

## Data Protection Act 1984 (updated 1998)



[Data Protection Act \(full text of the Act\)](#)

[The Data Protection Registrar](#)

[Privacy International](#)

### **Why is there a need for a Data Protection Act?**

There is a general feeling that there is a “right to privacy” i.e. most people do not want every detail of their lives to be public. If the government or other organisations keep details about us, we could suffer if that data is inaccurate and we might be worried about what use the data is put to. The use of computers increase these concerns because . . .

- Computers can find data very quickly and can process it in ways that would not be viable with manual records (e.g. personalised mailshots, immediate credit references.)
- Data can be combined from a variety of sources e.g. personal profiles can be built up
- Computers make it possible to store a huge amount of data. There is a fear that there will be a tendency to keep information just because it is possible to do so.
- Computers have a built in credibility factor. People tend to believe a computer if, for example, it says that someone is a bad credit risk or it says they have a criminal record.
- People imagine that computer records are secure, even though they may be very easy to hack into.

### **Summary of the Act**

- The Act covers data which is “automatically processed”.
- It provides rights for individuals and responsibilities for those who handle data.
- It was passed in response to a European directive, which set a standard for data protection within the EU.
- Most paper records are not covered by the Act (e.g. a personal address book)
- Those wishing to keep records must register under the Act and, once registered, they have to follow good handling practices.

## **Principles of Data Protection**

Data must be . . .

1. Obtained and processed fairly and lawfully
2. Held for a lawful purpose as described in the register
3. Adequate, relevant and not excessive in relation to registered purpose
4. Accurate and up-to-date
5. Held no longer than necessary for the registered purpose
6. Used only for the registered purpose
7. Accessible to the individual concerned
8. Surrounded by proper security

## **Definitions in the Act**

- “**Personal Data**” – any information about living individuals
- “**Automatically Processed**” – held on a computer (paper records are not covered)
- “**Data Users**” – anyone who uses data held on a computer (not necessarily the owner of the computer)
- “**Data Subjects**” – everyone is a data subject. It is estimated that each person has their details held on, on average, 200 computerised databases. If this information is inaccurate, it could lead to someone being refused credit, benefits, college places, employment opportunities, a mortgage etc.

## **The Data Protection Registrar**

Currently Elizabeth France (website at [www.dataprotection.gov.uk](http://www.dataprotection.gov.uk) ). Her responsibilities are to . . .

- Maintain a register of data users
- Disseminate information about the Act and how it works
- Promote compliance with data protection principles
- Encourage codes of practice to comply with the Act
- Consider complaints about breaches of the Act
- Prosecute offenders

## **All Data Users must register broad descriptions of . . .**

- Those on whom personal data will be held
- The items of data held
- The purpose for which the data is held
- The sources from which the data will be obtained
- The types of organisations to whom the data will be passed to
- Any overseas countries to which the data might be transferred

### Exemptions - The Act does not apply to . . .

- Payrolls, pensions, accounts
- Data held for backup purposes only
- Names and addresses used for distribution purposes
- Data for personal, family or recreational use (e.g. data held for a hobby)
- Clubs and societies (as long as no member objects)
- Data that must be made public by law (e.g. electoral roll)
- Those keeping data for statistical or research purposes have to register but data subjects do not have the right to access the data
- Data held for the collection of tax
- Data held for the prevention of crime
- Data held for national security purposes
- Data held by credit reference agencies is covered by the Consumer Credit Act 1974
- Partial exemption is granted to health professionals and social workers where it is believed that access to the data may be harmful to the subject.

### Case Study

A Liberal Democrat MP is to try to use the Data Protection Act to get MI5 to reveal any files, which they hold on him. MI5 said:

"No member of the public is permitted to see any Security Service files, except for historical records which have been declassified and released by the Public Record Office."

"The Service only investigates individuals whose activities fall within its statutory remit under the Security Service Act".

"Confidentiality is essential to protect details of investigational and operational techniques and to maintain the effectiveness of the Service."



MI5: The public is not allowed access to files

MI5 have a web site at:  
<http://www.mi5.gov.uk/>

### The Rights of Data Subjects

- The right to see information held about themselves (a £10 fee may be charged for each data entry)
- The right to have inaccurate information corrected or deleted (you must make a written request and this should be complied with within 40 days)
- The right to complain to the Data Protection Registrar if the Act has been violated
- The right to compensation for unauthorised disclosure or for loss arising from inaccurate data or from destruction of data.

**Code of Practice 1998 (part of the updated DPA) aims to control . . .**

- Employee surveillance e.g. CCTV or interception of Email
- Automatic processing e.g. psychometric testing, CV scanning
- Collection of sensitive information (e.g. genetic tests, alcohol or drug tests)

“The development of new technology is threatening personal privacy in the workplace. Employers want to know more about their staff who are not in a position to resist.” – Elizabeth France (Data Protection Registrar)

N.B. The law on employer surveillance of employee’s Internet usage is currently unsettled. Legislation is contradictory and legal experts expect the matter to be decided by the courts.

**Recent Updates**

- The Data Protection Registrar is now known as the "Information Commissioner".
- Liberal Democrat MP Norman Baker won his legal case to force MI5 to make files public. See:  
[http://news.bbc.co.uk/1/hi/english/uk\\_politics/newsid\\_1573000/1573571.stm](http://news.bbc.co.uk/1/hi/english/uk_politics/newsid_1573000/1573571.stm)

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