

3 Is there something I should know? Exercising our rights

Aims

- Students will work in small groups to discuss a number of scenarios based on examples from the **ICO** case load, before feeding findings back to the whole group.
- They will explore the principles that organisations should apply to holding personal data securely.
- They will discuss the implications of inaccurate data being stored and shared, and investigate how we can check that data held is accurate, relevant and not excessive.
- They will learn how to request information that is held about them (make a subject access request).

Learning objectives

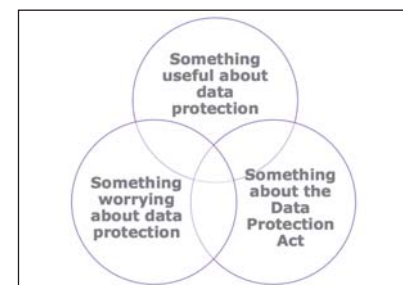
By the end of the session students will:

- understand the main principles applying to how organisations should store and make use of personal data;
- understand that they have choices over how they control their personal information;
- understand how to check that data held is accurate; and
- know how to have inaccurate data corrected.

Teachers will find helpful information for this lesson at ico.org.uk/about-the-ico/what-we-do/

Starter activity (10 mins)

1. Start by showing the final summary slide from the previous lesson, where students recorded what they had learned in terms of something worrying and something useful about data protection, as well as something they had learned about the Data Protection Act. What did they say at the time? What can they remember?



2. Now hold up either a bulging envelope file, or a data pen, telling students that it is your HR file and so contains all of your personal data. What sort of things would they expect to find in an HR file? Prompt if necessary with date of birth, address, phone number, qualifications, next of kin, attendance record, health details, disciplinary record, professional performance, references, complaints... a LOT of personal information. If you hand this over into the care of an employer, what responsibilities do they have with regard to looking after it?
3. Remind students about the **principles of data protection** that they touched on last lesson. What can they say about how organisations should handle personal information?
4. Prompt if necessary with suggestions that personal data should be stored securely, be accurate, up to date, relevant, not passed on to others without adequate protection, not kept for longer than needed. (Show PowerPoint 3, slide 4 to sum up if needed.)

Main activity

(40 mins)

1. Students are going to look at some real-life cases taken from the work of the **Information Commissioner's Office (ICO)**, showing what can happen when personal data isn't accurate, up to date or looked after safely. (See student handout on pages 19 and 20.) Students should work in pairs or small groups to consider each case and the questions it poses, then be ready to feed back their thoughts to the class.

The eight principles of the Data Protection Act

Anyone who processes personal information must comply with these eight rules.

They must 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.

Teacher note: A full copy of each case and the **ICO** response is available on pages 15 to 18. You may choose to use some, rather than all, of the stories.

2. Take feedback once groups have had a chance to read and discuss the cases. They may mention financial implications, possible identity theft, loss of job. Identify the issues raised by each one and feed in additional information from the teacher notes as necessary.
3. Can students identify one thing that all of the cases have in common? They all involve someone using their right to access the information that an organisation holds about them. This is known as making a 'subject access request'.

Plenary

(10 mins)

1. The cases discussed in this lesson have dealt with making subject access requests to employers, travel agents, banks and councils. Can students suggest other organisations that might get requests? Prompt if needed with suggestions such as schools, universities, GPs, hospitals, charities, clubs, mail order companies.
2. Hand out copies of the sample letter on page 21 taken from the **ICO** website (Student handout 2, Making a subject access request – letter). See PowerPoint 3, slide 5.
3. Draw attention to the **ICO** guidance on the right of the handout and the need to be clear and specific in the request.



3 Teacher information

Case one

Kate went for an interview for a new job as an admin assistant in a sales company. She was offered the job and was so excited and pleased, she started telling her friends and family straight away.

BUT, just a while later, after receiving her references, the sales company dismissed her.

Kate can't believe that this has happened. What can she do?

Teacher note: See the full details of this case on the **ICO** website at ico.org.uk/action-weve-taken/case-stories/case-story-1/

This case is about:

- requesting copies of employment references.

Kate asked both the sales company and her old employer for copies. Both refused, saying they were confidential.

She complained to the **ICO** because she could not see what her old employer had written about her.

The **ICO** wrote to the company that had **received** the reference and explained that organisations are generally required to release references they have received about individuals, even if they are marked as confidential.

The sales company released the references to Kate and they also ensured that their personnel department was aware of our guidance in case they received similar requests in the future.

Kate's previous employer **provided** references in confidence so they do not have to give out copies under the Data Protection Act.

Case two

Alex Smith booked a holiday of a lifetime round-the-world trip with a local travel agent, but when his travel documents arrived in the post he had been sent all the documents for a Mr B. Smith, including a photocopy of Mr B. Smith's passport.

Alex telephoned the travel agent immediately to tell them about the mix-up. They apologised and reassured him that his documents were on their way to him.

He was therefore shocked when Mr B. Smith telephoned him to say that he had received his travel documents in the post!

Should Alex be worried? Has any harm been done? Should the travel agent be concerned?

Teacher note: See the full details of this case on the **ICO** website at ico.org.uk/action-weve-taken/case-stories/case-story-6/

This case is about:

- personal information sent to the wrong address; and
- companies having a responsibility to safeguard our personal information.

Alex was rightly concerned about the whereabouts of his personal information and worried that the travel agent wasn't taking proper care with their customers' personal data.

He complained to the **ICO**.

The **ICO** contacted the travel agent about this disclosure of personal information. They put the error down to an isolated mistake by an employee and explained that the safeguards they had in place were fit for purpose.

However, when the **ICO** reviewed the travel agent's safeguards, their checking system was not fit for purpose so they had to develop an action plan, detailing the steps they would take to improve their processes to prevent such disclosures from happening again.

Both Mr A. Smith and Mr B. Smith said that the mix-up with their personal information meant that they would

not use this travel agent again and that they had advised friends and family not to either.

Case three

Salema took out a joint loan agreement with her boyfriend when they borrowed money so he could buy a new van for his work as a delivery driver. When they split up, Salema's boyfriend agreed to take responsibility for paying off the rest of the loan for the van.

Months later Salema applied for a credit card, but was refused. She obtained a copy of her credit file to find out why and discovered that her bank had recorded that the loan she had taken out with her ex-boyfriend had not been paid.

Is this fair? What can she do?

Teacher note: See the full details of this case on the **ICO** website at ico.org.uk/action-weve-taken/case-stories/case-story-13/

This case is about:

- retention timescales; and
- defaults recorded on a credit file.

Salema contacted the **ICO** to complain about the situation. She said that the information was inaccurate as it was her ex-boyfriend that had failed to keep up the payments and the loan was nothing to do with her. She also explained that she had been warned that a default would be filed unless the agreed payments were made.

The **ICO** explained that because she had signed up to the loan agreement and the required payments had not been made, the default would stay on her credit file for six years from the date of default. The recording was not inaccurate because she had been jointly responsible for taking out the loan and the payments had not been made as agreed. This meant that there was nothing the **ICO** could do to have the default information removed.

Case four

Mrs A wrote to her local council to raise concerns about her next-door neighbour's planning application to build an extension. She had already fallen out with her neighbour about the plans and knew that details of her objections would be published on the planning pages of the council's website. However, she was concerned when a copy of her signature was published as well.

Should she be worried?

Should the council publish people's signatures online?

Teacher note: See the full details of this case on the **ICO** website at ico.org.uk/action-weve-taken/case-stories/case-story-7/

This case is about:

- publishing objections to planning applications; and
- disclosing personal information.

When she saw that her signature had been published online, Mrs A thought this might leave her open to identity theft so she contacted the council straight away. They refused to remove her signature so she complained to the **ICO**.

The **ICO** contacted the council to ask why they had published a copy of Mrs A's signature on their website.

The council responded, saying that Mrs A knew that her information, including a copy of her signature, would be put online when she raised concerns about her neighbour's plans and so they didn't think they had done anything wrong.

The **ICO** wrote to the council again saying that they thought they had breached the Data Protection Act in Mrs A's case. They had to remove the copy of her signature from their website and improve their procedures.



Case five

Justine's loan application for the new sofa she wanted was unexpectedly turned down. The lender told her that this was due to information on her credit file.

She knows she hasn't got any bad debts, so she applied for a copy of her credit report herself to see what the problem was.

She noticed that her bank record was showing her as still linked to her ex-partner, and she knew he was having money problems.

What can she do?

Teacher note: See the full details of this case on the **ICO** website at ico.org.uk/action-weve-taken/case-stories/case-story-5/

This case is about:

- irrelevant information about third parties on a credit file; and
- resolution by 'disassociation'.

Justine had had a financial association with her ex-partner recorded on her file, even though she no longer had a joint account or any other financial involvement with him.

She complained to the **ICO** because she was aware that her ex-partner had experienced financial difficulties and she thought that this association may be damaging her creditworthiness.

The **ICO** advised Justine to write to the bank to explain that she no longer had any financial connections with her ex-partner and to ask them to remove the financial association. They also advised her to write to the three main credit reference agencies to ask them to formally disassociate her from her ex-partner on her credit reference file. This would ensure that lenders did not take her ex-partner's creditworthiness into account when she applied for credit in the future.

In this case the 'disassociation' was carried out, because Justine had good documentary evidence to show that she was no longer financially linked to her ex-partner.

3 Case studies

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3 Case studies *continued*

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What can she do?

3 Making a subject access request – letter

(Insert own address)

(Insert date)

(Insert organisation address)

To the company secretary *(if contact unknown)*,

Re: *(insert name and current address)*

I am writing to make a subject access request under the Data Protection Act 1998 for any personal information you hold about me (or include specific details about the information you require here).

(Insert any information you think the organisation will need to find your information and to confirm your identity. For example, your employer may need your payroll number, and a hospital may need your NHS number; other organisations may require a document bearing your signature, for example your passport or your driving licence.)

Please inform me, prior to processing this request, if you require a fee to be paid.

I will look forward to receiving this information within 40 days. If you have any queries or questions then please contact me on *(insert phone number/email address)*.

Yours faithfully,

(Insert own name)

Top tips

- Remember to try to send your request by recorded delivery.
- Remember to keep a copy of the letter and any further letters you send or receive.
- A fee of no more than £10 may be payable, however this may increase depending on the information you have asked for, for example health records are charged at a higher fee.
- The information may be sent to you as a computer print-out, in a letter or form.
- Please contact the **ICO** if you experience difficulty in getting your information.

ico.org.uk

0303 123 1113