

Data protection

A brief guide to notification

ico.

Information Commissioner's Office



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Introduction

What is the Data Protection Act 1998?

The Data Protection Act 1998 places obligations on organisations that use personal information and gives individuals certain rights.

The Act states that those who record and use personal information must be open about how the information is used and must follow the eight principles of "good information handling".

Notification under the Data Protection Act 1998

Under the Act every organisation (data controller) that processes personal information (personal data) must notify the Information Commissioner's Office, unless they are exempt. Failure to notify is a criminal offence. This booklet gives details of the notification requirements and exemptions.

Data controllers are required to inform the Information Commissioner of certain details about their processing of personal information. The Commissioner uses these details to make an entry describing the processing in the register, which is available to the public for inspection on the Information Commissioner's website www.ico.gov.uk.

The main purpose of notification and the public register is to promote openness in the use of personal information.

Notification, therefore, helps data controllers to be transparent and open about their processing activities, and also helps people understand how their personal information is being processed by data controllers.

Frequently asked questions

1. **What is notification?**

The Information Commissioner maintains a public register of data controllers who have notified. Each register entry includes the name and address of the data controller and a general description of how they process personal information. Individuals can consult the register to find out what personal information a particular data controller processes.

2. **Why do I need to notify?**

The Data Protection Act 1998 requires every data controller who is processing personal information in an automated form to notify unless they are exempt. Failure to notify is a criminal offence.

3. **How do I notify?**

There are three easy ways to notify:

- **On the internet** (www.ico.gov.uk). You can complete the notification form online, print it out and send it to us with the relevant notification fee or your direct debit instruction.

- By **completing the 'Request for a notification form'** (enclosed at the back of this booklet). This should be faxed or posted to us marked for the attention of the Notification Department (notification requests). Alternatively, this information can be emailed to us. A draft notification form will then be sent to you for further completion.
- **By telephone.** You can telephone the notification helpline and a draft notification form will be sent to you based on the information that you will be asked to provide over the telephone.

When you receive your forms you will need to check the details on Part 1, complete the relevant sections of Part 2, and then return both parts to us with the correct notification fee.

Our contact details can be found on the back cover of this handbook.

4.

How can I find out if I am exempt?

Please see page 11 for our self-assessment guide to notification exemptions.

5.

Do I have to notify manual records that come within the scope of the Act?

No, but you can choose to notify them if you wish.

6.

What is the fee for notification?

From 1 October 2009, a two tiered structure was introduced which is based on an organisation's size and turnover. The criteria used to determine if a data controller is in Tier 1 or Tier 2 is based on whether they have a turnover of £25.9 million or more and whether they have 250 or more members of staff, except where the data controller is a public authority. Public authorities with 250 or more staff will fall into Tier 2, regardless of turnover.

Furthermore, there are some organisations that will for example always fall into Tier 1 regardless of their size and turnover. For example, charities and small occupational pension schemes will fall into Tier 1 if the conditions are met which are outlined in the Notification Fee leaflet which is available on our website. This publication should be read before submitting a new notification or renewing an existing register entry.

The fee payable for notification and renewal of register entries for data controllers in Tier 1 is £35, for those in Tier 2 is £500.

7.

Do I have to renew my notification?

Yes. The notification period is one year. Each year you will be required to assess which tier the data controller falls within. We will write to you before the expiry date of your register entry. If you are required to notify but fail to renew your registration, you are committing a criminal offence.

8.

Where can I access the register?

The Data Protection Register is published on our website - www.ico.gov.uk. It is possible to check whether a data controller has notified and to print a copy of a register entry.

9.

Are all data controllers with a CCTV system on their premises required to notify?

Yes. CCTV systems being used for the purpose of crime prevention and prosecution of offenders must be notified. For further information please contact the Notification Helpline.

Notification exemptions

How do I notify?

Where can I access the register?

Why do I need to notify?

How do I find out if I'm exempt?

Notification exemptions

Some data controllers do not need to notify. By working through questions 1-9 you will be able to determine whether notification is required. The sequence of questions is such that if there is no possibility of an exemption for you, this will be made clear very quickly.

Exemptions are possible for the following:

- Data controllers who only process personal information for:
 - staff administration (including payroll);
 - advertising, marketing and public relations (in connection with their own business activity); and
 - accounts and records.
- Some not-for-profit organisations.
- Processing personal information for personal, family or household affairs (including recreational purposes).
- Maintenance of a public register.
- Processing personal information for judicial functions.
- Processing personal information without an automated system such as a computer.

If you are exempt

Data controllers who are exempt from notification must still comply with the other provisions of the Act.

You can get more information about compliance from the sources on the back page.

Data controllers who are exempt from notification may choose to notify voluntarily.

Q1.

Are you processing personal information?



Move to Q2



No requirement to notify

Personal information

Personal information means information which relates to a living individual who can be identified from that information. It is also any other information which is in the data controller's possession, or that is likely to come into their possession.

Processing

Processing means obtaining, recording or holding the data or carrying out any operation or set of operations on that data.

Processing includes the following activities:

- organising
- amending
- consulting
- disclosing
- destroying
- adapting
- retrieving
- using
- erasing
- storing

Q2.

Is any of your processing on computer?

Yes  Move to Q3

No  No requirement to notify

Processing on computer

If none of your processing is carried out on computer, there is no requirement to notify. The term 'computer' includes any type of computer, for example mainframe, desktop, laptop, palmtop, etc. It also includes other types of equipment which, although not normally described as computers, nevertheless have some ability to process automatically; eg automatic retrieval systems for microfilm and microfiche, audio and visual systems, electronic flexi-time systems, telephone logging equipment and CCTV systems.

Q3.

Are you a data controller?

Yes  Move to Q4 No  No requirement to notify

Data controller

Data controller means a person who (either alone, or jointly, or in common with others) decides how and why any personal information is to be processed.

You do not need to notify if you are a data processor.

Data processors only process personal information in-line with instructions from data controllers.

Q4.

Are you **only** processing personal information for personal, family or household affairs (including recreational purposes)?

Yes  **No requirement to notify** No  **Move to Q5**

Personal, family and household affairs

Individuals are exempt from notification if the only information processed is for personal, domestic and household affairs (including recreational purposes). Examples might include a personal address list, Christmas card list or personal information held in connection with a hobby.

This exemption does not apply to individuals who hold personal information for business or professional purposes.

Q5.

Are you processing personal information for any of the following purposes?

- Accountancy and auditing.
- Administration of justice.
- Advertising, marketing and public relations for others.
- Canvassing political support among the electorate.
- Constituency casework.
- Consultancy and advisory services.
- Credit referencing.
- Crime prevention and prosecution of offenders (including CCTV systems).
- Debt administration and factoring.
- Education.
- Health administration and provision of patient care.
- Insurance administration.
- Journalism and media.
- Legal services.
- Mortgage/insurance broking.
- Pastoral care.
- Pensions administration.
- Personal information processed by or obtained from a credit reference agency.
- Private investigation.
- Property management (including the selling and/or letting of property).
- Provision of childcare.
- Provision of financial services and advice.
- Research.
- Trading and sharing in personal information.

Yes  **You are required to notify unless you are a not-for-profit organisation (See Q7)**

No  **Move to Q6**

Non-exempt purposes

You will NOT be exempt so you WILL have to notify if you are processing personal information for any of the purposes listed on the previous page. This is not meant to be a complete list, but it shows the most common purposes where there is a requirement to notify.

Data controllers who are unlikely to be exempt include accountants, barristers, child minders, consultants, dentists, doctors, employment and recruitment agencies, estate agents, financial advisers, journalists, letting agents, private investigators, schools, solicitors, trustees of pension schemes and businesses using personal information obtained from a credit reference agency.

Q6.

Are you only processing personal information to maintain a public register?

Yes  No requirement to notify No  Move to Q7

Public registers

There is a specific exemption from notification for any processing whose sole purpose is the maintenance of a public register. The exemption only applies to the information that the data controller is required to publish.

Q7.

Are you a not-for-profit organisation?

Yes  Move to Q8 No  Move to Q9

Not-for-profit organisations

There is a specific exemption from notification for data controllers that are a body or association not established or conducted for profit, provided that their processing does not fall outside the descriptions in Q8 and Q9.

Q8.

As a not-for-profit organisation is all of your processing covered by the following descriptions?

Your processing is only for the purposes of establishing or maintaining membership or support for a body or association not established or conducted for profit, or providing or administering activities for individuals who are either members of the body or association or have regular contact with it.

Your data subjects are restricted to the processing of those for whom personal information is necessary for this exempt purpose.

Your data classes are restricted to personal information that is necessary for this exempt purpose.

Your disclosures other than those made with the consent of the data subject are restricted to those third parties that are necessary for this exempt purpose. The personal information is not kept after the relationship between you and the data subject ends, unless (and for so long as) it is necessary to do so for the exempt purpose.

Yes to all  **No requirement to notify** **No to any**  **Move to Q9**

If the answer is no, but the only additional processing you do is for one or more of the purposes described in Q9, there is no requirement to notify.

This exempt purpose may be used by some small clubs, voluntary organisations, church administrations and some charities.

Further written guidance on this exemption is available by telephoning the notification helpline.

Q9.

You do not have to notify if the only* processing you carry out is for one or more of these purposes:

- Staff administration
- Advertising, marketing and public relations
- Accounts and records

Please read the following information about each of the exempt purposes to determine whether or not you are exempt.

* A not-for-profit organisation may also carry out processing covered by the description in Q8.

Exemptions for core business purposes

The purposes listed here are sometimes referred to as 'core business purposes'. Typically they would relate to a small business that processes personal information only for these purposes, to support its primary activity. You must read the description of each purpose to ensure that you only process personal information covered by one or more of the descriptions.

Staff administration

This is processing for the purposes of appointments or removals, pay, discipline, superannuation, work management or other personnel matters concerning your staff.

The individuals you hold information about are restricted to:

- any person whose personal information needs to be processed for staff administration.

The information processed is restricted to:

- data which are necessary for staff administration.

Your disclosures (except those made with the data subject's consent) are restricted to:

- those which you must make to third parties for the purposes of staff administration.

Retention of personal information

- You must not keep personal information after the relationship between you and the data subjects ends, unless and for so long as this is necessary for staff administration or a legal requirement.

The term staff includes all past, existing or prospective members of staff who are employees, office holders, temporary and casual workers, and also agents and volunteers. The personal information held about them includes all personnel and work management matters, for example their qualifications, work experience, pay and performance.

Advertising, marketing and public relations

This is processing for the purposes of advertising or marketing your business, activity, goods or services and promoting public relations only in connection with that business or activity, or those goods or services.

The individuals you hold information about are restricted to:

- any person whose personal information you need to process for your own advertising, marketing and public relations, for example past, existing or present customers or suppliers.

Your information is restricted to:

- information which is necessary for your advertising, marketing and public relations, for example names, addresses and other identifiers.

Your disclosures (except those made with the data subject's consent) are restricted to:

- those which you must make to third parties for purposes of your advertising, marketing and public relations.

Retention of personal information

- you must not keep personal information after the relationship between you and the customer or supplier ends, unless and for so long as this is necessary for purposes of your advertising, marketing and public relations.

This exemption applies only to data controllers who are advertising and marketing their own goods and services.

If you obtain personal information from a third party for the purpose of marketing your own goods and services, you may still rely on this exemption. You must notify if you sell or trade a list of your customers.

Accounts and records

This is processing for the purposes of:

- keeping accounts relating to any business or other activity you carry out; or
- deciding whether to accept anyone as a customer or supplier; or
- keeping records of purchases, sales or other transactions to ensure that the relevant payments, deliveries or services take place; or
- making financial or management forecasts to help you carry out your business or activity.

The individuals you hold information about are restricted to:

- anyone whose personal information needs to be processed for your accounts and records, for example past, existing or present customers or suppliers.

The information you hold is restricted to:

- personal information that is necessary for your accounts and records, for example name, address and credit card details. Personal information processed by or obtained from a credit reference agency is not exempt.

Your disclosures (other than those made with the data subject's consent) are restricted to:

- those you must make to third parties for purposes of your accounts and records, for example to external auditors.

Retention of the data

- You must not keep personal information after the relationship between you and the customer or supplier ends, unless and for so long as this is necessary for your accounts and records.

This exemption covers the administration of customer and supplier records.

It includes processing relating to deciding whether or not to do business with a particular customer or supplier but specifically excludes personal information processed by or obtained from a credit reference agency.

Data controllers who are providing accounting services for their customers are not exempt.

Q10.

You do not have to notify if you are processing for the purpose of judicial functions.

The processing is by a judge, or a person acting on the instructions, or on behalf of a judge; and is for the purpose of exercising judicial functions including functions of appointment, discipline, administration or leadership of judges.

'Judges' includes a justice of the peace (or, in Northern Ireland, a lay magistrate); a member of a tribunal; and, a clerk or other officer entitled to exercise the jurisdiction of a court or tribunal.

How to notify

There are three easy ways to notify.

- **On the internet** (www.ico.gov.uk). You can complete the notification form online, print it out and send it to us with the relevant notification fee or your direct debit instruction.
- By **completing the 'Request for a notification form'** (enclosed at the back of this booklet). This should be faxed or posted to us marked for the attention of the Notification Department (notification requests). Alternatively, this information can be emailed to us. A draft notification form will then be sent to you for further completion.
- **By telephone.** You can telephone the notification helpline. You will be asked to provide your name, address, contact details, and to specify the nature of your business.

If you request an application form via the notification helpline or via the 'Request for a notification form' option, we will send you a partially completed notification form based on the nature of your business. When you receive your forms you will need to check the details on Part 1, complete the relevant sections of Part 2, and then return both parts to us with the correct notification fee.

Our contact details can be found on the back cover of this booklet.

The following section gives information about compliance and does not form part of the notification process.

Compliance with the Data Protection Act 1998



Data controllers must comply with the provisions of the 1998 Act even if they are exempt from notification.

There are eight data protection principles.

In summary, they require that:

1. Personal data must be fairly and lawfully processed;
2. Personal data must be processed for limited purposes;
3. Personal data must be adequate and not excessive;
4. Personal data must be accurate and up to date;
5. Personal data must not be kept longer than necessary;
6. Personal data must be processed in line with the data subjects' rights;
7. Personal data must be secure;
8. Personal data must not be transferred to countries outside the EEA without adequate protection.

Data protection checklist

This is not part of the notification process but this short checklist will help you to comply with the Data Protection Act. Being able to answer 'yes' to every question does not guarantee compliance, and you may need more advice in particular areas, but it should mean that you are heading in the right direction.

- | | | |
|-------------------------------------|------------------------------------|---|
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Do I really need this information about an individual? |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Do I know what I'm going to use it for? |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Do the people whose information I know that I've got it, and are they likely to understand what it will be used for? |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | If I'm asked to pass on personal information, would the people about whom I hold information expect me to do this? |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Am I satisfied that the information is being held securely, whether it's on paper or on computer?
And what about my website? Is it secure? |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Is access to personal information limited to those with a strict need to know? |

Yes **No** Am I sure, the personal information is accurate and upto date?

Yes **No** Do I delete or destroy personal information as soon as I have no more need for it?

Yes **No** Have I trained my staff in their duties and responsibilities under the Data Protection Act, and are they putting it into practice?

Yes **No** Do I need to notify the Information Commissioner, and if so is my notification up to date?

To help determine how well you comply with the data protection principles visit **www.ico.gov.uk**

The information you need when you want it

Our free e-newsletter service will keep you up to date with current developments, while e-alerts allow you to choose your areas of interest and receive news of additions to the website. To subscribe to these free services, please visit www.ico.gov.uk

If you have determined that notification is required, you can complete the form. Guidance on how to do so is given overleaf. Post the form to us, fax it (01625 545748) or email the information and a draft notification form **will be sent to you for further action**. Alternatively, you can complete the notification form online by visiting our website at www.ico.gov.uk. The form should then be printed out and sent to us with the appropriate fee.

Data controller name: Please see overleaf for guidance	
Data controller address: If a limited company or a public limited company, this should be the registered office address. Please include your postcode.	
Company registration number: (Optional)	
Contact name and job title:	
Contact address Please include your postcode:	
Contact telephone number:	
Contact fax number:	
Contact email address:	
Nature of business: Eg doctor, accountant, etc. Please note that it is essential to indicate the nature of your business so that the correct information can be sent to you.	
Signature	Date Telephone Number
Name and job title	

Please do not send any payment with this form.

Advice about any aspect of notification can be obtained by writing to the address below or by calling the notification helpline on 01625 545740.

Please return to: Notification Department (Notification Requests), Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF or email: notification@ico.gsi.gov.uk or fax: 01625 545748

Glossary

Data controller's name

The name you provide must be the correct legal title of the individual or organisation. Examples are given below.

- **Sole traders:** provide the full name of the individual, eg Anna Katherine Smith.
- **Partnerships:** provide the trading name of the firm, eg Buttersfield & Co. (you do not have to provide the names of the partners).
- **Limited or public limited companies:** provide the full name of the company, eg ABC Limited (not your trading name).
- **Groups of companies:** groups of companies cannot submit a single notification. Individual companies who are data controllers must notify separately.
- **Schools:** provide the name of the school, eg Hazeldown School. In Scotland, only schools in the independent sector need to register; all other schools are covered within the relevant local authority notification.
- **Others, eg voluntary bodies:** provide the name by which you are known to the public. These details should be altered (if necessary) on the Part 1 form itself.

Data controller's address

If you are a limited company you must provide your registered office address and in all other cases you must provide the address of your principal place of business. If there is no place of business (eg for a small local voluntary body), you should provide the address of the official who has completed the form.

Company registration number

If you are a limited or a public limited company, we encourage you to provide your company registration number as a unique identifier for the company. However, you are not obliged to do so.

Contact details

You may provide a name, address, telephone number, fax number and email address. These details will be used by us for all correspondence in connection with your notification, but will not appear on the public register.

If you would like to contact us please call 0303 123 1113

www.ico.gov.uk

Information Commissioner's Office,
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January 2011

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Information Commissioner's Office

Upholding information rights