

## The Data Protection Act

### What is the Data Protection Act?

The Data Protection Act 1998 (DPA) provides a legal basis for the privacy and protection of individuals whose personal information is managed (or processed) by British organisations. It places certain obligations on organisations regarding how they process such information and gives individuals certain rights regarding the information held about them. Furthermore organisations are only permitted to hold and use a specific selection of information for limited purposes of which they must annually inform the government appointed independent watchdog, the Information Commissioner.

The Act is very complex and although very clear in some areas is open to interpretation in a great deal of others. This guide is meant to provide you with basic information. For in depth guidance on any aspect of Data Protection, please contact the University Data Protection Officer (see overleaf).

### A few definitions

The Act is written in a very formal legalistic language so it is best to explain some of the terms:

**Data Subject:** any living individual about whom data is processed.

**Processing:** any use that can be made of the data, from collecting the data and using it to storing it and destroying it.

**Data Controller:** the organisation holding and processing the personal data. In this case the University of Salford.

**Personal data:** information which relates to a living individual who can be identified from that information or from that and other information which is in the possession of, or likely to come into the possession of a data controller.

### The eight principles of good practice

Anyone processing personal information must comply with eight enforceable principles of good information handling practice. These say that data must be:

1. fairly and lawfully processed;
  2. processed for limited purposes;
  3. adequate, relevant and not excessive;
  4. accurate and up to date;
  5. not kept longer than necessary;
  6. processed in accordance with the individual's rights;
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7. secure; and
8. not transferred outside the European Economic Area (i.e. The EU and states - Iceland, Liechtenstein and Norway) unless country has adequate protection for personal data.

## **The six conditions**

To be “fairly processed” as described at least one of the following conditions must be met:

1. The individual has consented to the processing;
2. processing is necessary for the performance of a contract with the individual;
3. processing is required under a legal obligation (other than one imposed by the contract);
4. processing is necessary to protect the vital interests of the individual;
5. processing is necessary to carry out public functions, e.g. administration of justice; and
6. processing is necessary in order to pursue the legitimate interests of the data controller or third parties (unless it could unjustifiably prejudice the interests of the individual).

## **Sensitive data**

Specific provision is made under the Act for processing sensitive personal information. These are information about:

- racial or ethnic origin;
- political opinions;
- religious or other beliefs;
- trade union membership;
- physical or mental health condition;
- sexual life; and
- criminal proceedings or convictions (real or alleged).

For sensitive personal information to be considered fairly processed, at least one of these additional conditions must be met:

1. having the explicit consent of the individual;
2. being required by law to process the information for employment purposes;
3. needing to process the information in order to protect the vital interests of the individual or another person; and
4. dealing with the administration of justice or legal proceedings.

## **Rights under the Act**

There are seven rights under the Data Protection Act:

1. **The right to subject access**  
This allows people to find out what information is held about them on computer and within some paper records. (Please see the next section for more information).
2. **The right to prevent processing**  
Anyone can ask a data controller not to process information that causes substantial unwarranted damage or distress to them or anyone else.
3. **The right to prevent processing for direct marketing**
4. **Rights in relation to automated decision-taking**  
Individuals may prevent decisions being taken solely on the basis of the automatic processing of personal information, which significantly affects them.
5. **The right to compensation**  
An individual can claim compensation from a data controller for damage and distress caused by any breach of the Act.
6. **The right to rectification, blocking, erasure and destruction**  
Individuals can apply to the court to order a data controller to rectify, block or destroy personal details if they are inaccurate or contain expressions of opinion based on inaccurate information.
7. **The right to ask the Information Commissioner to assess whether the Act has been contravened**  
If someone believes their personal information has not been processed in accordance with the DPA, they can ask the Information Commissioner to make an assessment.

## **Subject Access**

The most significant of the above rights is that of subject access. Data Subjects are permitted to be provided with a copy of the information held on them in electronic systems and some paper systems along with the reasons why that information is held. This is known as a Subject Access Request or SAR.

To make an SAR data subjects must make a request in writing to the Data Protection Officer along with a standard payment of £10 and proof of their identity.

The University will normally fulfil the SAR within 40 days as prescribed by law unless third parties must be contacted for permission to release information about them if some personal information relates to them as well as the applicant (e.g. in the case of job references).

## **Further Information**

The University's Data Protection Officer is Matt Stephenson who is based in Governance Services Unit. If you have any Data Protection queries, please contact him on extension 56856 or email: [m.stephenson@salford.ac.uk](mailto:m.stephenson@salford.ac.uk)

To make a Subject Access Request, please write to him at: Governance Services Unit, Acton Square (1<sup>st</sup> Floor), University of Salford, The Crescent, Salford M5 4WT

More information on Data Protection is available from the Information Governance website:

[www.infogov.salford.ac.uk/dataprot](http://www.infogov.salford.ac.uk/dataprot)

and from the Information Commissioner's Office:

<http://www.ico.gov.uk/>