

## GEM Partnership Ltd Data Erasure Request Procedure

### 1. Responsibility

- 1.1 The Data and Compliance Team responsible for this policy are;
  - 1.1.1 Annie Dorner – Compliance & Projects Manager
  - 1.1.2 James Proudlock – Digital & Data Manager

### 2. Introduction

- 2.1 The Data Protection Act 2018 and the UK GDPR provide the right for an individual to request the deletion or removal of personal data where there is no compelling reason for its continued processing. This is often called the 'right to be forgotten'. However, the right is not absolute and the right applies in specific circumstances:
  - 2.1.1 Where the personal data is no longer necessary in relation to the purpose for which it was originally collected/processed.
  - 2.1.2 When the individual withdraws consent.
  - 2.1.3 When the individual objects to the processing and there is no overriding legitimate interest for continuing the processing.
  - 2.1.4 The personal data was unlawfully processed (i.e. otherwise in breach of the GDPR).
  - 2.1.5 The personal data has to be erased in order to comply with a legal obligation.
  - 2.1.6 The personal data is processed in relation to the offer of information society services to a child.
- 2.2 There are also some circumstances where the right to erasure does not apply and a request can be refused. However, if the processing causes damage or distress to the individual, the case for erasure is stronger.

### 3. Scope

- 3.1 This Procedure is in line with the requirements of the GEM Partnership Data Retention Policy, detailing the destruction requirements of Protected and Sensitive Data.
- 3.2 This Procedure details the actions to be taken for the Erasure of Data following a Data Erasure request.

### 4. Exceptions

- 4.1 The right to erasure is not an absolute right. There are exceptions under the GDPR where GEM Partnership does not have to comply with a right to erasure request. For recruiters, the most relevant exception is having to process data in order to comply with a legal obligation.
- 4.2 GEM Partnership may need to keep records in order to demonstrate compliance with:
  - 4.2.1 The Conduct of Employment Agencies
  - 4.2.2 Employment Businesses Regulations 2003 which require the retention of work-seeker records for at least a year after their creation and at least one year from the date they last provided their service (i.e. the date from which a recruiter last sent the candidate's CV to a client).
  - 4.2.3 Payroll.
  - 4.2.4 National Minimum Wage Recording.

- 4.2.5 HMRC Records.
- 4.2.6 Financial Records.
- 4.2.7 Human Resource records.
- 4.2.8 Education & Skills Funding Agency
- 4.2.9 European Social Fund
- 4.3 It is important to emphasize that a right to erasure request will still need to be responded to and if personal data is being retained for legal purposes, then this will have to be explained to the data subject.

## 5. Procedure

- 5.1 GEM Partnership will verify the identity of the individual making the request. This must be Photo ID and Proof of Address in order to confirm Identity of Requestor.
- 5.2 Explain the implications of full erasure. Erasing all personal details will mean they no longer exist in your data universe, so if they reappear legitimately through say a 3<sup>rd</sup> party data provider or via a subsequent purchase, they will then be treated as a new person. This impact should be identified and explained to the individual to ensure they want actual erasure or do they want to Restrict Processing or Object to Processing.
- 5.3 Inform 3<sup>rd</sup> Party recipients of erasure. As with rectification and restriction of processing, there is an obligation to inform recipients of the personal data, unless this proves impossible or involves disproportionate effort.
- 5.4 Identify Data to be Erased, including:
  - 5.4.1 Electronic.
  - 5.4.2 Paper-Based.
- 5.5 Complete a Data Audit to ensure all Data from the requestor has been identified, erased and recorded.
- 5.6 Inform the requestor of Information held and what will/will not be Erasure under the terms of Exemptions.
- 5.7 Data is to be erased utilizing the Method as stated in the Data Retention Policy.
- 5.8 Erase Data
- 5.9 Pseudonymization Record of Erasure to be kept, Detailing:
  - 5.9.1 Chameleon Number of Erased Subject.
  - 5.9.2 PICS LMS Number of Erased Subject.
  - 5.9.3 ESFA/ESF Unique Learner Number.
  - 5.9.4 Date of Request and Date of Erasure.
  - 5.9.5 Details of Retained information under the Exemptions.



