

**DATA PROTECTION ACT  
STOPPING UNWANTED  
MARKETING MATERIALS**

**FIVE**



**Information Commissioner**



# **DATA PROTECTION ACT - STOPPING UNWANTED MARKETING MATERIALS**

Introduction	1
What can I do to prevent an organisation from sending me direct marketing material?	2
To whom should the notice be addressed?	4
What is a reasonable period to suggest for the data controller to cease or not to begin processing any of my personal data?	4
What must a data controller do when he receives such a notice?	6
What do I do if the data controller does not comply with my notice?	6
What power does the court have?	7
What else can I do to stop receiving direct marketing material?	8

## **INTRODUCTION**

This leaflet deals with the right to require a data controller not to use your personal data to market you with products or ideas.

**This right is contained in section 11 of the Data Protection Act 1998 (the “Act”).**

Section 11 applies only in respect of the processing of information about you for the purposes of direct marketing.

Direct marketing is the communication to a particular individual of any advertising or marketing material. It is not confined to the advertising or marketing of commercial products or services. It would include, for example, the promotion of an organisation’s aims or ideals or a charity or political party making an appeal for funds.

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.

## **WHAT CAN I DO TO PREVENT AN ORGANISATION FROM SENDING ME DIRECT MARKETING MATERIAL?**

If a specific organisation is targeting you with direct marketing information, you have the right to send that organisation a notice requiring them to stop or not to begin processing your personal data for the purposes of direct marketing at the end of such period of time as is reasonable in the circumstances.

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;
- the nature of the processing to which you object;
- when you require the processing of your personal data to cease (and this must be at the end of a period which is reasonable in all the circumstances).

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

You should keep a copy of the notice you send and the reply you receive from the data controller, and all 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 NOTICE 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 notice, you should address the notice to the company secretary.

## **WHAT IS A REASONABLE PERIOD TO SUGGEST FOR THE DATA CONTROLLER TO CEASE OR NOT TO BEGIN PROCESSING OF MY PERSONAL DATA?**

This depends upon the size of the organisation. In the case of a small organisation with a small database it may be reasonable to expect them to deal with your request within 28 days.

In the case of a large, multinational organisation which may conduct processing of your personal data in many locations, some of them overseas, it may take longer for the relevant department to be notified. The position will vary according to the circumstances of each case.

A suggested form of letter is set out overleaf:

**Your full address  
The date**

**Dear Sir or Madam**

**RE: Notice under section 11 of the Data Protection Act 1998 to cease or not to begin processing personal data for the purposes of direct marketing.**

**I[insert full name] of [insert full address]require you [to cease] [or] [not to begin] processing personal data relating to me for the purposes of direct marketing as soon as possible and in any event within 28 days of the date of this letter.**

**If you do not normally handle these requests for your organisation, please pass this letter to your Data Protection Officer or another appropriate officer.**

**Please note that if you fail to comply with this notice, I can apply to the court for an order against you under section 11 of the Data Protection Act 1998.**

**Yours faithfully**

**Signed**

## WHAT MUST A DATA CONTROLLER DO WHEN HE RECEIVES SUCH A NOTICE?

A data controller must comply with your request as soon as possible. There are no exceptions to this.

## WHAT DO I DO IF THE DATA CONTROLLER DOES NOT COMPLY WITH MY NOTICE?

You should contact the data controller again sending a copy of your original notice and asking for confirmation that you will not be sent any further direct marketing material. If the data controller continues to send you direct marketing material, you may ask the Commissioner to carry out an assessment as to whether it is likely or unlikely that the data controller is processing your personal data in accordance with the terms of the Act. You also have rights under the Act to pursue the matter yourself through the court.

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 or contact the Commissioner's Office.

## WHAT POWER DOES THE COURT HAVE?

If the court is satisfied that the data controller has failed to comply with the notice, the court may order the data controller to take such steps for complying with the notice as the court thinks fit.

If the court is satisfied that the data subject has suffered damage by reason of a breach 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 the leaflet called

### **“Claiming compensation”.**

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

If the court is satisfied that:

- the data subject has suffered damage because a data controller has breached any of the requirements of the Act in respect of any personal data in circumstances where the data subject is entitled to compensation and;
- there is a substantial risk of further contravention in respect to those data;

the court may order the rectification, blocking erasure or destruction of any of those data. Please refer to the leaflet called

### **“Claiming compensation”.**

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

## **WHAT ELSE CAN I DO TO STOP RECEIVING DIRECT MARKETING MATERIAL?**

If you want to try and stop personally addressed unsolicited marketing material being sent to you by post, you should contact the Mailing Preference Service at

FREEPOST 22, London, W1E 7EZ  
(telephone number 020 7291 3310,  
fax number 020 7323 4226,  
website [mpsonline.org.uk](http://mpsonline.org.uk)).

If you do not want to receive uninvited telesales calls, you can contact the

Telephone Preference Service on telephone number 020 7291 3320 or on fax 020 7323 4226.

If you do not want to receive uninvited telemarketing faxes, you should phone the

Fax Preference Service on 020 7291 3330 or fax 020 7323 4226.



## **1. YOUR RIGHTS AND HOW TO ENFORCE THEM**



## **2. SUBJECT ACCESS - A GUIDE FOR DATA SUBJECTS**



## **3. INCORRECT INFORMATION - WHAT CAN I DO?**



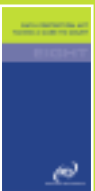
## **4. HELP! HOW CAN I STOP THEM PROCESSING MY PERSONAL INFORMATION?**



## **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.*

**Citizens Advice**

Myddleton House  
115-123 Pentonville Road  
London  
N1 9LZ

T: 020 7833 2181

W: [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

W: [www.adviceguide.org.uk](http://www.adviceguide.org.uk)

**Court Service**

T: 020 7210 2266

W: [www.courtservice.gov.uk](http://www.courtservice.gov.uk)

**The Department for Constitutional Affairs**

W: [www.dca.gov.uk](http://www.dca.gov.uk)

**Legal Services Commission**

T: 020 7759 0000

W: [www.legalservices.gov.uk](http://www.legalservices.gov.uk)

## **Publication Request**

t: 01625 545 700

f: 01625 524 510

e: [mail@ico.gsi.gov.uk](mailto:mail@ico.gsi.gov.uk)

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**Data Protection**

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