

Notification exemptions

A self-assessment guide



Is any of your processing on computer?

Are you processing personal information?

Are you a data controller?

Promoting public access to official information and protecting your personal information



Information Commissioner's Office

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Introduction

What is the Data Protection Act 1998?

The Data Protection Act 1998 places obligations on organisations that use personal information and gives individuals certain rights.

The Act states that those who record and use personal information must be open about how the information is used and must follow the eight principles of “good information handling”.

Notification under the Data Protection Act 1998

Under the Act every organisation (data controller) that processes personal information (personal data) must notify the Information Commissioner’s Office, unless they are exempt. Failure to notify is a criminal offence. This booklet gives details of the notification exemptions.

Data controllers are required to inform the Information Commissioner of certain details about their processing of personal information. The Commissioner uses these details to make an entry describing the processing in the register, which is available to the public for inspection (ie on the Information Commissioner’s website www.ico.gov.uk).

The main purpose of notification and the public register is to promote openness in the use of personal information.

Notification exemptions

By working through questions 1–9 you will be able to determine whether you need to notify. The sequence of questions is such that if there is no possibility of an exemption for you, this will be made clear very quickly.

Exemptions are possible for the following.

- Data controllers who only process personal information for:
 - staff administration (including payroll);
 - advertising, marketing and public relations (in connection with their own business activity); and
 - accounts and records.
- Some not-for-profit organisations.
- Processing personal information for personal, family or household affairs (including recreational purposes).
- Maintenance of a public register.
- Processing personal information without an automated system such as a computer.

If you are exempt

Data controllers who are exempt from notification must still comply with the rest of the Act.

Data controllers who are exempt from notification may choose to notify voluntarily.

Q1. Are you processing personal information?

YES

Move to Q2

NO

No requirement
to notify

Personal information

Personal information means information which relates to a living individual who can be identified from that information. It is also any other information which is in the data controller's possession, or that is likely to come into their possession.

Processing

Processing means obtaining, recording or holding the data or carrying out any operation or set of operations on that data.

Processing includes the following activities:

- organising
- amending
- consulting
- disclosing
- destroying
- adapting
- retrieving
- using
- erasing
- storing

Q2. Is any of your processing on computer?



Processing on computer

If none of your processing is carried out on computer, there is no requirement to notify. The term 'computer' includes any type of computer, for example mainframe, desktop, laptop, palmtop, etc. It also includes other types of equipment which, although not normally described as computers, nevertheless have some ability to process automatically; eg automatic retrieval systems for microfilm and microfiche, audio and visual systems, electronic flexi-time systems, telephone logging equipment and some CCTV systems.

Q3. Are you a data controller?



Data controller

Data controller means a person who (either alone, or jointly, or in common with others) decides how and why any personal information is to be processed.

You do not need to notify if you are a data processor. Data processors only process personal information in-line with instructions from data controllers.

Q4. Are you only processing personal information for personal, family or household affairs (including recreational purposes)?



Personal, family and household affairs

Individuals are exempt from notification if the only information processed is for personal, domestic and household affairs (including recreational purposes). Examples might include a personal address list, Christmas card list or personal information held in connection with a hobby.

This exemption does not apply to individuals who hold personal information for business or professional purposes.

Q5. Are you processing personal information for any of the following purposes?

- Accountancy and auditing.
- Administration of justice.
- Advertising, marketing and public relations for others.
- Canvassing political support among the electorate.
- Constituency casework.
- Consultancy and advisory services.
- Credit referencing.
- Crime prevention and prosecution of offenders (including some CCTV systems).
- Debt administration and factoring.
- Education.
- Health administration and provision of patient care.
- Insurance administration.
- Journalism and media.
- Legal services.
- Mortgage/insurance broking.
- Pastoral care.
- Pensions administration.
- Personal information processed by or obtained from a credit reference agency.
- Private investigation.
- Property management (including the selling of property).
- Provision of childcare.
- Provision of financial services and advice.
- Research.
- Trading and sharing in personal information.

YES

You are required to notify unless you are a not-for-profit organisation (See Q7).

NO

Move to Q6

Non-exempt purposes

You will NOT be exempt so you WILL have to notify if you are processing personal information for any of the purposes listed above. This is not meant to be a complete list, but it shows the most common purposes where there is a requirement to notify.

Data controllers who are unlikely to be exempt include accountants, barristers, consultants, dentists, doctors, employment and recruitment agencies, estate agents, financial advisers, schools, solicitors and businesses using personal information obtained from a credit reference agency.

For information on how to notify please turn to page 15.

Q6. Are you only processing personal information to maintain a public register?

YES → No requirement to notify **NO** → Move to Q7

Public registers

There is a specific exemption from notification for any processing whose sole purpose is the maintenance of a public register. The exemption only applies to the information that the data controller is required to publish.

Q7. Are you a not-for-profit organisation?

YES → Move to Q8 **NO** → Move to Q9

Not-for-profit organisations

There is a specific exemption from notification for data controllers that are a body or association not established or conducted for profit, provided that their processing does not fall outside the descriptions in Q8 and Q9.

Q.8 As a not-for-profit organisation is all of your processing covered by the following descriptions?

Your processing is only for the purposes of establishing or maintaining membership or support for a body or association not established or conducted for profit, or providing or administering activities for individuals who are either members of the body or association or have regular contact with it.

Your data subjects are restricted to the processing of those for whom personal information is necessary for this exempt purpose.

Your data classes are restricted to personal information that is necessary for this exempt purpose.

Your disclosures other than those made with the consent of the data subject are restricted to those third parties that are necessary for this exempt purpose.

The personal information is not kept after the relationship between you and the data subject ends, unless (and for so long as) it is necessary to do so for the exempt purpose.

YES to all → No requirement to notify **NO to any** → Move to Q9

If the answer is no, but the only additional processing you do is for one or more of the purposes described in Q9, there is no requirement to notify.

This exempt purpose may be used by some small clubs, voluntary organisations, church administrations and some charities.

Further written guidance on this exemption is available by telephoning the notification helpline.

Q9. You do not have to notify if the only* processing you carry out is for one or more of these purposes:

- **Staff administration**
- **Advertising, marketing and public relations**
- **Accounts and records**

Please read the following information about each of the exempt purposes to determine whether or not you are exempt.

* A not-for-profit organisation may also carry out processing covered by the description in Q8.

Exemptions for core business purposes

The purposes listed here are sometimes referred to as 'core business purposes'. Typically they would relate to a small business that processes personal information only for these purposes, to support its primary activity.

You must read the description of each purpose to ensure that you only process personal information covered by one or more of the descriptions.

Staff administration

This is processing for the purposes of appointments or removals, pay, discipline, superannuation, work management or other personnel matters concerning your staff.

The individuals you hold information about are restricted to:

- any person whose personal information needs to be processed for staff administration.

The information processed is restricted to:

- data which are necessary for staff administration.

Your disclosures (except those made with the data subject's consent) are restricted to:

- those which you must make to third parties for the purposes of staff administration.

Retention of personal information

- You must not keep personal information after the relationship between you and the data subjects ends, unless and for so long as this is necessary for staff administration or a legal requirement.

The term staff includes all past, existing or prospective members of staff who are employees, office holders, temporary and casual workers, and also agents and volunteers. The personal information held about them includes all personnel and work management matters, for example their qualifications, work experience, pay and performance.

Advertising, marketing and public relations

This is processing for the purposes of advertising or marketing your business, activity, goods or services and promoting public relations only in connection with that business or activity, or those goods or services.

The individuals you hold information about are restricted to

- any person whose personal information you need to process for your own advertising, marketing and public relations, for example past, existing or present customers or suppliers.

Your information is restricted to

- information which is necessary for your advertising, marketing and public relations, for example names, addresses and other identifiers.

Your disclosures (except those made with the data subject's consent) are restricted to

- those which you must make to third parties for purposes of your advertising, marketing and public relations.

Retention of personal information

- you must not keep personal information after the relationship between you and the customer or supplier ends, unless and for so long as this is necessary for purposes of your advertising, marketing and public relations.

This exemption applies only to data controllers who are advertising and marketing their own goods and services.

If you obtain personal information from a third party for the purpose of marketing your own goods and services, you may still rely on this exemption. You must notify if you sell or trade a list of your customers.

Accounts and records

This is processing for the purposes of:

- keeping accounts relating to any business or other activity you carry out; or
- deciding whether to accept anyone as a customer or supplier; or
- keeping records of purchases, sales or other transactions to ensure that the relevant payments, deliveries or services take place; or
- making financial or management forecasts to help you carry out your business or activity.

The individuals you hold information about are restricted to:

- anyone whose personal information needs to be processed for your accounts and records, for example past, existing or present customers or suppliers.

The information you hold is restricted to:

- personal information that is necessary for your accounts and records, for example name, address and credit card details. Personal information processed by or obtained from a credit reference agency is not exempt.

Your disclosures (other than those made with the data subject's consent) are restricted to:

- those you must make to third parties for purposes of your accounts and records, for example to external auditors.

Retention of the data

- You must not keep personal information after the relationship between you and the customer or supplier ends, unless and for so long as this is necessary for your accounts and records.

This exemption covers the administration of customer and supplier records.

It includes processing relating to deciding whether or not to do business with a particular customer or supplier but specifically excludes personal information processed by or obtained from a credit reference agency.

Data controllers who are providing accounting services for their customers are not exempt.

How to notify

There are three easy ways to notify.

- By **internet** - you can complete the notification form online, print it and send the form to us with the notification fee or your direct debit instruction.
- By **completing the Request for Notification form** (enclosed at the back of this leaflet). Please fax or post this Form (f.a.o. Notification Department – Notification Requests) or alternatively the information can be e-mailed. We will then send the notification forms for further completion.
- By **telephone** - you can telephone the Notification Helpline. You will be asked to provide your name, address and contact details and to specify the nature of your business.

If you request an application form via the Notification Helpline or via the Request For a Notification Form option, we will send you a partially completed notification form based on the nature of your business. When you receive your forms you will need to check the details on the Part 1 Form, complete the relevant sections on the Part 2 Form and then return both Parts 1 and 2 to us with the notification fee or your completed direct debit instruction.

Compliance with the Data Protection Act 1998

Data controllers must comply with the provisions of the 1998 Act even if they are exempt from notification.

There are eight data protection principles. In summary, they require that data shall be:

1. fairly and lawfully processed;
2. processed for limited purposes;
3. adequate, relevant and not excessive;
4. accurate;
5. not kept longer than necessary;
6. processed in accordance with the data subjects' rights;
7. secure; and
8. not transferred to countries outside the EEA without adequate protection.

Data protection checklist

This is not part of the notification process but this short checklist will help you to comply with the Data Protection Act. Being able to answer 'yes' to every question does not guarantee compliance, and you may need more advice in particular areas, but it should mean that you are heading in the right direction.

- YES** **NO** Do I really need this information about an individual?
- YES** **NO** Do I know what I'm going to use it for?
- YES** **NO** Do the people whose information I hold know that I've got it, and are they likely to understand what it will be used for?
- YES** **NO** If I'm asked to pass on personal information, would the people about whom I hold information expect me to do this?
- YES** **NO** Am I satisfied that the information is being held securely, whether it's on paper or on computer? And what about my website? Is it secure?

- YES** **NO** Is access to personal information limited to those with a strict need to know?
- YES** **NO** Am I sure, the personal information is accurate and up to date?
- YES** **NO** Do I delete or destroy personal information as soon as I have no more need for it?
- YES** **NO** Have I trained my staff in their duties and responsibilities under the Data Protection Act, and are they putting these into practice?
- YES** **NO** Do I need to notify the Information Commissioner, and if so is my notification up to date?

To help determine how well you comply with the data protection principles, please read the **'Data protection audit manual'**, www.ico.gov.uk

The information you need when you want it

Our free e-newsletter service will keep you up to date with current developments, while e-alerts allow you to choose your areas of interest and receive news of additions to the website. To subscribe to these free services, please visit www.ico.gov.uk.



Request for a notification form

If you have determined that notification is required, you can complete the form. Guidance on how to do so is given overleaf. Post the form to us, fax it (01625 545748) or email the information and a draft notification form **will be sent to you for further action**. Alternatively, you can complete the notification form online by visiting our website at www.ico.gov.uk. The form should then be printed out and sent to us with the appropriate fee.

Data controller name: Please see overleaf for guidance.	
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Data controller address: If a limited company or a public limited company, this should be the registered office address. Please include your postcode.	
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Company registration number: (Optional)	
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Contact name and job title:	
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Contact address: Please include your postcode.	
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Contact telephone number:	
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Contact fax number:	
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Contact email address:	
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Nature of business: Eg doctor, accountant, etc. Please note that it is essential to indicate the nature of your business so that the correct information can be sent to you.	
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Signature	Date
	Telephone number

Name and job title

Please do not send any payment with this form.

Advice about any aspect of notification can be obtained by writing to the address below or by calling the notification helpline on 01625 545740.

Please return to: Notification Department (Notification Requests), Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF or email: notification@ico.gsi.gov.uk or fax: 01625 545748.

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Glossary

Data controller's name

The name you provide must be the correct legal title of the individual or organisation. Examples are given below.

- **Sole traders:** provide the full name of the individual, eg Anna Katherine Smith.
- **Partnerships:** provide the trading name of the firm, eg Buttersfield & Co. (you do not have to provide the names of the partners).
- **Limited or public limited companies:** provide the full name of the company, eg ABC Limited (not your trading name).
- **Groups of companies:** groups of companies cannot submit a single notification. Individual companies who are data controllers must notify separately.
- **Schools:** provide the name of the school, eg Hazeldown School.
In Scotland, only schools in the independent sector need to register; all other schools are covered within the relevant local authority notification.
- **Others, eg voluntary bodies:** provide the name by which you are known to the public. These details should be altered (if necessary) on the Part 1 form itself.

Data controller's address

If you are a limited company you must provide your registered office address and in all other cases you must provide the address of your principal place of business. If there is no place of business (eg for a small local voluntary body), you should provide the address of the official who has completed the form.

Company registration number

If you are a limited or a public limited company, we encourage you to provide your company registration number as a unique identifier for the company. However, you are not obliged to do so.

Contact details

You may provide a name, address, telephone number, fax number and email address. These details will be used by us for all correspondence in connection with your notification, but will not appear on the public register.

If you would like to contact us please call 08456 306060, 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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Information Commissioner's Office,
Wycliffe House,
Water Lane,
Wilmslow,
Cheshire SK9 5AF

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Information Commissioner's Office