



## **A Guide to your Rights**



*This booklet is intended as a short guide for individuals on their data protection rights and on the data protection obligations of those who hold and process personal information. It is not an authoritative or definitive interpretation of the law. If, after reading this booklet, you require further information, please consult the Data Protection Commissioner's website [www.dataprotection.ie](http://www.dataprotection.ie), or contact the office by the various means detailed on the back of this booklet.*



## DEFINITIONS

As with any legislation, certain terms have particular meaning. The following are some useful definitions:

**Data** means information in a form which can be processed. It includes both automated data and manual data.

**Automated data** means, broadly speaking, any information on computer, or information recorded with the intention of putting it on computer.

**Manual data** means information that is kept as part of a relevant filing system, or with the intention that it should form part of a relevant filing system;

**Relevant filing system** means any set of information that, while not computerised, is structured by reference to individuals, or by reference to criteria relating to individuals, so that specific information is accessible.

**Personal data** means data relating to a living individual who is or can be identified either from the data or from the data in conjunction with other information that is in, or is likely to come into, the possession of the data controller. This can be a very wide definition depending on the circumstances.

**Processing** means performing any operation or set of operations on data, including:

- obtaining, recording or keeping data;
- collecting, organising, storing, altering or adapting the data;
- retrieving, consulting or using the data;
- disclosing the information or data by transmitting, disseminating or otherwise making it available;
- aligning, combining, blocking, erasing or destroying the data.

**Data Subject** is an individual who is the subject of personal data.

**Data Controllers** are those who, either alone or with others, control the contents and use of personal data. Data Controllers can be either legal entities such as companies, Government Departments or voluntary organisations, or they can be individuals such as G.P.'s, pharmacists or sole traders.

**Data Processor** is a person who processes personal data on behalf of a data controller, but does not include an employee of a data controller who processes such data in the course of his/her employment. Again individuals such as G.P.'s, pharmacists or sole traders are considered to be legal entities.

**Sensitive personal data** relates to specific categories of data which are defined as data relating to a person's racial origin; political opinions or religious or other beliefs; physical or mental health; sexual life; criminal convictions or the alleged commission of an offence; trade union membership. You have additional rights in relation to the processing of any such data.



## WHAT IS DATA PROTECTION?

It is the means by which the privacy rights of individuals are safeguarded in relation to the processing of their personal data. You supply information about yourself to government bodies, banks, insurance companies, medical professionals, telecommunications companies and many others in order to avail of services or satisfy obligations. Organisations or individuals also obtain information about you from other sources. For the purpose of data protection such organisations or individuals who control the contents and use of personal data are known as data controllers. The Data Protection Acts 1988 and 2003 give you rights relating to this personal information and impose obligations on data controllers.

These rights apply where the information is held:

- on computer, or
- in a manual form, as part of a filing system or intended to form part of a filing system that facilitates access to a specific individual's information.

These rights also apply to photographs or video recordings of your image as well as recordings of your voice which may be held by a data controller.

These rights, which are outlined in detail in the remainder of this booklet, empower you to ensure that your information is accurate, is only made available to those that should have it and is only used for specified purposes.

You may have to take action to enforce these rights by contacting the organisation concerned and if you have any difficulty enforcing your rights you can avail of the assistance of the Data Protection Commissioner.



## YOUR RIGHTS

1. **Right to have your data processed in accordance with the Data Protection Acts**  
to have your personal information obtained and processed fairly, kept securely and not illegitimately disclosed to others
2. **Right to be informed**  
to know the identity of the data controller and the purpose for obtaining your personal information
3. **Right of access**  
to get a copy of your personal information
4. **Right to establish existence of personal data**  
to be informed, on request, if personal data is held in relation to you
5. **Right of rectification or erasure**  
to have your personal information corrected or deleted if inaccurate
6. **Right to block certain uses**  
to prevent your personal information being used for certain purposes
7. **Right to have your name removed from a direct marketing list**  
to stop unwanted mail
8. **Right to object**  
to stop some specific uses of your personal information
9. **Freedom from automated decision making**  
to have a human input in the making of important decisions relating to you
10. **Rights under Data Protection and Privacy in Telecommunications Regulations**  
to prevent you receiving direct marketing phone calls, emails or text messages that you don't want



## 1. *Right to have your data processed in accordance with the Data Protection Acts*

Those holding data relating to you are obliged to:

- ☐ obtain and process the information fairly;
- ☐ keep it only for one or more specified, explicit and lawful purposes;
- ☐ use and disclose it only in ways compatible with these purposes;
- ☐ keep it safe and secure;
- ☐ keep it accurate, complete and up-to-date;
- ☐ ensure that it is adequate, relevant and not excessive;
- ☐ retain it no longer than is necessary for the purpose or purposes;
- ☐ give you a copy of your personal data, on request.

## 2. *Right to be informed*

Data controllers who obtain your personal information must ensure that you are informed of:

- ☐ the name of the data controller, i.e. the organisation or individual collecting the data or on whose behalf the data is being collected;
- ☐ the purpose for which your data is kept, and
- ☐ any other information which they ought to provide to ensure their handling of your data is fair, for example, the identity of anyone to whom they will disclose your personal data, and whether or not you are obliged to answer any of their questions.

Data controllers who have obtained your personal data from someone else, i.e. not from you, must, in addition, inform you of the types of data they hold, and the name of the original data controller.

## 3. *Right of access*

You can obtain a copy of all personal data relating to you by making a written 'access request' to any organisation or individual who holds personal information about you on computer or in a manual form that is part of a relevant filing system or intended to be part of a relevant filing system. See section on 'How to make an access request'.

This right includes access to expressions of opinion about you unless these opinions were given in confidence. Even then in many cases your right to access that opinion about you will be greater than the right of the person who gave it not to have it revealed. The right of access does not apply in specific narrow cases which would prejudice a particular interest, e.g. the investigation of offences.

You are also entitled to an explanation of the logic used in any automated decision-making process where the decision significantly affects you and the decision is solely based on the automated process.

#### **4. Right to establish existence of personal data**

If you believe that an entity holds personal data in relation to you, you have a right on request to be informed within 21 days if this is the case. If the entity does hold personal data relating to you it must also then give you a description at that time of the data held and the purposes for which it is held.

There is no fee for the making of or compliance with such a request.

#### **5. Right of rectification or erasure**

If you discover that information kept about you by a data controller is inaccurate, you have a right to have that information rectified or, in some cases, you may also have the information erased. This right may also be met by the appending of a statement from you relating to the matters which are deemed inaccurate.

Additionally, if the entity keeping the personal data has no good reason to hold it, i.e. it is irrelevant or excessive for the purpose, or if the information has not been obtained fairly, you can have the information rectified or erased.

You can exercise your rights in this area by simply writing to the entity keeping your data specifying your views. It must comply or indicate why it will not do so within 40 days.

#### **6. Right to block certain uses**

In addition to the right to correct or erase data you can request a data controller to block your data, i.e. prevent it from being used for certain purposes. For example, you might want your data blocked for research purposes where it is held for other purposes that to which you do not object.

Again you can exercise your rights in this area by simply writing to the entity keeping your data specifying your views. It must comply or indicate why it will not do so within 40 days.

#### **7. Right to have your name removed from a direct marketing list**

If a data controller holds your information for the purpose of direct marketing, you can have your details removed. You can exercise this right by writing to the organisation concerned. It must reply within 40 days confirming that it has dealt with your request.

#### **8. Right to object**

Where the data controller is processing data for the exercise of official authority, in the public interest, or for his/her own 'legitimate interests' and you feel that the use of your data involves substantial and unwarranted damage or distress to you, you may request a data controller to stop using your personal data, or not to start using the data.



The right does not apply if:

- ☐ you have already given your consent to the use of your data
- ☐ the use is necessary for a contractual obligation to which you have agreed
- ☐ the use is for electoral purposes by election candidates or political parties, or
- ☐ the use is required by law.

The electoral register or other personal data required by law to be made public, such as a shareholders register, cannot be used for direct marketing unless you have been given an opportunity to object to such use. These objection rights are free of charge.

### 9. *Freedom from automated decision making*

Important decisions about you, for example work performance, creditworthiness or reliability may not be made solely by automatic means e.g. by computer, unless you consent to this. In general there has to be a human input in such decisions.

### 10. *Rights under Data Protection and Privacy in Telecommunications Regulations*

If you do not wish to receive direct marketing calls to your telephone you should contact your telecommunications provider, who will record your preference in what is known as the National Directory Database (NDD) opt-out register. It is an offence to make a direct marketing call to any number recorded in this way on the NDD. In addition, if you have not included your phone number on the NDD opt-out register, any entity calling you for direct marketing purposes cannot call you again if you tell them not to do so.

To be contacted by fax machine or by automated dialling for direct marketing purposes you must give your consent to the entity making the contacts.

Equally you have a right not to receive unsolicited marketing email to your computer or marketing text messages to your mobile phone without your consent.



## HOW TO MAKE AN ACCESS REQUEST

To make an access request you must write by post or email to the organisation or individual holding your personal data asking for a copy of the data. Your request could read as follows:

*Dear....*

*I wish to make an access request under the Data Protection Acts 1988 and 2003 for a copy of any information you keep about me, on computer or in manual form. ....*

You should give any details that might be needed to help the person identify you and to locate all the information they may keep about you, for example, customer account no., any previous addresses, date of birth.

Where a data controller holds a substantial amount of your personal data, but you only want access to a small portion of that data, it may be helpful and result in a speedier response if you are specific in the request that you make.

You must be given the information, in an understandable form, within 40 days of receipt of your request but most data controllers manage to reply much sooner. You may be asked to pay a nominal fee but this cannot exceed €6.35.





## ASSISTANCE FROM THE OFFICE OF THE DATA PROTECTION COMMISSIONER

The Data Protection Commissioner will help you in ensuring that your rights are fully upheld and that data controllers meet their obligations under the Data Protection Acts. If you think that an organisation or individual is not meeting their data protection obligations and if you are not satisfied with their response to your concerns, then you may complain to the Commissioner.

To make a complaint all you need to do is write to or email the Data Protection Commissioner giving details about the matter and

- ❑ identify the organisation or individual you are complaining about;
- ❑ outline the steps you have taken to have your concerns dealt with;
- ❑ indicate the response you received, if any, and
- ❑ provide copies of any correspondence between you and the organisation.

The Commissioner, under Section 10 of the Data Protection Acts, will investigate your complaint. The Commissioner's approach to complaints, as provided under the Acts, is to try to reach an amicable resolution to the matter which is the subject of the complaint. In cases where it is not possible to reach an amicable resolution, a complainant may ask the Commissioner to make a formal decision as to whether a contravention has occurred. However, the Commissioner does not have the power to award compensation. The Commissioner's main priority, if he upholds your complaint, is that the data controller complies with the law and puts matters right. If the Commissioner rejects your complaint, he will inform you of this in writing. If you disagree with the Commissioner's finding, you have the right to appeal the decision to the Circuit Court.

The Data Protection Acts makes it clear that organisations or individuals who hold your personal data owe you a duty of care. If you suffer damage through the mishandling of your personal information, then you may be entitled to claim compensation through the Courts and this is a matter for you and your legal advisers. The Commissioner has no function in relation to the taking of such proceedings or in the giving of legal advice.



Further information is available from our website or you can contact the Office directly by email or by phone. Brochures and leaflets relating to the Acts are also available free of charge, on request from:

**The Office of the Data Protection Commissioner**

Canal House  
Station Road  
Portarlinton  
Co. Laois

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**Tel:** 057 868 4800

**Fax:** 057 868 4757

**Email:** [info@dataprotection.ie](mailto:info@dataprotection.ie)

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