriate.

RRD & DQ Officer

- Provide an alternative point of contact for the public and colleagues when the Records Compliance Manager is not available
- Liaise with customers as required
- Identify complex cases and highlight to the Senior Records and DQ officer for assessment, including potentially manifestly unfounded or excessive requests
- Respond to customers in line with timescales and following procedures
- Undertake actions including consultation with other departments to ensure records are rectified or erased in line with procedures.
- Provide advice and decision making on requests received
- Monitor and supervise RRD team involvement in requests

Review Retention & Disposal Officer & RRD assistants

- Maintain knowledge of the procedure and rights of data subjects in relation to The Right to Rectification and Erasure
- Ensure requests, actions and outcomes are logged appropriately
- Liaise with customers regarding requests
- Review requests and determine a recommended outcome
- Seek approval on outcomes from the Senior Records & DQ Officer or Records & Niche Manager as required
- Highlight complex or potentially lengthy requests to the Senior RRD & DQ Officer or Records & Niche Manager
- Respond to customers in line with timescales and following procedures
- Undertake actions to complete rectification and erasure of records as appropriate
- Provide specialist advice and support to colleagues assisting with requests, as required

Review Retention & Disposal Assistants

- Awareness of the procedure and rights of data subjects in relation to the Right to Rectification and Erasure
- Advise the Senior Records & DQ Officer, RRD & DQ Officer or Records and Niche Manager of any requests on the date of receipt
- Assist as required with searching or identifying records within Niche under the supervision of the RRD & DQ Officer or Senior Records and DQ officer

PNC Liaison

- Provide updates to the Records Management team in relation to requests for deletion from national systems.
- Assess cases for national system rectification or erasure as referred by the Records Management or RRD Teams.

Operational Officers/Police Staff

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- Provide full details of any request received from an individual on the day of receipt to the Records Management Team. If relevant, include confirmation of the individual's identity. Direct applicants to the NYP website for further information where appropriate.
- Assist in verifying information when requested by Records Management or Niche RRD Team members dealing with a request
- Assist where necessary in liaising with third parties with whom you have shared NYP information that is to be rectified, erased or restricted, with the advice and support of Information Management

First Line Supervision

- Ensure team members are aware of the requirement to provide details of any request to Records Management.
- Assist in verifying the accuracy, relevance or continued policing purpose for the retention of records managed by your team, when requested by Records Management or Niche RRD Team members dealing with a request
- Assist where necessary in liaising with third parties with whom your team have shared NYP information that is to be rectified, erased or restricted, with the advice and support of Information Management

Business Administration

- Provide customers with the relevant information to submit a request
- Where relevant obtain copies of Identification to verify identity
- Where relevant obtain verbal details of the request including full contact details
- Forward details of requests and copies of identification to the Records Management Team on the day the request is made.

Data Protection Officer

- Undertake quality assurance checks on requests completed. Undertake independent reviews and provide advice to staff members on the application of the law.

Information Management Lead

- Overall responsibility to ensure compliance with the procedure
- Ensure risks are highlighted as appropriate to the Chief Officer Team.

Joint Corporate Legal Services

- Provide legal advice as required.

Safer Neighbourhood Commanders/Heads of Department

- Ensure staff are aware of the requirements particularly in relation to responsibilities for notification to Records Management and timescales.

Technical / System Administrators and other relevant departments

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- Undertake requests for searches, deletion, or rectification of records in a timely manner
- Provide regular updates regarding progress to the Records Management Team if delays are likely to occur
- Provide technical advice and solutions where necessary.

Senior Information Risk Owner

- Assess and record decision on cases referred by the Information Management Lead, Data Protection Officer, Records Compliance Manager or Senior Records and DQ officer

Definition of Special Terms

APP - Authorised Professional Practice

DPA - Data Protection Act 2018

ICO - Information Commissioner Office

MoPI - Management of Police Information

PCC - Police and Crime Commissioner

RRD - Review Retention and Disposal