

# How data protection affects my business/organisation

## May 2007

### 1. How do I know whether the Data Protection Act applies to my business/organisation?

In general, the Data Protection Act applies to all organisations (including individuals, such as self-employed financial advisors and accountants) which hold or use personal data (that is, information about individuals). Personal data will include information about your staff, your customers or clients or anyone else with whom you have dealings in the course of your business or professional activities. Even if you simply hold membership lists for social or other clubs or charities, you also have to comply with at least some of the provisions of the DPA.

The only exception is where, as an individual, you hold personal information only for domestic reasons (eg an address book or Christmas card list) in which case the DPA does not apply at all.

One of the requirements of the DPA is that individuals and organisations that are processing personal data need to "notify" the Information Commissioner that you are doing so, and the purpose of that processing. There are exceptions to this rule where you are an organisation holding personal information only for:

- staff administration (including payroll)
- advertising, marketing and public relations for your own business
- accounts and records (some not-for-profit organisations)

The [Information Commissioner's website](#) to find out will give further guidance on whether the Act applies to you, and whether you need to notify. Alternatively, you may call the Commissioner's Notification Helpline on 01625 545740.

### 2. What responsibilities do I have under the Act?

If you are subject to the Data Protection Act, you have a number of legal responsibilities:

- To notify the Information Commissioner about your processing (including holding) of personal data, including the kinds of information you process, and the purposes for which you use it. This information will be placed on a public register.
- To process the personal data you hold in accordance with the eight [Data Protection Principles](#) laid down by the Data Protection Act. Additional requirements and restrictions apply to the processing of [sensitive personal data](#) (such as an individual's health records, ethnic origin, trade union membership or political opinions).
- To answer subject access requests received from individuals. (You may be able to charge a fee of up to £10 for doing this.)

### 3. What does it cost to notify?

Notification costs an annual fee of £35, on which no VAT is charged. This fee is payable to the Information Commissioner.

A number of private companies have been approaching businesses demanding up to £95 plus VAT for notification under the Data Protection Act. You should not be misled by these businesses (who frequently style themselves as official-sounding "agencies"): they have no official standing or powers and there is no connection between them and the Information Commissioner's Office. Organisations who wish to complain about correspondence received from these businesses should contact their local Trading Standards Department.

### 4. How am I allowed to use the personal information I hold?

The way you use the personal information you hold is governed first by the eight Data Protection Principles. These require that information is:

- fairly and lawfully processed;
- processed for limited purposes;
- adequate, relevant and not excessive;
- accurate;
- not kept longer than necessary;
- processed in accordance with individuals' rights;
- kept secure;
- not transferred to countries outside the European Economic Area without adequate protection.

As part of complying with the principles, you must:

- meet at least one of [six conditions](#) in order to process personal information;

- meet at least one of a number of [further conditions](#) in order to process sensitive personal information (e.g. information about a person's health, ethnic origin, political opinions, trade union membership etc.); and
- inform individuals when their information is collected.

The terms of your notification with the Information Commissioner will also affect the way in which you may use the personal information you hold. If you want to use the information for new purposes for which you have not notified, you must update your notification before you begin using the information in a new way.

#### **5. Where can I get individual advice/help about my responsibilities under the Act?**

The Information Commissioner's Office can offer individual advice about your own circumstances. You can contact them at:

The Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire SK9 5AF

[Email](#)

Telephone: 01625 545745 (General Enquiries)

Telephone 01625 545 (Notification Helpline)

- [Back to top](#)

#### **6. I have been contacted by an "agency" informing me that I must register/notify under the Data Protection Act and pay them a large fee. How can I be sure this agency is genuine?**

If you are a business or organisation who processes personal information on computer you may need to be on the register of data controllers maintained by the Information Commissioner. The annual notification fee is £35, on which no VAT is payable. However, a number of private companies have been approaching businesses demanding up to £95 plus VAT for notification under the Data Protection Act. You should not be misled by these businesses (who frequently style themselves as official-sounding "agencies"): they have no official standing or powers and there is no connection between them and the Information Commissioner's Office. Organisations who wish to complain about correspondence received from these businesses should contact their local Trading Standards Department.

To find out whether you need to notify under the Data Protection Act, you should telephone the Notification Department at the Information Commissioner's Office or consult the [Information Commissioner's website](#). See answer to the previous question for contact details.

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