East and North Hertfordshire NHS
NHS Trust

Trust-wide Policy

For

Intellectual Property

A document recommended for use

In: All departments

By: All staff

For: Management of intellectual property

Key Words: Intellectual Property

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1	February 2006	New Policy
2	September 2008	Scheduled Review
3	October 2011	Scheduled Review
4	March 2016	Change IP Lead to Dr Phillip Smith, Associate Director Research and Development from Dr G Mohan
5	June 2018	Revised to include the General Data Protection Regulation 2018

Equality Impact Assessment
This document has been reviewed in line with the Trust's Equality Impact Assessment guidance and no detriment was identified. This policy applies to all regardless of protected characteristic - age, sex, disability, gender-re-assignment, race, religion/belief, sexual orientation, marriage/civil partnership and pregnancy and maternity.

Dissemination and Access
This document can only be considered valid when viewed via the East & North Hertfordshire NHS Trust Knowledge Centre. If this document is printed in hard copy, or saved at another location, you must check that it matches the version on the Knowledge Centre.

Associated Documentation
Trust Policy on Research Governance

Review
This document will be reviewed within three years of issue, or sooner in light of new evidence.

Key Messages
This Policy supports the identification and exploitation of intellectual property as a means to enhance patient outcome and experience.

CONTENTS

1. EXECUTIVE SUMMARY

The overriding objective of the Policy is to promote the use of research results and other knowledge generated within the Trust to benefit a wider community, and if possible to obtain a commercial benefit to the Trust in doing so.

What the Policy covers

1.1 Invisible value: The Trust generates valuable information and intellectual property in many of its activities.

1.2 Objectives: The aim of the Trust is to promote wide and effective use of such information and ideas generated within the Trust, if possible with a commercial return to the Trust which it can reinvest in its activities; and to that end to identify valuable information and rights, to secure appropriate protection, and to promote use; and to educate those involved in the value and opportunities which may arise.

1.3 Application: Intellectual property provides the basis for protecting information, ideas and developments: from new drugs or methods of diagnosis, to papers, manuals and forms; from software and collections of data to new procedures. It arises from research, but also in day to day activities in the Trust. Examples are rights in inventions, copyright in papers, books, or collections of information and data and in software, rights in designs, and trade and brand names used by the Trust.

1.4 Who owns it: In general, intellectual property rights generated by those working in the Trust in the course of their work, belongs to the Trust. In relation some types of work, such as academic books, the Trust may transfer its rights to the person involved.

1.5 Third party contracts: In some cases there will be contractual arrangements under which the arising intellectual property belongs to a third party. Normally, unless a third party in the private sector meets the full cost of any research or development, the Trust will expect to retain an interest in the intellectual property. Staff should ensure they are familiar with any relevant third party contract, so as to meet any requirements in relation to reporting and protection of intellectual property.

1.6 Thinking "intellectual property": All those working in the Trust should consider whether any developments, ideas or results they or their colleagues generate or information or data they collect, could be used to benefit others, especially outside the Trust. If so they should review this with the person to whom they report, or the Trust's IP Lead.

1.7 Protection: If such material is potentially valuable, those in the Trust should ensure that they report this, with appropriate details, to the person they report to, or to the Trust's IP Lead, so that appropriate steps can be taken to protect any relevant intellectual property. Until appropriate protection is obtained, those who know of the material should avoid doing anything which might damage its value (and in particular disclosing information without protection), as long as this can be achieved while doing their job.

1.8 Publication and disclosure: Publication and dissemination of relevant ideas and information is important. However, unless the appropriate steps are taken in advance, disclosure to others outside the Trust may invalidate any protection. Staff involved should therefore not disclose information to anyone outside the Trust without considering whether it is valuable, or whether disclosure could be damaging to the Trust, and if so, permitting the Trust to put in place appropriate protection. This may be in the form of confidentiality agreements, or copyright notices, or in suitable cases, patent protection. If in doubt, you should consult the person to whom you report or the Trust's IP Lead.

1.9 Evaluation: The Trust's IP Lead will consider, in conjunction with you, the value of the material, what steps can be taken to promote the wider beneficial use of any material, and whether commercial exploitation is appropriate; what steps are appropriate to take to protect the material. The Trust's IP Lead may review this with a panel of advisors.

1.10 Exploitation: If appropriate the Trust's IP Lead will advise on what steps should be taken to promote wider dissemination, and/or prepare a plan to implement suitable exploitation, and will report the conclusions to you. The Trust will not normally be willing to undertake significant risks

in the course of exploitation, and where commercial exploitation is possible, the Trust will look to a third party to assume such risks.

1.11 Sharing the benefits: If revenue arises for the Trust from exploitation of any material, after accounting for any costs it has incurred the Trust will share a part of the benefit with you in accordance with the current revenue sharing policy.

1.12 Additional assistance: Those involved should provide such assistance as the Trust's IP Lead requests to help protect and permit exploitation of relevant material. In some cases they may be required to sign documents relating to rights in the material.

1.13 Own development: If the Trust concludes that it is not appropriate for it to be involved in exploitation, unless there are reasonable grounds for it not doing so, it will allow you to take steps to exploit the results yourself. The Trust may need to maintain some control, in order to protect its interests or the interests of patients.

1.14 The Trust's name: The Trust's name and brands are valuable assets of the Trust. It is important that they are not damaged by inappropriate use, and at the same time that the Trust can be promoted by use of its name in the right circumstances. Any use of the Trust's name in relation to any publication or other publicity should be cleared with the Trust's IP Lead in advance, and advice obtained on how the name may be used.

1.15 Records and Administration: The Trust will maintain an administrative procedure for handling the matters set out above, and will maintain records of developments, ideas, and other information reported under this policy. In addition, so far as is relevant, the Trust will implement the terms of this policy in contracts of employment for staff, and in relation to research and other contracts with third parties. Data will be managed in accordance with the General Data Protection Regulation (GDPR) 2018 previously The Data Protection Act (1998) (See Appendix 2).

2. INTRODUCTION

2.1 Recent NHS policy frameworks and guidelines supported by the Health and Social Care Act 2001 place a duty on the Trust to protect and exploit intellectual property generated by its employees in the course of their normal duties for the benefit of patient care, staff and the wider health care community.

2.2 The NHS recognises the need to develop as an organisation which has innovation at the core of its business, developing new products and service innovations for better health care delivery. Innovation occurs naturally in the normal course of employment at all levels throughout the NHS. The innovation may be a novel treatment, device, new drug, data, software, training material or a new management system.

2.3 Most innovations are best implemented by making them freely available through normal knowledge management processes once they have demonstrated a quantifiable health service gain. However, some innovations can only be realised through commercial development; for these innovations, professional management of the associated Intellectual Property (IP) is crucial. The NHS recognises that the protection of IP facilitates rather than impedes the uptake of innovations with commercial potential.

2.4 All of these considerations made it desirable for the Trust to develop this policy, which outlines how the Trust with the aid of specialist organisations within the NHS will protect and manage the IP created by its employees for the improvement of healthcare whilst ensuring that any revenue generated is shared equitably with the employees creating the IP.

2.5 This policy is not intended to restrict Trust staff who wish to publish research in peer-reviewed Journals.

3. BACKGROUND

3.1 In 2002, the Department of Health published a Framework and Guidance on the Management of Intellectual Property in the NHS. The Framework and Guidance builds on the previous 1998 policy published in the Health Service Circular HSC 1998/106, which dealt with the management

of IP arising from Research and Development (R&D) funded in whole or in part from the NHS R&D Budget.

3.2 The Framework and Guidance extended the 1998 policy to include IP generated by all NHS employees involved in healthcare delivery. As a result of this, IP generated from any source is now recognised by the NHS as an asset of value which should be managed in the best interests of NHS patients, employees and society as a whole. All NHS Trusts and Primary Care Trusts are required to ensure that IP arising within their trusts is managed within the given Framework and according to the provisions of Section 5 of the Health and Social Care Act 2001.

3.3 Under the 1998 policy, Trusts already have the power to generate income through commercial exploitation of IP. The Health and Social Care Act is aimed at supporting the delivery of the NHS Plan, and is intended to enable Trusts, subject to the approval of a business case, to take a shareholding in spin-out companies set up as a vehicle to exploit IP provided that it does not interfere with its functions or obligations under NHS contracts.

3.4 Income generated by successful commercial exploitation of IP arising from the Trust will be retained by the Trust and shared with inventors.

4. AIMS

4.1 The aims of the Trust's Intellectual Property Policy are:

- To clarify the IP ownership and management arrangements adopted by the Trust
- To ensure the NHS/Trust benefits from IP arising from NHS funded activity
- To encourage staff/researchers to consider the relevance of their work (whether R&D or not)
- To enhance IP identification and management
- To promote commercial exploitation, where appropriate

5. INTELLECTUAL PROPERTY

5.1 Intellectual Property is the novel or previously undescribed tangible output of intellectual and creative activity. IP can arise in the form of ideas, inventions, discoveries, software, research material, know-how and expertise, designs and images. Like physical property, it can be bought, sold or licensed to others.

5.2 Intellectual property rights (IPR) are rights which are protected by law, and which enable the owner to control the IP and be rewarded for its use, encouraging further innovation.

5.3 The main intellectual property rights are:

- **Patents** (for inventions, covering for example new diagnostic equipment or surgical tools, new drugs, and new processes and equipment). Patents must be registered to be effective. Publication of results before seeking patent protection may be fatal to the protection of the invention. An invention must not be obvious development, compared to what is already known to someone who is experienced in the relevant field. Where there is a possibility of patent protection being obtained this should be reported to the Trust's IP Lead as soon as possible.
- **Copyright** (for written works, drawings, photographs, sound recordings, and works such as computer software and collections of data, written or computer based protocols and forms). Copyright arises automatically in most cases. However, it is desirable to ensure that documents or other works which may be covered by copyright contain appropriate notices, such as: *"© [Name] NHS Trust 201[1]. All rights reserved. Not to be reproduced in whole or in part without the permission of the copyright owner."*
- **Designs** (covering the shape and configuration of articles, such as equipment and tools). Designs can be protected both without registration and by registration. If there is the possibility of design protection advice should be sought from the Trust's IP Lead.
- **Confidentiality** (which can apply to any information). Confidential information or "Know-how" is information which may be commercially or technically valuable and which is regarded as secret. It may, for example, include information on industrial processes or be a list of clients

Confidentiality is generally protected by written agreements. In all cases, the "know-how" will only retain its value if it is managed effectively. All exploitation partners, business partners and collaborators should be bound by conditions of confidentiality through a Confidential Disclosure Agreement (CDA). Such an agreement should only be signed by an appropriate, authorised representative of the Trust, so that the risk from disclosure can be assessed and suitable records kept.

- **Trade names** such as the Trust name and brands used by the Trust.

6. OWNERSHIP OF INTELLECTUAL PROPERTY

6.1 Generally, if a member of the staff (an employee) of the Trust creates or generates any intellectual property, including inventions and information and results in the course of performing their duties, the rights in that intellectual property belong to the Trust (subject to some statutory exceptions).

6.2 In addition, if any other person working for or within the Trust creates or generates intellectual property while working for the Trust, the normal rule which the Trust will apply is that rights belong to the Trust. This is intended to apply to consultants, visiting research students and other categories of non-employed staff. In practice, in each case the position is also likely to be affected by the contract under which the work is being carried out, or relevant research contracts.

6.3 In each case this includes activities carried out wholly or partly under Trust auspices. It also includes activities using Trust facilities, and work carried out during time for which the member of staff receives financial reward or remission of duties or responsibilities from or through the Trust, for example where they are given time off to write a book.

6.4 In any case it may also be important that the Trust own the rights as the Trust may have entered obligations with third parties in relation to the intellectual property rights. It is important that the rights initially belong to the Trust so that it can comply with those obligations.

6.5 In cases where the intellectual property does not belong to the Trust, but has been generated by use of or access to Trust resources, this must not be exploited without prior written consent from the Trust. The Trust will not unreasonably withhold consent but may, in its discretion require a reasonable reward reflecting the contribution made from its resources.

7. WHAT HAPPENS TO REVENUE THE TRUST RECEIVES FROM IP?

7.1 To encourage staff to contribute to the generation of IP, the Trust operates a reward scheme for staff creating or generating IP which subsequently becomes commercialised. Revenue generated will be shared with the Trust and the inventor according to the Trust's revenue sharing policy, the current version of which is set out in Appendix 1.

7.2 In cases where there are a number of inventors the income allocated will be divided between them. In all cases the shared revenue will be net of any protection and exploitation costs incurred by or on behalf of the Trust.

8. COPYRIGHT

8.1 Although copyright of any work produced by an employee in the course of normal employment belongs to the Trust, the Trust will normally grant to the author a royalty free licence to the copyright of any work published in a recognised scientific, technical, professional or management journal or book and will not claim a share of any income derived from such works. The Trust will not grant such a licence for materials created by a member of staff during the course of and related to their employment, which are on the following non-exhaustive list:

- Course or training materials
- Patient information
- Software programmes

- Designs, specification or other works which may be necessary to protect rights in commercially exploitable Intellectual Property.

8.2 The Trust will respect the moral rights of its employees as authors in copyright materials if asserted by notification to the R&D lead, with the exception to any materials related to computer programs, the design of a typeface or any computer generated work, in standing with the Copyright, Designs and Patents Act 1988.

9. WHO AND WHAT DOES THIS POLICY COVER?

9.1 All staff that are full or part-time employees of the Trust where the IP generated relates to their area of employment by the Trust, whether it was created during the course of a working day, or outside normal working hours and/or away from the place of work.
9.2 Staff with contracts of employment with the Trust whose payroll costs are partially or fully funded by another party (e.g. medical charity, Government Department), unless the contract between the Trust and that party gives ownership of the IP to that party.
9.3 Staff employed part-time by the Trust who are self employed or otherwise employed part-time. Where IP is generated during the non-Trust employment but involves use of or access to Trust resources, 5.5 above will apply.
9.4 Trust staff seconded to another organisation or employees of another organisation hosted by the Trust under contract subject to the terms defined in the contract between the Trust and that organisation.
9.5 Independent providers of services who generate IP from research funded by the NHS are required to inform the Trust and share the benefits of its commercialisation. Where IP is assigned to the Trust, the independent service provider will benefit under the revenue sharing scheme of the Trust.
9.6 Collaborative projects - if work/research is conducted by a Trust employee in partnership with another organisation, a formal agreement setting out ownership (or sharing) of generated IP is required. The R&D Lead will have primary responsibility for agreeing IP sharing agreements with collaborating institutions.

10. STUDENTS AND OTHER NON-EMPLYEES OF THE TRUST

10.1 Students, where they are not employees of the Trust, are required to sign a confidentiality agreement which provides that the student disclose details of any inventions to the Trust and assign the rights to the Trust on request. Similar provisions will apply to other researchers at the Trust who are neither staff nor students e.g. Senior Research Fellows and other emeritus staff.

11. WHAT IF THE TRUST IS NOT INTERESTED IN MY IP?

11.1 When IP is generated, and the Trust chooses not to further the development or commercial exploitation of such IP for whatever reason, the IP will be assigned to the inventor on request who may wish to pursue its further development independently.

12. OWNERSHIP DISPUTES

12.1 If the ownership of IP is disputed, dated written records relating to the IP in question will be assessed by the R&D committee with professional help to establish the ownership of the IP, the inventor(s) and their proportionate contribution as appropriate.

13. EMPLOYEES' OBLIGATIONS

13.1 From time to time an employee may generate IP which may have value in the delivery of better patient care. All employees who may have created any form of intellectual property are required to bring it to the immediate attention of the Trust IP Lead, who will provide first level advice and engage the services of outside advisors as appropriate.

13.2 Disclosure to persons outside of the Trust (other than under explicit terms of confidentiality) may invalidate any subsequent attempt to gain IP rights and significantly diminish both potential commercial value and benefits accruing to both the Trust and the inventor. It is essential therefore that all ideas and developments are not generally discussed, and are reported instead through the correct channels.

13.3 All employees should treat as confidential and not disclose to any third party any research results or other confidential information relating to IP developments without prior written approval of the Trust's IP Lead. If there is any uncertainty as to the sensitivity or confidentiality of the information, the employee should consult with the Trust IP Lead prior to any disclosure.

13.4 Employees must not, under any circumstances, disclose before protection, sell, assign, licence, give or otherwise trade in IP without the Trust's written agreement.

14. RECORD KEEPING

14.1 You are reminded of the importance of keeping accurate and dated laboratory notebooks so that, in the event of similar intellectual property being generated elsewhere, ownership of the invention can be proved. Such notebooks can be important when applying for patents in the USA and also for identifying know-how.

14.2 In addition, a record will be kept of the date and time on which an employee reports to the IP Lead that he or she is the inventor of a creative product.

15. WORKING WITH OTHERS

15.1 Before negotiating or entering into any contract or other arrangement which addresses intellectual property or the rights in results or developments, it should be reviewed with the Trust's IP Lead. The Trust's IP Lead must give written approval to any such contract before it is signed, and should be consulted as early as possible when such an arrangement is being considered.

16. HOW WILL THE TRUST MANAGE IP?

16.1 Any employee wishing to discuss the protection of any idea or other form of intellectual property should inform the IP Lead at the earliest opportunity and, in any event, before disclosure of the idea (whether orally or in writing) to any party outside the Trust.

16.2 The IP Lead will be the initial contact point for advice, and can provide details of the support available for the management of IP.

16.3 The Trust is the vehicle for holding patents and other intellectual property, but is free at its absolute discretion to engage another party (e.g. an independent company) to exploit its intellectual property on its behalf.

17. COMMERCIAL USE AND EXPLOITATION

17.1 In each case reported to the Trust's IP Lead, the Trust's IP Lead will consider what form of protection is suitable and appropriate for the results or developments.

17.2 The Trust has specific arrangements in place for the exploitation of intellectual property therefore you should not take any steps to exploit Trust intellectual property without the specific approval of the Trust Board.

17.3 The Trust may at its absolute discretion decide that the IP is best exploited through a spin-out company; in such a case the Trust may take shares in that company and there may also be

opportunity for the employee who created the relevant IP to take shares and/or otherwise participate in the spin out company. Setting up a spin out company is a complex procedure which may require consent of the Department of Health.

18. IP AUDIT

18.1 There is no formal obligation to capture IP through a process of technology audit. The Trust may however employ an auditing process to identify and evaluate IP and otherwise assist in its commercialisation.

19. ASSISTANCE

19.1 Those involved in creating or generating intellectual property, or results or developments, may be asked to assist by providing further information which helps the Trust to protect or to arrange exploitation of it. For example you may be asked to sign formal transfer documents.

20. ADMINISTRATION AND MANAGEMENT

20.1 Training: The Trust will take steps to promote understanding by those working in the Trust of the issues arising under this policy, in particular the value and protection for intellectual property, and how to identify this.

20.2 Records and Administration: The Trust's IP Lead will maintain an administrative procedure for handling the matters set out above, and will maintain records of developments, ideas, and other information reported under this policy. In addition, so far as is relevant, the Trust will implement the terms of this policy in contracts of employment for staff, and in relation to research and other contracts with third parties.

21. MONITORING AND EFFECTIVENESS

21.1 **Monitoring the effectiveness of R&D activity** It is paramount to the operational success of the Research and Development programme, and related outcomes, that its effectiveness is closely monitored.

21.2 **Monitoring the effectiveness of the policy** This policy's effectiveness will be monitored by the Research and Development Board Responsibility for updating and maintaining this policy lies with the Associate Director Research and Development, and will be reviewed and/or revised on a regular basis accordingly.

22. TRUST INTELLECTUAL PROPERTY CONTACTS

22.1 IP Lead: Dr Phillip Smith, Associate Director Research and Development

23. RELEVANT DOCUMENTS

23.1 The NHS as an Innovative Organisation: A Framework and Guidance on the Management of Intellectual Property in the NHS, published by DoH in 2002.

23.2 Health Service Circular 1998/106: Policy Framework for the Management of Intellectual Property within the NHS arising from Research and Development.

23.3 The Management of Intellectual Property and Related Matters: An Introductory Handbook for R&D Managers and Advisers in NHS Trusts and Independent Providers of NHS Services. NHS Executive 1998.

23.4 Handling Inventions and other Intellectual Property: A Guide for NHS Researchers. NHS Executive 1998.

24. APPENDICES

24.1 Appendix 1: Revenue sharing
24.2 Appendix 2: Implementing the General Data Protection Regulation (GDPR) 2018 previously The Data Protection Act (1998)

APPENDIX 1 Revenue sharing table

The shared revenue will be net of any protection and exploitation costs incurred by or on behalf of the Trust.

Net revenue	Inventor(s)	Department	Trust
<£10K	90%	5%	5%
£10-£50K	75%	12.5%	12.5%
£50-£250K	50%	25%	25%
>£250k	35%	32.5%	32.5%

APPENDIX 2: Implementing the General Data Protection Regulation (GDPR) 2018 previously The Data Protection Act (1998)

Requirements under the General Data Protection Regulation

East & North Hertfordshire NHS Trust expects staff to maintain strict confidentiality in respect of personal data held in paper or electronic format. Everyone is under a legal duty under the General Data Protection Regulation to keep personal information secure and confidential, and to ensure there are no inaccuracies in data held about an individual. It is therefore essential that records about employees comply with these standards. Staff are entitled to have access to their personal records, and these guidelines give information to line managers on how to respond to such a request.

Timescale for retention of employee records

Minor records of the sort that would normally be held in the departmental file should normally be retained for at least two years. Thereafter they may be destroyed under confidential conditions, unless the manager considers there is a particular reason why they should be retained for longer. The content of the personal file should be reviewed from time to time, and information that is no longer accurate (for example out-of-date personal contact details) should be destroyed under confidential conditions, so that inaccurate information is not retained on the file.

Inaccuracies in Health records

Credible records are an important aid in providing safe healthcare to patients. Records should reflect the observations, judgements and factual information collected by the contributing health professional. The GDPR requires that information should be accurate and kept up-to-date. This provides the legal basis for enforcing correction of factual inaccuracies. An opinion or judgement recorded by a health professional, whether accurate or not, should not be deleted. Retaining relevant information is essential for understanding the clinical decisions that were made and to audit the quality of care.

However, individuals are entitled to have personal data rectified if it is inaccurate or incomplete. If the personal data is disclosed in question to third parties, you must inform them of the rectification where possible. You must also inform eh individuals about the third party to whom the data has been disclosed where appropriate. The time scale for response to rectification is within one month. This can be expanded to two months where the request for rectification is complex.
Where both parties agree that information is factually inaccurate it should be amended to clearly display the correction whilst ensuring the original information is still legible. An explanation for the correction should also be added.

Where the health professional and patient disagree about the inaccuracy of the entry, the data controller should allow the patient to include a statement within their record to the effect that they disagree with the content.

If the patient is unhappy with the outcomes, there is the option of taking this more formally via the complaints department.
ISRM:

- "The right to be informed"
- "The right to erasure"
- "The right of rectification"
- "The right to restrict processing"
- "The right to object"
- "The right not to be subject to automated decision-making including profiling"

"The right of rectification" individuals are entitled to have personal data rectified if it is inaccurate or incomplete. If the personal data is disclosed in question to third parties, you must inform them of the rectification where possible. You must also inform the individuals about the third party to whom the data has been disclosed where appropriate. The time scale for response to rectification is within one month. This can be expanded to two months where the request for rectification is complex. Where both parties agree that information is factually inaccurate it should be amended to clearly display the correction whilst ensuring the original information is still legible. An explanation for the correction should also be added.

"The right to be informed" The right to be informed encompasses your obligation to provide 'fair processing information', typically through a privacy notice.It emphasises the need for transparency over how you use personal data. The information you supply about the processing of personal data must be: concise, transparent, intelligible and easily accessible;•written in clear and plain language, particularly if addressed to a child; and free of charge.

'Right of access' Individuals have the right to access their personal data and supplementary information. The right of access allows individuals to be aware of and verify the lawfulness of the processing **(SAR).** the timetable to respond to subject access requests in any event is within one calendar month of receiving it, in either format by email or one sent in hard copy.

"The right to restrict processing" Individuals have a right to 'block' or suppress processing of personal data. When processing is restricted, you are permitted to store the personal data, but not further process it. You can retain just enough information about the individual to ensure that the restriction is respected in future. You will be required to restrict the processing of personal data in the following circumstances: Where an individual contests the accuracy of the personal data, you should restrict the processing until you have verified the accuracy of the personal data. Where an individual has objected to the processing (where it was necessary for the performance of a public interest task or purpose of legitimate interests), and you are considering whether your organisation's legitimate grounds override those of the individual, When processing is unlawful and the individual opposes erasure and requests restriction instead. If you no longer need the personal data but the individual requires the data to establish, exercise or defend a legal claim. If you have disclosed the personal data in question to third parties, you must inform them about the restriction on the processing of the personal data, unless it is impossible or involves disproportionate effort to do so. You must inform individuals when you decide to lift a restriction on processing.

'The right to data portability' the right to data portability allows individuals to obtain and reuse their personal data for their own purposes across different services. It allows them to move copy or transfer personal data easily from one IT environment to another in a safe and secure way, without hindrance to usability.

"The right to object" Individuals have the right to object to processing based on legitimate interests or the performance of a task in the public interest/exercise of official authority (including profiling); direct marketing (including profiling); and processing for purposes of scientific/historical research You must inform individuals of their right to object "at the point of first communication" and in your privacy notice.

This must be "explicitly brought to the attention of the data subject and shall be presented clearly and separately from any other information and statistics. Individuals must have an objection on "grounds relating to his or her particular situation".

"The right not to be subject to automated decision-making including profiling" Individuals have the right not to be subject to a decision when it is based on automated processing; and it produces a legal effect or a similarly significant effect on the individual. You must ensure that individuals are able to obtain human intervention; express their point of view; and obtain an explanation of the decision and challenge when processing personal data for profiling purposes, you must ensure that appropriate safeguards are in place.it.

"The right to erasure" The right to erasure is also known as 'the right to be forgotten'. The broad principle underpinning this right is to enable an individual to request the deletion or removal of personal data where there is no compelling reason for its continued processing. The right to erasure does not provide an absolute 'right to be forgotten'. Individuals have a right to have personal data erased and to prevent processing in specific circumstances.

- Where the personal data is no longer necessary in relation to the purpose for which it was originally collected/processed.
- When the individual withdraws consent.
- When the individual objects to the processing and there is no overriding legitimate interest for continuing the processing. The personal data was unlawfully processed (i.e. otherwise in breach of the GDPR).
- The personal data has to be erased in order to comply with a legal obligation. The personal data is processed in relation to the offer of information society services to a child.

Under the GDPR, this right is not limited to processing that causes unwarranted and substantial damage or distress. However, if the processing does cause damage or distress, this is likely to make the case for erasure stronger.

'children' The GDPR contains new provisions intended to enhance the protection of children's personal data. Where services are offered directly to a child, you must ensure that your privacy notice is written in a clear, plain way that a child will understand. If you offer an 'information society service' (i.e. online service) to children, you may need to obtain consent from a parent or guardian to process the child's data. The GDPR states that, if consent is your basis for processing the child's personal data, a child under the age of 16 can't give that consent themselves and instead consent is required from a person holding 'parental responsibility' – but note that it does permit member states to provide for a lower age in law, as long as it is not below 13. 'Information society services' includes most internet services provided at the user's request, normally for remuneration. The GDPR emphasises that protection is particularly significant where children's personal information is used for the purposes of marketing and creating online profiles.

'Consent' Consent means offering individuals genuine choice and control. Consent requires a positive opt-in.

- Don't use pre-ticked boxes or any other method of consent by default.
- Explicit consent requires a very clear and specific statement of consent.
- Keep your consent requests separate from other terms and conditions.
- Be specific and granular. Vague or blanket consent is not enough. Be clear and concise. Name any third party controllers who will rely on the consent.
- Make it easy for people to withdraw consent and tell them how. Keep evidence of consent – who, when, how, and what you told people.
- Keep consent under review, and refresh it if anything changes. Avoid making consent a precondition of a service. Public authorities and employers will find using consent difficult. Remember – you don't always need consent. If consent is too difficult, look at whether another lawful basis is more appropriate.