

**Document name:** BBR Optometry Ltd.'s Minimum Retention Periods Guidance

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## 1. Introduction

The Practice has a series of responsibilities to patients regarding their rights under the Data Protection Act 2018 including the General Data Protection Regulation (GDPR) Articles 12-22. The Practice recognises these rights and is committed to ensuring that it discharges its responsibilities in accordance with the law.

The Practice recognises that under law personal data shall be:

- processed lawfully, fairly and in a transparent manner in relation to individuals
- collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes
- adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed
- accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay
- kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific

or historical research purposes or statistical purposes subject to implementation of the appropriate technical and organisational measures required by the GDPR in order to safeguard the rights and freedoms of individuals

- processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

## **2. Purpose**

The purpose of this procedure document is to provide the Practice's staff with the information and knowledge to ensure that they provide individuals with information about how their data is processed.

## **3. Audience**

The audience of the procedure is the Practice's staff, our patients, commissioners, and any other interested party.

### **3.1 Distribution Plan**

This procedure is provided to new staff as part of their induction plan and circulated to existing staff by Practice management.

### **3.2 Training Plan and Support**

The Practice's management and information lead will ensure that all staff are familiar with the procedure and hold meetings as necessary to ensure that it is understood by staff. Individual staff training needs will also be assessed.

## **4. Roles and Responsibilities**

All staff are responsible for ensuring that patients' information rights are understood and that requests are processed correctly and within correct time periods. Staff

management and the information lead hold the ultimate responsibility for ensuring that the Practice is meeting its requirements.

## 5. Procedure

Staff understand that under GDPR, patients as members of the public ("you") have several rights as below, with the correct timescales for processing also below. Staff implement the following:

**Right to be informed:** You have the right to be informed about the collection and use of your personal data. If you make a request of this nature we will provide:

- our purposes for processing your personal data
- our retention periods for your personal data
- whom it will be shared with.

**Right of access:** Individuals have the right to access their personal data and supplementary information and be aware of and verify the processing of their personal data.

Individuals have the right to obtain:

- confirmation that their data is being processed
- access to their personal data
- other supplementary information as per our privacy notice.

We will respond to Subject Access Requests (SARs) within one month of receipt of the written request. We will extend the period of compliance by a further two months where requests are complex or numerous. There is no cost to you making an SAR unless the request is 'manifestly unfounded or excessive.' In this case we will charge a reasonable fee for multiple or complex requests or refuse the request. LOCSU can withhold disclosing personal data if doing so would adversely affect the rights and freedoms of others. If we refuse a request, we will explain to you within a month why we have refused it. You can appeal this to the ICO.

**Right to rectification:** you can request that your inaccurate personal data is corrected or completed if it is incomplete. You can make this request verbally or in writing.

Upon such a request we will take reasonable steps to satisfy whether the data is accurate or inaccurate. If it is inaccurate, we will take reasonable steps to rectify this data within one month. We will also contact other organisations that we have disclosed the data to unless this proves impossible or involves disproportionate effort.

If we are satisfied that the data is accurate, we will inform you within one month that we will not be amending the data explaining our decision. If the data is an opinion it may be difficult to say that the data is inaccurate and requires rectification. We can refuse a request for rectification within one month if the request is manifestly unfounded or excessive charging a reasonable fee as necessary. You can raise this to the ICO if necessary.

We can extend the time to respond to a request by a further two months having explained within one month this is what we will be doing.

**Right to erasure:** you have the right to have your personal data erased by LOCSU where:

- the personal data is no longer necessary for the purpose which we originally collected or processed it for
- we are relying on consent as our lawful basis for holding the data, and the individual withdraws their consent
- we are relying on legitimate interests as our basis for processing, the individual objects to the processing of their data, and there is no overriding legitimate interest to continue this processing
- we are processing the personal data for direct marketing purposes and the individual objects to that processing
- we have processed the personal data unlawfully
- we have to do it to comply with a legal obligation
- we have processed the personal data to offer information society services to a child (not applicable to LOCSU).

Where we have disclosed the personal data to others, we will contact each recipient and inform them of the erasure, unless this proves impossible or involves disproportionate effort. If asked to, we will also inform the individuals about these recipients.

Where personal data has been made public in an online environment reasonable steps should be taken to inform other controllers who are processing the personal data to erase links to, copies or replication of that data, taking into account available technology and the cost of implementation.

The right to erasure does not apply if processing is necessary for one of the following reasons:

- to exercise the right of freedom of expression and information
- to comply with a legal obligation
- for the performance of a task carried out in the public interest or in the exercise of official authority
- for archiving purposes in the public interest, scientific research historical research or statistical purposes where erasure is likely to render impossible or seriously impair the achievement of that processing; or
- for the establishment, exercise or defence of legal claims.

**Right to restrict processing:** Individuals have the right to request the restriction or suppression of their personal data. This is not an absolute right and only applies in certain circumstances. When processing is restricted, we are permitted to store the personal data, but not use it. An individual can make a request for restriction verbally or in writing.

We have the right to restrict the processing of their personal data in certain circumstances. This means that an individual can limit the way that an organisation uses their data. This is an alternative to requesting the erasure of their data.

Individuals have the right to restrict the processing of their personal data where they have a particular reason for wanting the restriction. This may be because they have issues with the content of the information we hold or how we have processed their data. In most cases we will not be required to restrict an individual's personal data indefinitely but will need to have the restriction in place for a certain period of time.

Individuals have the right to request we restrict the processing of their personal data in the following circumstances:

- they contest the accuracy of their personal data and we are verifying the accuracy of the data
- the data has been unlawfully processed and the individual opposes erasure and requests restriction instead
- we no longer need the personal data but the individual needs us to keep it in order to establish, exercise or defend a legal claim
- the individual has objected to us processing their data, and we are considering whether our legitimate grounds override those of the individual.

If an individual has challenged the accuracy of their data and asked for us to rectify it, they also have a right to request we restrict processing while we consider their rectification request. If an individual exercises their right to object under Article 21(1), they also have a right to request we restrict processing while we consider their objection request.

Therefore, as a matter of good practice we will automatically restrict the processing whilst we are considering its accuracy or the legitimate grounds for processing the personal data in question.

We will not process the restricted data in any way except to store it unless:

- we have the individual's consent
- it is for the establishment, exercise or defence of legal claims
- it is for the protection of the rights of another person (natural or legal) or
- it is for reasons of important public interest.

If we have disclosed the personal data in question to others, we will contact each recipient and inform them of the restriction of the personal data – unless this proves impossible or involves disproportionate effort. If asked to, we will also inform the individual about these recipients.

In many cases the restriction of processing is only temporary. Once we have made a decision on the accuracy of the data, or whether our legitimate grounds override those of the individual, we may decide to lift the restriction. If we do this, we will inform the individual **before** we lift the restriction.

You can make a complaint to the ICO or another supervisory authority or you can seek a judicial remedy.

We can refuse to comply with a request for restriction if the request is manifestly unfounded or excessive, taking into account whether the request is repetitive in nature. If we consider that a request is manifestly unfounded or excessive, we can:

- request a "reasonable fee" to deal with the request
- refuse to deal with the request.

In either case we will explain our decision.

If we decide to charge a fee, we will contact the individual promptly and inform them. We do not need to comply with the request until we have received the fee.

You can make a request for restriction verbally or in writing.

We will act upon the request without undue delay and at the latest within one month of receipt. We can extend the time to respond by a further two months if the request is complex or you have received a number of requests from the individual. We must let the individual know within one month of receiving their request and explain why the extension is necessary.

**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 (LOCSU does not engage in this)
- processing for purposes of scientific/historical research and statistics.

You must have an objection on "grounds relating to your particular situation".

We will stop processing the personal data unless:

- we can demonstrate compelling legitimate grounds for the processing, which override the interests, rights and freedoms of the individual; or
- the processing is for the establishment, exercise or defence of legal claims.

We will inform individuals of their right to object at the point of first communication. We will stop processing personal data for direct marketing purposes as soon as we receive an objection.

We will deal with an objection to processing for direct marketing at any time and free of charge.

We will inform individuals of their right to object "at the point of first communication" and in our 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".

If we process personal data for research purposes individuals have "grounds relating to your particular situation" in order to exercise your right to object to processing for research purposes. If we are conducting research where the processing of personal data is necessary

for the performance of a public interest task, we are not required to comply with an objection to the processing.

## **6. Monitoring of compliance and effectiveness of implementation**

A log of patient requests must be maintained to show a record of compliance and effectiveness of implementation. This log is monitored by Practice management and the information lead.