

When and how to complain

The Data Protection Act 1998

ico.

Information Commissioner's Office

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The Information Commissioner's Office (ICO) is the UK's independent public body set up to promote public access to official information and protect personal information.

We do this by promoting good practice, ruling on eligible complaints, giving information to individuals and organisations, and taking action when the law is broken. The relevant laws include:

- Data Protection Act 1998
- Freedom of Information Act 2000 in England, Wales and Northern Ireland
- Environmental Information Regulations 2004 in England, Wales and Northern Ireland
- Privacy and Electronic Communications Regulations 2003.



Data Protection Act

Under the Data Protection Act 1998 (the Act), those who collect and use personal information have to follow rules of good practice for handling information (called the data protection principles). The Act also gives rights to individuals whose information they collect and use.

This leaflet tells you what to do if you think your personal information has not been handled properly.

What does the ICO do?

We provide guidance and advice to organisations about how to handle personal information properly. We can take action against those who don't take their responsibilities seriously.

We can also advise you about your rights.

How do I know if my problem is a data protection problem?

You might have a data protection problem if any of the following apply to you:

- 1 You have been denied any of your rights, including your right to see the personal information an organisation holds about you.
- 2 Personal information about you is used, held or disclosed:
 - unfairly
 - for a reason that is not the one it was collected for, or
 - without proper security.
- 3 Personal information about you is:
 - inadequate, irrelevant or excessive
 - inaccurate or out of date, or
 - kept for longer than is necessary.

For more information about these requirements, please see our website (www.ico.gov.uk) or call our helpline. If you would like to contact our helpline please call 08456 306060, or 01625 545745 if you would prefer to call a 'national rate' number.

What can I do about it?

First, tell the organisation concerned and give it an opportunity to put things right. Many data protection problems can be solved quickly without us getting involved.

You can also call our helpline on 08456 306060 or 01625 545745 for advice to help you to solve the problem.

What if I cannot solve the problem myself?

If you have contacted the organisation about the problem but have been unable to solve it, we may be able to help.

If necessary, we will look into your complaint. If we think the law has been broken, we can give the organisation advice and ask it to solve the problem. In the most serious cases we can order it to do so.

Our main aim is to get the organisation to change the way it works so that it handles personal information properly in the future.

The Commissioner may issue a monetary penalty notice of up to £500,000 where a serious breach of the Act has occurred and certain criteria are met.

What if the problem has been solved? Should I still complain?

If you have complained to an organisation about a data protection problem and it has corrected the mistake, we are unlikely to take action. Our main concern is to help an organisation deal with personal information properly in the future. There is little point pursuing a problem when the organisation is already putting things right, particularly if the problem was an unusual or one-off event.

If your problem is serious, or is one of many similar cases we have received, we may investigate. We can give the organisation advice on how to make sure the same thing doesn't happen again.

What if I am not affected by the problem myself?

If you are aware of a **significant** data protection problem that has not affected you personally, you can still tell us about it. If we think the problem is serious, or is one of many similar cases, we may use your evidence to help us make sure the organisation handles personal information properly in the future.

How do I complain to you?

To complain to us you should fill in the 'Data Protection Act 1998 complaint form' at the back of this leaflet. This should help you give us all the information we need. You can also download the form from our website (www.ico.gov.uk) or you can ask for a copy from our helpline on 08456 306060 or 01625 545745.

If you are not sure whether you should send your complaint to us, please call our helpline.

What information do you need?

We will only be able to investigate your complaint if you give us **copies of documents that describe what has happened**. This will also help us give you the right advice.

You should give us copies of relevant **correspondence between you and the organisation you have a problem with**. We will only contact an organisation about a possible data protection problem if you have raised the matter with them (or you give us a good reason why you could not do so).

You should also send copies of relevant correspondence between you and any other body trying to solve the problem (for example, Citizens Advice, an industry regulator or an ombudsman).

You should only send documents that are directly relevant to your complaint.

If you send too many or irrelevant documents, we may return them and ask you to sort them out and return only the relevant ones.

If you do need to send us a lot of documents, please make sure you clearly **mark the relevant parts**. If you do not, we may return them and ask you to do this.

It is important that you give us all the relevant documents when you first contact our office. We will not normally consider extra information added later, which you could have given us when you made your original complaint.

How will you deal with my complaint?

We will examine your complaint to decide how we should handle it. When we first write back to you we will give you a reference number that you should use whenever you contact us about the problem. If we need more information from you, we will write and let you know.

If we decide to look into your complaint, we will usually contact the organisation concerned. This may lead to an outcome we regard as satisfactory, and if so we will let you know what has happened. We aim to deal with all complaints within a reasonable time, although sometimes it can be a long and complex process. We will let you know if there is going to be a long delay.

If we do not consider that we can take your complaint further, we will let you know.

Details about our response times are available from our helpline on 08456 306060 or 01625 545745.

What will happen to my supporting documents?

We will scan your documents and keep them electronically. In most cases, we will destroy the paper documents you send us after six months, so you should only send us copies. You should keep all your original documents. If we need these later on, we will let you know.

If you cannot give us copies, you should make sure you ask us to return your original documents. You can do this in section 9 of the complaint form.

You must make it clear each time you send us something if you would like us to return it to you.

If my complaint is upheld, will the organisation be punished?

If we think the organisation has breached the Act, we can ask them to put things right so that they comply with the data protection principles.

Our priority is to get the organisation to change the way it handles personal information properly in the future.

In most cases organisations will agree to comply with the data protection principles. If they do not, and the case is a serious one, we can order them to do so.

The Commissioner may issue a monetary penalty notice of up to £500,000 where a serious breach of the Act has occurred and certain criteria are met.

If my complaint is upheld, will I be entitled to compensation?

We have no powers to award compensation. If you have suffered a loss because an organisation has broken the law, you may be entitled to compensation. You must claim this through the courts.

The right to compensation applies even if you don't report the problem to us. You can make a claim to the court whether or not we have agreed that the law has been broken.

For more information, please see our guidance note 'Claiming compensation', which is available from our website (www.ico.gov.uk) or from our helpline on 08456 306060 or 01625 545745.

What happens when an organisation refuses to comply with the data protection principles?

Most organisations agree to put problems right when we bring them to their attention. If they do not, we may consider taking formal legal action such as issuing an enforcement notice ordering them to do so. We will take a range of factors into account in deciding whether to issue a notice. These will include the seriousness of the problem, any damage or distress you or anyone else might have suffered and the cost to the organisation of putting problems right. An enforcement notice is a legally binding document that sets out what an organisation must do (or stop doing) to comply with the law.

What if I disagree with the outcome of my complaint?

If you are dissatisfied with the outcome of your complaint, you should let us know as soon as possible and certainly within six months of our final letter to you. For more information, please call our helpline on 08456 306060 or 01625 545745.

You should only use this form to report complaints about possible breaches of the Data Protection Act 1998.
Do not fill in this form until you have read our leaflet 'The Data Protection Act – When and how to complain'.

If you need help to fill in this form, or you need a copy of our leaflet 'The Data Protection Act – When and how to complain', please contact our helpline on 08456 306060 or 01625 545745.

Please write clearly in BLOCK CAPITALS.

1 Your details

Title:																			
First name:																			
Other names:																			
Last names:																			
Address:																			
Postcode:																			
Daytime telephone:																			
Fax:																			
Email:																			

2 Previous contact with the ICO

Please provide any reference number we have already given you. This will help us to process your complaint.

Reference number:																			
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I do not have a reference number. This is the first time I have contacted you.

I have contacted you before in writing but do not have the reference number.

3 Have you given anyone else permission to speak to us about your complaint? If so, please give details.

Title:	
First name:	
Other names:	
Last names:	
Address:	
Postcode:	
Telephone:	
Fax:	
Email:	
What is their relationship to you?	

4 Who do you want to complain about? (This will usually be an organisation.)

Name:	
Address:	
Postcode:	
Telephone:	
Email:	
Website:	

5 Your relationship with the organisation

Please describe this relationship: eg employee, customer, account holder																						

Please give any relevant reference numbers they have given you, eg account number																						

6 Details of the problem

Please give details of your complaint, explaining what you think the organisation has done wrong, and attaching extra sheets if necessary. **Do not** just refer us to your supporting documents.

7 When did you first become aware of the problem?

We will not normally contact the organisation if you became aware of the problem over one year ago.

8 Supporting documents

We will not be able to investigate your complaint unless you provide us with:

- copies of documents describing what has happened; and
- copies of correspondence between you and the organisation or individual concerned, trying to solve the problem.

Send only documents that are directly relevant to your complaint.

- If you send us too many or irrelevant documents we may send them back and ask you to return only the relevant ones.
- If you do need to send a lot of documents, please clearly mark the relevant parts. If you do not, we may return them and ask you to do this.
- You should also send us copies of relevant correspondence between you and any other organisation (for example, Citizens Advice, an industry regulator or ombudsman), trying to solve the problem.

9 Important information about your supporting documents

Your documents will be scanned and held as electronic records. In most cases, we will destroy the paper documents you send us after six months. You should send us only copies of these documents and make sure you keep the originals in case we need them later.

If you cannot provide us with copies and you would like us to return your documents, please tick here.

You must make it clear each time you send us something if you would like us to return it to you.

10 Please list the supporting documents you are sending to support your complaint.

This will help us check we have all the information you sent us. Do not just write 'see attached'.

11 Declaration

I understand that during any necessary investigations, you may need to disclose the details I have provided to the organisation or person I am complaining about to enable them to respond properly.

- I have clearly indicated any information that I do not want you to pass on.
- To the best of my knowledge I have given you accurate information about this complaint.
- I understand that your policy is to destroy documents relating to complaints after six months. I have clearly indicated those documents that you should not destroy and should return to me.
- I have listed all the documents I am sending with this form.
- I have read the leaflet 'The Data Protection Act 1998 – When and how to complain' and understand that **you cannot award compensation.**

Signature

Date

This declaration should be signed by the person making the complaint. If this is not possible, please explain why.

12 Please now send your form and supporting documents to :

The Information Commissioner's Office, Case Reception Unit, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Notes:

If you would like to contact us please call 0303 123 1113, or 01625 545745 if you would prefer to call a national rate number.

e: mail@ico.gsi.gov.uk

w: ico.gov.uk

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Wycliffe House,
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