



BRIEFING PAPER

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Data protection: access to personal information

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Summary

The *Data Protection Act 1998* regulates the use of personal information held electronically (e.g. on computer) and, in some cases, in manual form by both the public and the private sector throughout the United Kingdom.

Section 7 of the Act gives individuals the right of access to personal data which is held on them. This is known as “subject access”. They also have a right to be informed of the purposes for which the data is being held and to which third parties, if any, the data is likely to be disclosed.

The 1998 Act is enforced by the [Information Commissioner’s Office](#) (ICO). The ICO website contains a range of information on what the Act means for [individuals](#) and [organisations](#).

Advice on individual cases can be obtained from the [ICO helpline](#) (0303 123 1113). Complaints about [data protection matters](#) should also be put to the ICO.

1. The Data Protection Act 1998

The *Data Protection Act 1998* regulates the use of personal information held electronically (e.g. on computer) and, in some cases, in manual form by both the public and the private sector throughout the United Kingdom.

The Act is overseen and enforced by the [Information Commissioner's Office](#) (ICO).

The data protection principles

The 1998 Act is underpinned by eight data protection principles contained in Schedule 1:

- 1 Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless—
 - (a) at least one of the conditions in Schedule 2 is met, and
 - (b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.
- 2 Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.
- 3 Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.
- 4 Personal data shall be accurate and, where necessary, kept up to date.
- 5 Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.
- 6 Personal data shall be processed in accordance with the rights of data subjects under this Act.
- 7 Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
- 8 Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

The person or organisation holding personal data (known as the “data controller”) must comply with the above principles.

The ICO has published [guidance](#) (January 2017) on the Act. This includes further detail on the [data protection principles](#).

2. Access to personal information (“subject access”)

Section 7 of the 1998 Act gives individuals the right of access to [personal data](#) which is being held on them. This is known as “subject access”. They also have a right to be informed of the purposes for which the data is being held and to which third parties, if any, the data is likely to be disclosed. They have a right to be given a copy of the information.

Personal data means data which relate to a living individual who can be identified –

(a) from those data, or

(b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller,

and includes any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual.¹

To have legal force, a subject access must be in writing and must give sufficient information to enable the data controller to locate the data which the applicant seeks. The data controller must comply with a valid request within forty days but may charge a fee of up to £10 in most cases. Exceptions to the standard maximum fee are given in regulations.²

The ICO [website](#) has information on how to make a subject access request and what an individual can do if they are not satisfied with an organisation’s response.

The ICO has also published a [Subject access code of practice](#) (February 2014) for organisations.

Exemptions to the right of subject access

The 1998 Act contains various exemptions to the right of subject access including:

- where subject access would disclose information about an identifiable third party
- where subject access would be likely to prejudice the prevention or detection of crime or the apprehension or prosecution of offenders
- where exemption is required in order to safeguard national security
- where a reference has been given in confidence by the data controller

¹ Section 1(1) of the *Data Protection Act 1998*

² The *Data Protection (Subject Access) (Fees and Miscellaneous Provisions) Regulations 2000* (SI 2000/191) (as amended)

- where the information is held by journalists with a view to publication - this exemption is subject to a public interest test
- certain health, education and social work records³

3. Other rights under the Data Protection Act

Section 14 of the 1998 Act gives individuals the right to have inaccurate data corrected, blocked, erased or destroyed. Under section 13, compensation can be sought through the courts for damage and distress⁴ caused by such inaccuracy, or by any other contravention of the Act.

Advice on these rights is available in ICO [guidance](#)⁵ and from the ICO helpline.

³ ICO, [Guidance for organisations – exemptions](#), January 2017

⁴ But not distress where no damage has occurred

⁵ ICO, [Guidance for organisations – the rights of individuals](#), January 2017

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