



Information Commissioner's Office
Promoting public access to official information
and protecting your personal information

The Data Protection Act 1998

When and how to complain

The Information Commissioner's Office (ICO) is an independent body set up to make sure that organisations handling information follow the Data Protection Act 1998 and the Freedom of Information Act 2000.

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. The Act also gives rights to individuals whose information they keep.

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 information and advice to organisations about how to handle personal information properly. We can take action against those who refuse to take the law seriously.

We can also advise you about your rights.

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

It is possible that you might have a data protection problem if you have been denied any of your rights, including your right to see the information an organisation holds about you, or if the 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.

Or, if the 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- inaccurate or out of date; or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 on 01625 545 745.

What can I do about it?

First of all, contact the organisation you have a problem with. You should tell them what the problem is and give them 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 01625 545 745 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**, then we may be able to help.

If necessary, we will investigate the problem further. If we think the law has been broken we can give the organisation advice and ask them to solve the problem. In the most serious cases we can order them to do so.

You should be aware that in most cases we cannot punish an organisation for breaking the law. Nor can we award you compensation. Our priority is to get the organisation to change so that it handles personal information properly in the future.

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

Where you have contacted an organisation about a data protection problem and the organisation has corrected the mistake, it is unlikely that we will take action. Our priority is to help change an organisation so that it handles personal information properly in the future. There is little point in pursuing a problem when the organisation is already taking steps to put things right, particularly if the problem was an unusual or isolated event.

If your problem is particularly serious, or is one of a large number of similar cases we have received, we may investigate further. We can give the organisation advice and may recommend steps they should take to make sure the same thing doesn't happen again.

What if I am not affected by the problem myself?

Where you are aware of a **significant** data protection problem that has not affected you personally, you can still bring it to our attention.

If we think that the problem is serious, or is one of a large number of similar cases, we may use your evidence to help us take action to 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 our 'Data Protection Act complaint form'. This should help you give us all the information we need. You can download the form from our website (www.ico.gov.uk) or you can ask for a copy from our Helpline on 01625 545 745.

If you are not sure if your complaint is one that you should send to us, please call our Helpline.

What supporting documents do you need?

We will not be able to investigate your complaint unless you give us **copies of documents which describe what has happened**. This will also help us with any advice that we might give you.

You should give us copies of relevant **correspondence between you and the organisation or individual you have a problem with**. We will not contact an organisation about a possible data protection problem unless it is clear that you have first contacted them about it (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 organisation trying to solve the problem (for example, Citizens Advice, an industry regulator or ombudsman).

You should only send documents that are directly relevant to your complaint. If you send too many or irrelevant documents, we may return the documents to you and ask you to sort out and return only the relevant ones.

In the unlikely event that you 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 to you 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 which you could have given us when you made the original complaint.

How will you deal with my complaint?

We will examine your complaint to decide how we should handle it. Our first response will contain a reference number which 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 investigate your complaint, we will usually contact the organisation concerned. This may lead to a satisfactory outcome, in which case 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 substantial delay.

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

Details about our response times are available from our Helpline on 01625 545 745.

What will happen to my 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, 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. **Also, you will need to make it clear each time you send us something that 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 take steps to solve the problem.

You should be aware that in most cases we cannot punish an organisation for breaking the law. Our priority is to get the organisation to change so that it handles personal information properly in the future.

In most cases organisations will agree to put things right. If they do not, and the case is a serious one, we can order them to do so.

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 or individual has broken the law, you may be entitled to compensation. You must make any compensation claims through the Court.

The right to compensation applies whether or not the problem has been reported 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 01625 545 745.

What happens when an organisation will not solve the problem voluntarily?

Most organisations put problems right voluntarily when we bring them to their attention. If they do not, we may issue an enforcement notice ordering them to do so. We will take a wide range of factors into account in when deciding whether to issue a notice. These will include the seriousness of the problem, damage or distress you or anyone else might suffer 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 Act.

What if I disagree with the outcome of my complaint?

If you are not satisfied with the outcome of your complaint, you should let us know as soon as possible. For more information, please call our Helpline on 01625 545 745.

The Data Protection Complaints Form can be accessed via the following link:
<http://www.informationcommissioner.gov.uk/cms/DocumentUploads/DPA%20Complaint%20Form%20.pdf>