



The Data Protection Act 1998 – Guidelines for Psychologists

The following information is provided as a guide to the Data Protection Act 1998 and it is a brief explanation of the requirements based on the contents of the Act and Information Commissioner's Office (ICO) advice.

The Act

The Data Protection Act gives individuals the right to know what information is held about them. It provides a framework to ensure that personal information is handled properly. The Act works in two ways. Firstly, it states that anyone who processes personal information must comply with eight principles, which make sure that personal information is:

- fairly and lawfully processed;
- processed for limited purposes;
- adequate, relevant and not excessive;
- accurate and up to date;
- not kept for longer than is necessary;
- processed in line with your rights;
- secure; and
- not transferred to other countries without adequate protection.

The second area covered by the Act provides individuals with important rights, including the right to find out what personal information is held on computer and most paper records.

Who the Act applies to

The Act will usually apply to all businesses and organisations regardless of size or field. Unless you are an individual holding personal information only for your own domestic use, e.g. an address book, then you are required to comply with the Act.

If you are required to comply with the Act, you have a number of legal responsibilities:

- a) to notify the Information Commissioner you are processing information, unless you are a business or organisation that has personal information only for:
 - staff administration (including payroll);
 - advertising, marketing and public relations used only for your own business; or
 - accounts and records (some not-for-profit organisations).

- b) to process the personal information in accordance with the eight principles of the Act; and
- c) to answer subject access requests received from individuals.

Any individual or organisation that processes personal information is responsible for adhering to the requirements laid down in the Data Protection Act. Practising psychologists should know, understand and follow the requirements of the Act and adhere to these in a professional and ethical manner.

Notification

Notification (often referred to as registration) is a statutory requirement and every business and organisation that processes personal information must notify the Information Commissioner's Office (ICO), unless they are exempt. Failure to notify is a criminal offence. Notification currently costs an annual fee of £35 (no VAT charged), payable to the Information Commissioner's Office.

Detailed information on how to Notify is available at the Information Commissioner's Office website: http://www.ico.gov.uk/what_we_cover/data_protection/notification.aspx

Even if you are exempt from notification this does not mean that you are exempt from the rest of the requirements of the Act.

NB: A number of private companies have been contacting businesses throughout the UK demanding fees in excess of £95 to register/notify your business under the Data Protection Act. Do not be misled by these 'agencies'. They have no official standing or powers under the Data Protection Act and there is no connection between them and the Information Commissioner's Office.

Access Rights Requests

Any individual is entitled to know whether and what personal information is held about them by any business or organisation. They can make an Access Rights Request in writing asking for this information and it is a legal requirement to provide this within 40 days of the request. A detailed checklist document is provided by the ICO to assist with the handling of these requests and a copy of this is attached and it is available online at:

http://www.ico.gov.uk/upload/documents/library/data_protection/practical_application/checklist_for_handling_requests_for_personal_information.pdf

Recommendation

As a practising psychologist you are likely to collate and process personal information regarding your clients. Therefore it is strongly recommended that you Notify (register) with the Information Commissioner. All businesses have to comply with the Data Protection Act 1998 so if you keep personal records on a computer then you must register. Even if you only keep paper records it is likely that they fall within the Act. The Information Commissioner promotes good housekeeping and requires that individuals work within the principles of the Data Protection Act 1998.