

**DATA PROTECTION ACT
INCORRECT INFORMATION
- WHAT CAN I DO?**

THREE



Information Commissioner

DATA PROTECTION ACT - INCORRECT INFORMATION - WHAT CAN I DO?

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INTRODUCTION

This leaflet deals with the right under the Data Protection Act 1998 (the "Act") for a data subject to apply to the court for the rectification, blocking, erasure or destruction of inaccurate personal data and any other personal data in respect of which he is the data subject.

This leaflet is part of a series of eight leaflets which explain your rights under the Data Protection Act.

Details of our other leaflets can be found at the back. If you would like any of these please contact the Information Commissioner's Office. You will find our contact details on the back cover.

IF THE PERSONAL DATA ARE CONTAINED IN A CREDIT REFERENCE FILE, PLEASE REFER TO THE COMMISSIONER'S PUBLICATION

"NO CREDIT?".

If the personal data are part of a manual accessible record (i.e. a paper file relating to health, education or social services records) which was in existence before 24 October 1998, see Part Two of this leaflet for information as to what you can do to amend these records.

PART ONE

IF THE DATA CONTROLLER IS HOLDING INACCURATE PERSONAL DATA ABOUT ME WHAT SHOULD I DO?

You should write to the data controller to tell him what you believe is wrong with the personal data and what should be done to correct it.

There is no particular form of words that you need to use provided that you make clear the following:

- your identity and the personal data to which you refer; and
- what should be done to correct the personal data.

If you are sending the letter by post, it is advisable to send it by recorded delivery. The letter may be submitted by electronic means provided that the data controller is able to identify you and the personal data to which you refer from your letter and the letter is capable of being used for subsequent reference.

You should keep a copy of the letter you send and any reply you receive from the data controller, together with any other communications, recording the dates of all correspondence. This will be important as evidence in any future consideration by the Commissioner or the court.

TO WHOM SHOULD THE LETTER BE ADDRESSED?

If you do not have the name of a particular individual within the data controller's organisation who you know can deal with your letter, you should address the notice to the company secretary.

WHAT SHOULD I DO IF THE DATA CONTROLLER DOES NOT COMPLY WITH MY REQUEST?

You should write again to the data controller enclosing a copy of your original letter and requesting a response.

If the data controller refuses or fails to comply with your request, you may make a request to the Commissioner for an assessment as to whether it is likely or unlikely that the processing of your personal data has been or is being carried out in compliance with the provisions of the Act. You also have rights under the Act to pursue the matter yourself through the court pursuant to section 14.

If the Commissioner makes an assessment that the matters that concern you are likely to involve a breach of the Act, this may help you to resolve a dispute or to make a decision as to whether to take legal action against a data controller under the Act. However, it is not necessary for you to have obtained an assessment from the Commissioner before taking a matter to court.

For information as to how to make an application to the court please refer to the Commissioner's publication entitled **"Taking a case to court"**.

For further information about assessments, refer to the Commissioner's website www.informationcommissioner.gov.uk or contact the Commissioner's Office on 01625 545745.

WHAT ORDERS CAN A COURT MAKE?

If the court is satisfied that the personal data are inaccurate the court may order the data controller to block, rectify, erase or destroy those data. The court may also order the data controller to rectify, block, erase or destroy any other personal data containing expression of opinion which the court believes to be based on the inaccurate data.

There may be circumstances where your personal data, **although inaccurate, accurately reflect information obtained from a third party**. In this situation the court will consider:

- whether the data controller took reasonable steps to ensure that the data were correct, having regard to the purpose or purposes for which the data were obtained and further processed; and
- if you have notified the data controller of your views that the data are inaccurate and, if so, whether the data indicate that fact.

If the court is satisfied that these requirements are met, the court may either order the data controller to block, rectify, erase or destroy the data or it may make an order requiring the data to be supplemented by such statement of the true facts relating to the matters dealt with by the data as the court may approve.

In the event that these requirements have not been complied with the court may, instead, make such order as it thinks fit to secure compliance to meet those requirements.

WHAT OBLIGATION HAS A DATA CONTROLLER TO NOTIFY THIRD PARTIES THAT THE DATA HAVE BEEN RECTIFIED, BLOCKED, ERASED OR DESTROYED?

In certain circumstances the court may also order the data controller to notify any third party to whom the data have been disclosed of the rectification, blocking, erasure or destruction.

When deciding whether it is reasonably practicable to require this notification the court must have particular regard to the number of persons who would have to be notified.

IF I BELIEVE THAT I HAVE SUFFERED DAMAGE BY REASON OF THE INACCURATE DATA, WHAT OTHER ORDERS MIGHT THE COURT MAKE?

If the court is satisfied that the data subject has suffered damage by;

- reason of a contravention by the data controller of any of the requirements of the Act
- and in respect of any personal data, in circumstances where the data subject is entitled to a payment of compensation,
- and there is a substantial risk of further contravention in respect of those data.

In such circumstances the court may order the rectification, blocking, erasure or destruction of any of those data.

Please refer to **“Claiming compensation”** for further information as to your rights to claim compensation from the court.

PART TWO

The right for a data subject to have rectified, blocked, erased or destroyed manual data forming part of a health, education or social work record which was in existence immediately before 24 October 1998, is subject to different provisions in the Act which will apply until 23 October 2007.

Such records are known as “accessible records” and the rights are contained in section 12A of the Act (found in Schedule 13).

WHAT ARE MY RIGHTS IN RESPECT OF INACCURATE ACCESSIBLE RECORDS?

Section 12A of the Act entitles a data subject to give notice in writing to a data controller to require a data controller to rectify, block, erase or destroy such data that are inaccurate or incomplete, or to require the data controller to cease holding such data in a way which is incompatible with the legitimate purposes pursued by the data controller.

WHAT FORM SHOULD THE NOTICE TAKE?

The notice must be in writing and may be in the form of a letter. You should ensure that the notice is dated.

There is no particular form of words that you need to use provided that you make clear the following:

- your identity and the personal data to which you refer;
- your reasons for believing that the data are inaccurate or incomplete or, as the case may be, your reasons for believing that they are held in a way incompatible with the legitimate purposes pursued by the data controller.

If you are sending the letter by post, it is advisable to send it by recorded delivery. The letter may be submitted by electronic means provided that the data controller is able to identify you and the personal data to which you refer from your letter and the letter is capable of being used for subsequent reference.

You should keep a copy of the letter you send and any reply you receive from the data controller, together with any other communications, recording the dates of all correspondence. This will be important as evidence in any future consideration by the Commissioner or the court.

TO WHOM SHOULD THE LETTER BE ADDRESSED?

If you do not have the name of a particular individual within the data controller's organisation whom you know can deal with your letter, you should address the notice to the company secretary.

WHAT SHOULD I DO IF THE DATA CONTROLLER DOES NOT COMPLY WITH MY REQUEST?

You should write again to the data controller enclosing a copy of your original letter and requesting a response.

If the data controller fails or refuses to comply with your request, you may make a request to the Commissioner for an assessment as to whether it is likely or unlikely that the processing of your personal data has been or is being carried out in compliance with the provisions of the Act. You also have rights under the Act to make an application to the court pursuant to section 12A of the Act.

If the Commissioner makes an assessment that the matters that concern you are likely to involve a breach of the Act, this may help you to resolve a dispute or to make a decision as to whether to take legal action against a data controller under the Act. However, it is not necessary for you to have obtained an assessment from the Commissioner before taking a matter to court.

For information as to how to make an application to the court please refer to the Commissioner's publication entitled

"Taking a case to court".

For further information about assessments, refer to the Commissioner's website at

www.informationcommissioner.gov.uk

or by calling the Commissioner's Office on 0165 545 745.

WHAT ORDERS CAN A COURT MAKE?

If the court is satisfied that your notice was justified (or to be justified to any extent) in that the data controller has failed to comply with the notice you have sent to him, the court may order the data controller to take such steps for complying with the notice (or for complying with it to that extent) as the court thinks fit.

If the court is satisfied that the data subject has suffered damage by reason of a contravention by the data controller of any of the requirements of the Act in respect of any personal data, in circumstances where the data subject is entitled to a payment of compensation, and there is a substantial risk of further contravention in respect of those data, in such circumstances the court may order the rectification, blocking, erasure or destruction of any of those data. Please refer to

"Claiming compensation"

for further information as to your rights to claim compensation from the court.



1. YOUR RIGHTS AND HOW TO ENFORCE THEM



2. SUBJECT ACCESS - A GUIDE FOR DATA SUBJECTS



4. HELP! HOW CAN I STOP THEM PROCESSING MY PERSONAL INFORMATION?



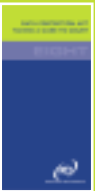
5. STOPPING UNWANTED MARKETING MATERIALS



6. PREVENTING DECISIONS BASED ON AUTOMATIC PROCESSING OF MY PERSONAL INFORMATION



7. CLAIMING COMPENSATION



8. TAKING A CASE TO COURT

To order copies of the above leaflet contact the Information Commissioner's Office. You will find the details on the back cover.

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Myddleton House
115-123 Pentonville Road
London
N1 9LZ

T: 020 7833 2181

W: www.citizensadvice.org.uk

W: www.adviceguide.org.uk

Court Service

T: 020 7210 2266

W: www.courtservice.gov.uk

The Department for Constitutional Affairs

W: www.dca.gov.uk

Legal Services Commission

T: 020 7759 0000

W: www.legalservices.gov.uk

Publication Request

t: 01625 545 700

f: 01625 524 510

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Data Protection

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