

The Data Protection Act

What is the Data Protection Act (1998)?

The [Data Protection Act](#) (DPA) prevents organisations, including commercial ones, from using personal information for purposes an individual might object to. It does so by specifying how these organisations can use, store and share the personal data they collect. It also gives individuals the right to see any personal data held about them.

What is personal data?

Anything that identifies a living individual e.g. name, address, date of birth, some e-mail addresses, information about religious or similar beliefs. The Act calls anyone who holds personal data a 'data controller'. Any individual whose personal data is held is called a 'data subject'.

Using the Data Protection Act

Under the DPA, all personal information held by the Council must comply with the statutory data protection principles. This means when using personal data:

- ▶ processing must be fair and lawful
- ▶ it will be obtained only for specified and lawful purposes
- ▶ the data processed shall be adequate, relevant and not excessive
- ▶ it will be accurate and up-to-date
- ▶ it will be kept no longer than necessary
- ▶ processing shall be in accordance with the rights of data subjects.
- ▶ it will be held securely

An individual has the right to:

- ▶ ask the Council if it holds personal information about them
- ▶ be given a description or copy of the information with any unintelligible terms explained.
- ▶ be given details about purposes for which the Council uses information and other organisations to which it is disclosed
- ▶ ask for incorrect data to be corrected
- ▶ ask the Council not to use personal information about them for direct marketing
- ▶ to be given any information available to the Council about the source of data.
- ▶ to be given an explanation as to how any automated decisions taken about the data subject have been made.

If you collect personal data you must understand that the following must be treated as sensitive personal data and be processed fairly and lawfully, avoiding damage or distress to the subject of the data:

- ▶ Racial or ethnic origin of the data subject
- ▶ Political opinions of the data subject
- ▶ Religious beliefs or other beliefs of a similar nature
- ▶ Membership of a trade union
- ▶ Physical or mental health or condition of the data subject
- ▶ Sexual life of the data subject

What must I do if I receive a request for personal data?

1. Where possible the [Subject Access Request Form](#) should be completed. These are available via the TDC website.
2. If you cannot issue the [Subject Access Request Form](#), then advise the data subjects that they must provide the following information prior to the request being processed:
 - ▶ They need to apply in writing
 - ▶ They need to specify what data they would like to see
3. Any officer receiving a Data Protection request direct should forward it immediately to Gary Cordes, Legal Services Manager. Extension No: 7906. Email: Gary.Cordes@thanet.gov.uk
4. All responses will be managed by Gary Cordes, Legal Services Manager
5. The information will be provided within a 40-day period, which commences once the Council is satisfied that all the necessary information has been received

Is there any other legislation that I must know about when considering a request for information?

The DPA is complemented by the [Freedom of Information Act \(2000\)](#). It is quite possible that a single request from the public may require both the Freedom of Information Act (FOI) and the Data Protection Act to be applied to it.

Simply put, if an individual or organisation requests information that is not personal data, but relates to a Public Authority, then the Freedom of Information Act 2000 applies.

If the request is for, or includes personal data, then the Data Protection Act must be applied.

Are there Penalties for Breaching the Data Protection Act?

Yes, One Local Authority was recently fined £100,000 by the Information Commissioners for wrongly disclosing personal information.

Can an individual member of staff be prosecuted under DPA?

Yes. Each employee can be personally prosecuted for unlawful activities concerning misuse of personal data. TDC staff should make sure they have proper authorisation for everything they do with personal data.

Generally, you must be prepared to share any comments or information that you store about living individuals. You may be required to share the information with them. This applies to both electronic and manual paper records.

Are all electronically saved documents covered by the DPA?

Yes. Any saved electronic document (whether e-mail, word-processed, spreadsheet or database) which contains personal data will have to be disclosed if an Information Request is received regarding the data subject concerned. Manual data is also affected by the DPA.

What are the time-scales for responding to a data access request?

The DPA requires TDC to comply with Information Requests promptly and, in any event within 40 days from receipt of request or, if later 40 days from the day on which TDC has both the required fee and the necessary information to confirm the data subject's identity and to locate the data.

Is CCTV covered by the DPA?

Yes. CCTV is considered a means of collecting and processing personal data.

Are the use of photographs, videos and webcams covered by the DPA?

Yes. Photographs of staff and members of the public are also classes of personal data, which need to be obtained and used fairly in accordance with the DPA principles. It is especially important to gain the permission of the data subjects before making their image publicly available, e.g. by putting them on the Internet.

Does the Council charge for requests under the Data Protection Act?

The Council charges a fee of £10 for responding to any [Data Information Request](#).

If you have any questions about the Data Protection Act then speak to Gary Cordes, Legal Services Manager. Extension No: 7906. Email: Gary.Cordes@thanet.gov.uk

Contact Us

Data Protection Officer:

Harvey Patterson, Corporate & Regulatory Services Manager

Deputy Data Protection Officer:

Gary Cordes, Legal Services Manager

E-mail: Gary.Cordes@thanet.gov.uk

Tel: 7906.

See Also

The Information Commissioner's Office:
<http://www.ico.gov.uk/>

[Thanet District Council's Policy & Procedures](#)

[Data Protection Checklist](#)

[Subject Access Request Form](#)

[Breach Policy & Procedure](#)

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