

RIGHT TO BE FORGOTTEN / DATA ERASURE

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Background

Article 17 of The General Data Protection Regulations (GDPR) introduces a right for individuals to have personal data erased and is one of eight individual rights that data subjects have over the processing of their personal data. The right to erasure, also known as The Right to be Forgotten, allows individuals (data subjects) to control what personal data organisations store and if requested, deleted by the organisation.

This right however, is not absolute and only applies in certain circumstances.

How can I make a request to the Council?

You can submit a right to be forgotten request to us verbally or in writing. Although you can make this request to any part of the organisation, you may find it easier to complete our online form [\[link\]](#). This will help us to ensure your request is recognised quickly, logged and processed

Your request does not have to include the phrase 'request for erasure' or 'Article 17 of GDPR' but if you can include it, that will help us.

Does the Council have to comply with my request?

When you submit a request, we are obliged to respond to a request within one month of receipt.

If the request was sent on a weekend or public holiday then the time limit will be one month from the next working day. For example, if the request was sent on a Saturday and the following Monday was a public holiday, then the request's one-month deadline will start from the next working day. If this is not possible because the following month is shorter and there is no corresponding calendar date, the date for response will be the last day of the following month.

If the Council deems that your request is manifestly unfounded, Fareham Borough Council can;

- Request a 'reasonable fee' to deal with the request; or
- Refuse to deal with the request.

Does the right to erasure apply to everything?

As an individual, you have the right to request deletion of your personal data. Below are circumstances where this right of deletion applies:

- Your personal data is no longer necessary for the purpose in which it was originally collected or processed for;
- Fareham Borough Council used consent as the legal basis for processing and you wish to withdraw this consent;
- Fareham Borough Council relied on legitimate interests for the legal basis to process your personal data. However, you object to this processing of your personal data and you believe there is no clear overriding legitimate interest to continue the processing;
- Fareham Borough Council is processing your personal data for direct marketing purposes and you wish to object to this processing;
- You believe that Fareham Borough Council has processed your personal data unlawfully;
- Fareham Borough Council is legally obliged to erase your personal data; or
- Fareham Borough Council has processed your personal information to offer information services to a child.

Are there situations when this does not apply?

As an individual, you have the right to request the deletion of your personal data, however, this right does not apply if processing your personal data is necessary for one of the following reasons:

- Fareham Borough Council need to exercise the right of freedom of expression and information;
- Fareham Borough Council has to comply with a legal obligation, i.e. processing is needed to calculate Council Tax;
- Fareham Borough Council needs to process this information for the performance of a task carried out in the public interest;
- Fareham Borough Council needs to process this information for archiving purposes in the public interest, scientific research, historical research or statistical purposes where the deletion of this data is likely to render impossible or seriously impair the achievement of that processing; or
- Fareham Borough Council has to process this information for the establishment, exercise or defence of legal claims.

Under the General Data Protection Regulation, the right of erasure is also exempt under these two circumstances for processing special category data:

- The processing of your personal data is necessary for public health purposes in the public interest.
- The processing is necessary for the purposes of preventative or occupational medicine.

For more information on exemptions of this right, please visit; <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/right-to-erasure/>

Does the Council have to tell other organisations about the erasure of my personal data?

If we have disclosed the personal data to others or the personal data has been made public in an online environment, for example, on social networks, forums or websites, the Council will need to contact each recipient and inform them of the erasure unless this proves impossible or involves disproportionate effort. If asked to, we must also inform the individuals about these recipients.

More definitions of a recipient under the GDPR can be found on the Information Commissioner's website at <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/right-to-erasure/>

Refusing Requests

If Fareham Borough Council deems your request manifestly unfounded, we have the right to;

- Request a 'reasonable fee' to deal with the request.
- Refuse to deal with the request.

If Fareham Borough Council refuse to deal with the request, we will inform the individual within one month of the request. The individual will be informed about;

- The reasons as to why Fareham Borough Council are not taking the request further.
- The individual's right to make a complaint to the ICO or another supervisory authority.
- The individual's ability to seek to enforce this right through judicial remedy.

Please note: If the fee has not been received by Fareham Borough Council, we will not proceed to complete the request. This only applies if the request has been deemed manifestly unfounded and a 'reasonable fee' has been issued by Fareham Borough Council.