

# DATA PROTECTION

## About this factsheet

This factsheet is for RAD registered teachers and members who own schools. It outlines your obligations when holding data on individuals and how your business must meet these.

### What is the Data Protection Act?

The Data Protection Act 1998 governs the processing of personal data. If your school processes this type of information then you must comply with the Act.

The Act requires that you are open about your use of information and follow eight data protection principles (see below). It also provides individuals with certain rights.

### How is my school affected by the Act?

Personal data is information on a living individual that can be used to identify them, and 'processing', means obtaining, recording, storing, updating and sharing data. Therefore, keeping student addresses on file, recording staff working hours and even providing delivery information to a courier all constitute 'processing'.

### Are there any exemptions from the Act?

Most organisations that process personal data must notify the Information Commissioner's Office (ICO) of certain details about that processing. However, the Act provides exemptions to organisations that process personal data only for:

- staff administration (including payroll)
- advertising, marketing and public relations (for their own business activity), and
- accounts and records.

Additional exemptions are:

- some not-for-profit organisations
- organisations that process personal data only for maintaining a public register, and
- organisations that do not process personal information on computer.

(Source: [www.ico.org.uk/for\\_organisations/data\\_protection/the\\_guide/exemptions](http://www.ico.org.uk/for_organisations/data_protection/the_guide/exemptions))

The ICO also has a self-assessment guide at the same address.

If you are processing personal information, and do not meet any of the exemptions, then you must notify the ICO and pay an annual fee.

Similar laws apply in the European Union.

### What are the eight principles of good practice?

Data must be:

1. fairly and lawfully processed
2. processed for limited purposes
3. adequate, relevant and not excessive
4. accurate and up-to-date
5. not kept longer than necessary
6. processed in accordance with the individual's rights
7. secure, and
8. not transferred to countries outside the EU unless the country has adequate protection for the individual.

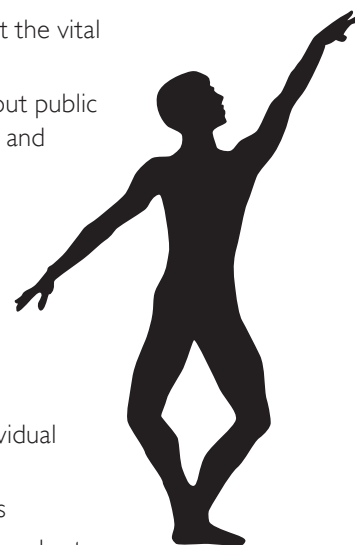
### What are the six conditions that I must meet?

At least one of the following conditions must be met for personal information to be considered fairly processed:

1. that the individual has consented to the processing
2. that processing is necessary for the performance of a contract with the individual
3. that processing is required under a legal obligation
4. that processing is necessary to protect the vital interests of the individual
5. that processing is necessary to carry out public functions, eg administration of justice, and
6. that processing is necessary in order to pursue the legitimate interests of the data controller or third parties.

For personal information to be considered lawfully processed, at least one of several extra conditions must be met. These include:

- having the explicit consent of the individual
- being required by law to process the information for employment purposes
- needing to process the information in order to protect the vital interests of the individual or another person, and
- dealing with the administration of justice or legal proceedings.



## Which offences are contained in the Act?

- **Notification offences** where processing is being undertaken by a data controller who has not notified the ICO either of the processing being undertaken or of any changes that have been made to that processing.
- **Procuring and selling offences** cover knowingly or recklessly obtaining, disclosing or procuring the disclosure of personal information without the consent of the data controller.

## What are people's rights under the Act?

There are seven rights to:

1. subject access, allowing people to find out what information is held about them on computer and within some manual records
2. ask a data controller not to process information that causes substantial unwarranted damage or distress to a person
3. ask a data controller not to process information relating to an individual for direct marketing purposes
4. object to decisions made only by automatic means
5. claim compensation from a data controller for damage and distress caused by any breach of the act
6. apply to the court to order a data controller to rectify, block or destroy personal details if they are inaccurate, and
7. ask the Commissioner to assess whether the Act has been contravened.

## Useful references

If you are unsure about whether you need to register, contact the ICO at [www.ico.org.uk](http://www.ico.org.uk) or call the helpline on 0303 123 1113 or 01625 545745.

Government business advice is also available at [www.gov.uk/browse/business](http://www.gov.uk/browse/business) or you can call 0845 600 9006.

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