

# The Data Protection Act 2004



## A guide for business & organisations

### Government of Gibraltar

Ministry of Consumer & Civic Affairs Ministry for Trade, Employment & Communication Ministry for  
Financial Services

Coordinated by the Legislation Support Unit No. 6 Convent Place



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# Data Protection Act 2004

## A Guide for Businesses, Organisations and Public Bodies

The Data Protection Act will affect a wide range of businesses, organizations and public bodies. Its central aim is to ensure that information held about individuals is accurate and that individuals know how information about them is being used. To achieve this it puts responsibilities on persons who control information and gives rights to people about whom information is kept.

This guide aims to inform readers in advance about the new law and to assist businesses and public bodies to prepare for their new responsibilities.

This guide is for general information only. It is not legal advice or a definitive statement of the law and does not include information about the detailed legal provisions of the Act.

### **Do I have data responsibilities?**

If you answer YES to the following question then you will have data responsibilities under the Act

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- Do you keep or control the use of personal data about living people whether on computer or in manual records?

Personal data is information about living people who can be identified. It can be any information – even something as simple as a name and address. More complex information such as pay records, financial records, educational records or criminal records will also be personal data.

However personal data under the Act does not include information held for purely personal, household purposes such as personal address books and diaries.

### **Your key responsibilities**

What are your key responsibilities?

1. *Fair & lawful obtaining and processing;*
2. *Keeping & use of personal data only for specific purposes;*
3. *Accuracy* - keeping personal data accurate and up to date
4. *Security* - keeping personal data safely and securely
5. *Access* – allowing access to his or her personal data to anyone who asks for it

*If you do not comply with your responsibilities under the Act you may have to pay financial compensation and may be guilty of a criminal offence.*

#### 1. Fair & lawful obtaining and processing of personal data

- Key responsibilities – to ensure that the people about whom you keep information know that you keep it and the purposes for which you keep and use it and to ensure that the information is only stored and used as permitted by the Data Protection Act.

To comply with this rule you will need to –

- make sure that individuals about whom you have or control information know that you keep it and the purposes for which it will be kept or used and are provided with the information set out in section 10;
- make sure that you are only storing or using personal data for a purpose authorized by section 7, or if the information is 'sensitive data' that you are only storing or using it for a purpose authorized by section 8 of the Act.

## **2. Obtaining and use of information only for specific purposes**

- Key responsibility – only to obtain, use and disclose information about individuals in a manner compatible with the purpose or purposes for which you have informed them the information will be kept or used (section 6(1)(c)).

To comply with this rule you will need –

- to collect and keep information about people only for purposes which they have been told about;
- not to keep information about people which is unnecessary or excessive for the purpose(s) about which you have informed them;
- not to use or disclose information about individuals for purpose(s) different to those about which you have informed them;
- not to keep information for longer than necessary for the purpose(s) about which you have informed them.

## **3. Making sure information is accurate and up to date**

- Key responsibility – making sure that information is accurate and, where necessary, is kept up to date (section 6(1)(b)).

To comply with this rule you will need to ensure that you have procedures to keep your information up to date and accurate.

## **4. Keeping information safely and securely**

- Key responsibility – making sure that information about individuals is kept safely and confidentially (sections 6(1)(d), 11, and 12).

To comply with this rule you will need to ensure that you have effective organizational and technical security procedures in place and that your staff know that they must keep personal information securely and in accordance with any security procedures you have established.

## **5. Giving information to individuals who request it**

- Key responsibility – to enable individuals to know what information you keep about people generally, and what information you keep about them specifically.

Under the Act individuals about whom information is kept have a range of rights (for more information see leaflets "Data Protection – What's it all about?" and "Data Protection – Your rights"). To exercise their rights they may first need to know what, if any, information you hold about them.

To comply with this rule you will need –

- to provide general information, free of charge, to the public about the type of information that you keep about individuals and the purposes for which you keep it

(section 14(1)). You must provide the information within 21 days of receiving the written request

- to provide an individual with a copy of any information which you keep, or control, about them if they, in writing, request it. You must provide the information within 28 days of receiving the written request and may charge a fee for providing it (section 14).

## **Registration**

Most businesses, organizations and public bodies which 'process' information by computer will need to register with the Data Protection Commissioner.

Sections 23 and 24 of the Act deal with Registration.

## **Transferring information outside Gibraltar**

Some businesses, organizations and public bodies may need or wish to transfer information relating to individuals to a place outside Gibraltar. For example the medical practices may wish to transfer medical records to Spain or the UK, businesses may wish to transfer records to branches in Switzerland or the Isle of Man.

Sections 30 and 31 of the Act deal with the transfer of information from Gibraltar.

## **Where can I get more advice?**

The Data Commissioner can provide information on all aspects of the Data Protection Act.

Data Protection Commissioner,  
Gibraltar Regulatory Authority,  
Suite 603 Europort,  
Gibraltar.

Tel: (+350) 20074636

Fax: (+350) 20072166

Email: [privacy@gra.gi](mailto:privacy@gra.gi)

You may also find the following websites of interest –

- o Irish Data Protection Commissioner – <http://www.dataprivacy.ie/>
- o UK Data Protection Commissioner – <http://www.informationcommissioner.gov.uk/>
- o European Commission – [http://europa.eu.int/comm/internal\\_market/privacy/index\\_en.htm](http://europa.eu.int/comm/internal_market/privacy/index_en.htm)