

Extracts from Data Protection Act 1998

Section 7

(1) Subject to the following provisions of this section and to sections 8 and 9, an individual is entitled:

(a) to be informed by any data controller whether personal data of which that individual is the data subject are being processed by or on behalf of that data controller.

(b) If that is the case, to be given by the data controller a description of -

- (i) the personal data of which that individual is the data subject;
- (ii) the purpose for which they are being or are to be processed;
- (iii) the recipients or classes of recipients to whom they are or may be disclosed

(c) to have communicated to him/her in an intelligible form:

- (i) the information constituting any personal data of which that individual is the data subject;
- (ii) any information available to the data controller as the source of those data;

(d) where the processing by automatic means of personal data of which that individual is the data subject for the purposes of evaluating matters relating to him/her such as, for example, his/her performance at work, his/her creditworthiness, his/her reliability or his/her conduct or is likely to constitute the sole basis for any decision significantly affecting him/her, to be informed by the data controller of the logic involved in that decision-taking.

(2) A data controller is not obliged to supply any information under subsection (1) unless he/she has received:

- (a) a request in writing, and
- (b) except in prescribed cases, such fee (not exceeding the prescribed maximum) as he/she may require.

(3) A data controller is not obliged to comply with a request under this section unless he/she is supplied with such information as he/she may reasonably require in order to satisfy him/herself as to the identity of the person making the request and to locate the information which that person seeks.

(4) Where a data controller cannot comply with the request under this without disclosing information relating to another individual who can be identified from that information, he/she is not obliged to comply with the request unless:

- (a) the other individual has consented to the disclosure of the information to the person making the request, or
- (b) it is reasonable in all the circumstances to comply with the request without the consent of the other individual.

(5) In subsection (4) the reference to information relating to another individual includes a reference to information identifying that individual as the source of the information sought by the request; and that subsection is not to be construed as excusing the data controller from communicating so much of the information sought by the request as can be communicated without disclosing the identity of the other individual concerned, whether by omission of names or otherwise

(6) In determining for the purposes of subsection (4)(b) whether it is reasonable in all the circumstances to comply with the request without the consent of the other individual

concerned, regard shall be had, in particular, to:

- (a) any duty of confidentiality owed to the other individual,
- (b) any steps taken by the data controller with a view to seeking the consent of the other individual,
- (c) whether the other individual is capable of giving consent, and
- (d) any express refusal of consent by the other individual.

Note: In considering such instances the data controller must effectively also consider the degree of privacy that the third parties might or might not reasonably expect in being at that location at that time.

(7) An individual making a request under this section may, in such cases as may be prescribed, specify that his/her request is limited to personal data of any prescribed description.

(8) Subject to subsection (4), a data controller shall comply with a request under this section promptly and in any event before the end of the prescribed period beginning with the relevant day.

(9) If a court is satisfied on the application of any person who has made a request under the forgoing provisions of this section that the data controller in question has failed to comply with the request in contravention of those provisions, the court may order him/her to comply with the request.

In this section:

'prescribed' means prescribed by the Secretary of State by regulations;

'the prescribed maximum' means such amount as may be prescribed;

'the prescribed period' means forty days or such other period as may be prescribed

'the relevant day' in relation to a request under this section, means the day on which the data controller receives the request or, if later, the first day on which the data controller has both the required fee and the information referred to in subsection (3).

(10) Different amounts or period may be prescribed under this section in relation to different cases.

Section 8

(1) The Secretary of State may by regulations provide that, in such cases as may be prescribed, a request for information under any of the provisions of subsection (1) of section 7 is to be treated as extending also to information under other provisions of that subsection.

(2) The obligations imposed by section 7(c)(i) must be complied with by supplying the data subject with a copy of the information in a permanent form unless:

- (a) the supply of such a copy is not possible or would involve disproportionate effort, or
- (b) the data subject agrees otherwise;
- (c) and where any of the information referred to in section (7)(c)(i) is expressed in terms which are not intelligible without explanation the copy must be accompanied by an explanation of those terms.

(3) Where a data controller has previously complied with a request made under section 7 by an individual, the data controller is not obliged to comply with a subsequent identical or similar request under that section by that individual unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request.

(4) In determining for the purposes of subsection (3) whether requests under section 7 are made at reasonable intervals, regard shall be had to the nature of the data, the purpose for which the data are processed and the frequency with which the data are altered.

(5) Section 7(1)(d) is not to be regarded as requiring the provision of information as to the logic involved in decision-taking if, and to the extent that, the information constitutes a trade secret.

(6) The information to be supplied pursuant to request under section 7 must be supplied by reference to the data in question at the time when the request is received, except that it may

take account of any amendment or deletion made between that time and the time when the information is supplied, being an amendment or deletion that would have been made regardless of the receipt of the request.

(7) For the purposes of section 7(4) and (5) another individual can be identified from the information being disclosed if he/she can be identified from that information, or from that and any other information which, in the reasonable belief of the data controller, is likely to be in, or to come in to, the possession of the data subject making the request.

Note: These extracts are for initial direction and guidance only. To ensure compliance with the legislation the relevant Data Protection legislation should be referred to in its entirety, Copies of the Act and the Information Commissioners Code of Practice can be downloaded from their website:

www.ico.gov.uk