EXERCISING DATA SUBJECT RIGHTS PROCEDURE

GOVERNANCE AND CONTROL

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AUDIENCE

Applicable to students and parents/carers?	Yes
Applicable to staff?	Yes
Accessible to students, parents/carers and staff?	Yes
Accessible to public?	Yes

PURPOSE

- This procedure describes the rights given to data subjects, sets out mechanisms by which data subjects can exercise them, and how the Hart Learning Group ("the Group") will respond.

RESPONSIBILITIES

- All staff who process personal data are responsible for ensuring that data subjects are able to exercise their rights on demand. In such circumstances, data subjects are encouraged to contact the Data Protection Officer in the first instance, who will then liaise with the Management Information System (MIS) and/or Human Resources (HR) Teams as appropriate.
- However, data subjects are entitled to contact anyone in the organisation to make a request to exercise their rights. Staff receiving such a request should make the Data Protection Officer aware in the first instance.

INDIVIDUALS' RIGHTS

- The Data Protection Act 2018 ("DPA") gives individuals more control about how their data is collected and stored and what is done with it. Some existing individual rights have been expanded and some new rights have been introduced.

- These rights are summarised below.

Right to be Informed/Sharing Personal Data (Privacy Notice)

- The DPA requires the Group to inform individuals of our personal data processing activities and we do this through Privacy Notices on our website and in connection with student registration or staff appointment processes.

Right of Access

- Individuals have the right to obtain confirmation that their data is being processed and the right to submit a Data Subject Access Request (DSAR) to gain access to their personal data in order to verify the lawfulness of the processing or obtain copies of the records for other purposes.

- A DSAR should be made via the Data Protection Officer's email address DataProtectionOfficer@nhc.ac.uk.

- The Group will maintain a DSAR register.

The Right of Rectification and Restriction

- Individuals have the right to ask the Group to block, or suppress processing of, their personal data. Individuals are also entitled to have personal data held by the Group rectified if it is inaccurate or incomplete.

- Where such a restriction may affect the Group carrying out its legal or contractual obligations or it is believed that the data is being processed under the Public Task, Vital Interest or Legitimate Interest conditions, the Group will follow guidance from the ICO to determine whether the request is valid.

- If a request is determined to be valid, the Group will take steps to immediately restrict processing of personal data.

- Where a request is not deemed appropriate, the data subject will be informed of the reason, their right to make a complaint to the ICO or another supervisory authority; and their ability to seek to enforce this right through a judicial remedy

- Requests for rectification of data should be made to the Data Protection Officer's email address DataProtectionOfficer@nhc.ac.uk.

Right of Erasure (Right to be Forgotten)

- Individuals have the right to request the erasure (deletion) or removal of personal data where there is no lawful basis for its continued processing in the following 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 their consent (where Consent is the lawful basis for processing).
- When the individual objects to the processing and there is no overriding lawful basis for continuing the processing.
- If the personal data was unlawfully processed.
- If the personal data is required to be erased in order to comply with legal obligation.
- In a marketing context, where personal data is collected and processed for direct marketing purposes, the individual has a right to object to processing at any time. Where the individual objects, the personal data must not be processed for such purposes.

- The Group has the right to refuse a request for erasure where the personal data is being processed for the following reasons:
  - To exercise the right of freedom of expression and information.
  - To comply with a legal obligation
  - Because the data is required for the performance of a public task or exercise of official authority.
  - For public health purposes in the public interest.
  - For archiving purposes in the public interest, historical research or statistical purposes.
  - For the exercise or defence of legal claims.
- The DPA also specifies two circumstances in which the right to erasure will not apply to special category data:
  - if the processing is necessary for public health purposes in the public interest (e.g. protecting against serious cross-border threats to health, or ensuring high standards of quality and safety of health care and of medicinal products or medical devices); or
  - if the processing is necessary for the purposes of preventative or occupational medicine where the data is being processed by or under the responsibility of a professional subject to a legal obligation of professional secrecy (e.g. a health professional).
- We can refuse to comply with a request for erasure if it is manifestly unfounded or excessive (especially if the request is repetitive) or request a "reasonable fee" to deal with the request.
- Where a fee is requested, the data subject must also be informed of their right to make a complaint to the ICO or another supervisory authority; and their ability to seek to enforce this right through a judicial remedy.

- Where personal data has been used for printed materials such as marketing leaflets and prospectuses, the Group may no longer have control once published and therefore may not be able to exercise the right to erasure.

Right to Data Portability

- Individuals have the right to obtain and reuse their personal data for their own purposes across different services.
- The right to data portability only applies in the following cases:
  - To personal data that an individual has provided to a controller
  - Where the processing is based on the individual's consent or for the performance of a contract
- The Group is not required to adopt or maintain processing systems which are technically compatible with other organisations.
- If the personal data concerns more than one individual, the Group will consider whether providing the information would prejudice the rights of any other individual.
- Personal data will be provided in a structured, commonly used and machine-readable form, and where feasible, data will be transmitted directly to the other organisation at the request of the individual.

Right to object

- The Group may stop processing an individual's personal data if they object to processing based on legitimate interests or a task in the public interest / exercise of official authority (including profiling).
- The Group will stop processing personal data for direct marketing or for research/statistical reasons if a data subject so requests.

Rights in relation to automated decision making and profiling

- The Group will not undertake automated decision making or process personal data for the purpose of profiling individuals.

Closed Circuit Television (CCTV)

- The Group uses CCTV in various locations to ensure it remains safe. The Group will adhere to the ICO's code of practice for the use of CCTV.
- The Group need not ask individuals' permission to use CCTV, but the Group makes it clear where individuals are being recorded. Security cameras are clearly visible and are accompanied by prominent signs explaining that CCTV is in use.

Photography and Videos

- As part of the activities that take place on campuses, the Group may take photographs and record images of individuals.
- Written consent will be obtained for any face to face profile photography or videos of staff or students for marketing and promotional materials.

- Uses may be (but not limited to):
  - Internal or external promotional material such as notice boards, magazines, brochures, social media.
  - External of the Group by external agencies.
  - Online on the North Hertfordshire College website or social media pages.
- Consent can be refused or withdrawn at any time. If consent is withdrawn, the Group will delete the photograph or video and not distribute it further.
- When using photographs and videos in this way the Group will not accompany them with any other personal information about the learner, to ensure they cannot be identified unless this has been explicitly agreed beforehand, for example on posters describing a learner's journey and progression route.