

# Proposed data protection harms scale

## Data protection harms

These are harms caused by the way an organisation uses personal information if they don't comply with data protection law.

Case officers will use the information provided in the complaint to understand the impact on people when considering the level of any harm.

We understand that the same data protection issue may have different impacts on different people, particularly when the harm is intangible, such as causing someone distress or anxiety. We recognise that harm can vary because of individual circumstances, such as whether someone is currently in a vulnerable situation or has a pre-existing illness.

We assess data protection harm as low or relatively low, moderate or high-level impact.

### Low or relatively low level of harm

We consider the data protection harm the person affected experiences is of low or relatively low impact – such as being annoyed, frustrated, worried, inconvenienced or mildly distressed. This is usually when:

- something happens once;
- the effect lasts a short time; and
- there are no other adverse effects or ongoing wider impact.

#### **Example**

Someone receives a promotional email from a retailer. They have previously unsubscribed from emails and are mildly annoyed that they have received another.

This could also include instances where the impact is more serious but only takes place once or is of short duration.

### **Example**

An organisation circulates a staff rota including a note about an employee's recent mental health absence to a small team. They quickly replaced the document but the employee felt exposed and embarrassed.

## Moderate level of harm

The impact is greater than low or relatively low harm and is usually experienced over a longer period.

Harm may also be moderate if the impact on the person affected is substantial but is only sustained for a short time and it is unlikely to continue or happen again.

### **Example**

A small company inappropriately shares an internal email discussing underperformance of named junior staff with a wider distribution list. The affected employees are embarrassed and one raises a grievance.

### **Example**

An organisation held incorrect information about someone's criminal history on file and disclosed it during a job vetting process. They corrected it within a month, but the employee experienced significant stress and was concerned about their reputation.

## High level of harm

The person affected experiences a significant or lasting impact, or both, because the organisation did not comply with data protection law.

In these cases the impact goes beyond ordinary distress or anxiety, even where it lasts for an extended period.

A high level of harm will include the most serious cases we see where the effect of the data protection issue cannot be reversed and it causes a very substantial, ongoing impact on the person affected.

**Example**

A school sends an email to all parents but attaches the wrong document. They send information containing special category data about a child, including medical information. The child's family is concerned that the school shared information about their child's medical record with all parents.

**Example**

A charity mistakenly sends a letter intended for a domestic abuse survivor to their previous address, which is still occupied by their abusive ex-partner. The letter contains details of the survivor's new address. The survivor is forced to move again and requires additional police protection.