# **Appendix 2 - Data protection Notice – other rights**

**The right to erasure**

The right to erasure is also known as ‘the right to be forgotten.’ It refers to an individual’s right to request the removal of personal information where there is no compelling reason for NES to continue using it.

As with other rights there are conditions. Individuals do not have an absolute right to be forgotten. The right applies to personal data in following circumstances:

* When it is no longer necessary for the purpose for which it was collected.
* When we no longer have a legal basis for using it. For example, if you gave us consent to use your personal information in one way, and then withdraw your consent, we would need to stop using your information and erase it unless we had an overriding reason to continue to use it.
* When you object to us using your personal information and there is no overriding legitimate interest for us to continue using it.
* If we have used your personal information unlawfully.
* If there is a legal obligation to erase your personal information for example by court order.

**When we can refuse your request for erasure**

NES can refuse to deal with your request for erasure when we use your personal information for the following reasons:

* To comply with a legal obligation for the performance of a public interest task or exercise of official authority.
* Public health purposes in the public interest.
* Archiving purposes in the public interest, scientific research historical research or statistical purpose.
* The exercise or defence of legal claims.

Our legal basis for processing information is usually that its necessity for the performance of a task carried out in the public interest or in the exercise of official authority vested in us under the NHS Scotland Act. This means that in most circumstances we can refuse requests for erasure. However, we will advise you of this as soon as possible following receipt of your request.

**The right to restrict processing**

You have the right to control how we use (or ‘process’) your personal information in some circumstances. This is known as the right to restriction.

When processing is restricted, NES is permitted to store your personal information. But we cannot use it until an agreement is reached with you about further processing. We can keep enough information about you to see that your request for restriction is respected in the future.

Examples of ways you can restrict our processing would be:

* If you challenge the accuracy of your personal information, we must stop using it until we check this.
* If you object to processing which is necessary for the performance of our tasks in the public interest, or legitimate interest purposes, we will restrict our processing. We will then see if our legitimate grounds override your individual interests, rights and freedoms.
* If our use of your personal information is unlawful and you ask for restriction instead of full erasure we will restrict our processing.
* If we no longer need your personal information but you need it to establish, exercise or defend a legal claim, we will restrict our processing.
* If we have shared your personal information with any individuals or organisations then restrict our processing, we will tell them about this if possible, if needing only reasonable effort.

Whenever we decide to lift a restriction on processing we will tell you.

We don’t have to act on your request to restrict our use of your personal information when you’ve provided your consent for us to continue using it or where we’re using it:

* To exercise of defence legal claims
* To protect the rights of another person or organisation
* For reasons of important public interest

**The right to data portability**

You can ask for data you have given us to be sent to you in electronic format, only if we are processing your data on the grounds of consent or contract, or by automatic means.

The right to data portability allows individuals to obtain and re-use their personal information for their own purposes across different services.

**Rights related to automated decision making and profiling**

You have the right to object to any instances where a decision is made about you solely by automated means without any human involvement, including profiling.