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| **Date:** | January 2021 |
| **Date approved by Management Committee:** | January 31st 2021 |
| **Signature of Chair of Management Committee:** | Sue Cain |
| **To be reviewed:** | Annually |

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**Data Erasure Policy**

This policy aims to explain the legal requirements for compliance with the EU General Data Protection Regulation (GDPR) and to describe the procedures to be followed when dealing with requests for data erasure (deletion) covered by the Regulation**.** It should be read in conjunction with the school’s Data Porting Policy, Data Protection Policy and Confidentiality Policy.

**Scope**

This Procedure covers:

* All staff, sites and systems by which Bishopton operates as a ‘data controller’ or a ‘data processor’.
* All staff, sites and systems of a Bishopton ‘data processor’.
* Data no longer necessary for the purposes for which they were processed.
* Data where the data subject withdraws consent for, or objects to, processing and no legitimate grounds for continued processing override the request.
* Data are being unlawfully processed.
* Data have to be erased to comply with a legal duty.

**References**

* EU General Data Protection Regulation (2016)

**Roles & Responsibilities**

Data Controller

Under the EU GDPR, Bishopton is a Data Controller. That is, the organisation that determines the purposes for which, and the manner in which, any personal data about living individuals are processed. Data Controllers control personal data processed by a Data Processor.

Data Processor

Under the EU GDPR, Data Processors are agents or parties (persons or organisations) to whom Bishopton has given data processing responsibilities. Bishopton may also be a Data Processor when processing personal data on behalf of a Data Controller organisation.

Data Subject

According to the EU GDPR regulation, the data subject is a living individual who is the subject of the personal data.

Data Protection Officer

Under the EU GDPR regulation, the Data Protection Officer is a person who has discrete responsibilities for supporting the users and systems that process personal data in an organisation.

Department Heads and Managers

All relevant staff are responsible for ensuring that information (in scope) is erasable as required by the EU GDPR, and that requests to erase personal data are processed without undue delay.

All staff should be aware of this Policy and adhere to its principles. They should all be aware of how to access this Policy and where to seek further advice.

Key data managers are responsible for ensuring that data processors processing on our behalf are aware of any data erasure requests and comply.

**Recognising a Data Erasure Request**

A Data Erasure Request

A Data Erasure Request is any request made by an individual or an individual’s representative to erase personal information (in scope) held by Bishopton or any of its Data Processors.

Format of the Request

The GDPR does not identify how a request must be provided to the data controller. However, in the interests of the rights and freedoms of the data subject, it would be good practice to allow a data subject to request data erasure via any means.

A request, therefore, can be made via any of, but not exclusively, the following methods:

* Email
* In person
* Fax
* Post
* College website
* Social media

**Rights of Erasure**

Who has the right to request the erasure of personal data?

Under the EU GDPR, any living person, who is the subject of personal information held and processed by Bishopton has a right to request the erasure of their personal information (that is in scope). This is a legal right, subject to exemptions.

What can a Data Subject request to be erased?

Data Erasure rights allow the data subject to request to have data erased that is in scope (see ‘Scope’ above).

What does a Data Subject NOT have the right to access?

An individual does not have the right to erase information recorded *about someone else*, unless they are an authorised representative, or have parental responsibility.

What are we NOT required to respond to?

Bishopton is not required to respond to erasure requests made with insufficient details to enable the location of information to be identified, and to satisfy itself as to the identity of the individual making the request. If a request does not have enough information, we must respond and ask the requester to be more specific. Ignoring the request is not an option.

Bishopton is not obliged to release information to *any person*, whether they are a data subject or their representative, if the items of identification presented are not valid or appear not to be valid (i.e., forged or do not adequately identify an individual/party).

**Exemptions**

Bishopton is not obliged to erase information where it processed the information to exercise its right to freedom of expression and information.

For compliance with a legal obligation which requires processing by Union or Member State law to which the controller is subject or for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;

Or reasons of public interest in the area of public health;

Or archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in so far as the right to erasure is likely to render impossible or seriously impair the achievement of the objectives of that processing; or

For the establishment, exercise or defence of legal claims.

**Processing a Request for Data Erasure**

* Processing a Data Erasure request must be done without a fee payable, and:
* The request must be processed without undue delay.
* Identity of the requesting party must be validated prior to processing.
* Communication with all parties involved in the erasure must be open, supportive and in the best interests of the data subject.
* Processing does not require the intervention of the Data Protection Officer, although support is available to staff, if required.
* Although personal data must be erased, the ICO has stated that Bishopton can process personal information in the form of a record of Data Erasure Requests to support our obligations in *“retaining a record of their request and your compliance with the request for erasure”*.

**Monitoring and Evaluation**

This policy and procedure for Data Erasure will be subject to ongoing monitoring and evaluation to ensure efficacy and compliance with GDPR.

**UNICEF - UNCRC**

The UN Convention of the Rights of the Child sets out human rights of every person under 18 and applies to every child without discrimination, whatever their ethnicity, gender, religion, language, abilities or any other status, whatever they think or say, whatever their family background (Article 2).

Articles directly relating to this policy are:

Article 2 (Non-discrimination)

Article 3 (best interests of the child)

Article 5 (Parental guidance and a child’s evolving capacities)

Article 8 (Protection and preservation of identity)

Article 12 (Respect the views of the child)

Article 16 (Right to privacy)

Article 17 (Access to information from the media)

Article 28 (Right to education)

Article 29 (Goals of education)

Article 41 (Respect for higher national standards)

**Appendix 1**

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| **GDPR: DATA ERASURE RECORD** | | | |
| Under GDPR, it is a legal duty to record data erasure requests and actions. Please use this form to record all data erasure requests and actions. | | | |
| Name of Requester: |  | ID (passport, Driving Licence number: |  |
| Date request received: | |  | |
| Do exceptions to compliance apply? | | YES | NO |
| If YES, please provide details: | |  | |
| Data Subject/Requestor ID validated by: | |  | |
| If NO, detail categories of data erased: (DO NOT enter data itself, only category identifiers, Name, DoB, or contact details etc.) | |  | |
| Date request completed: | |  | |
| Date confirmation sent to requestor: | |  | |