

It's your information

Claiming compensation



This guidance explains your right to claim compensation under the Data Protection Act 1998.

When can I claim compensation under the Act?

You have a right to claim compensation from an organisation if you have suffered damage because they have broken part of the Act.

You can normally only claim for any distress you have suffered if you have also suffered damage. However, if the organisation broke the Act when they used your information for journalism, artistic or literary purposes, you can claim for distress alone.

How do I make a claim for compensation?

You do not have to make a claim to a court if an organisation agrees to pay you compensation. If you cannot reach an agreement with them, you can apply to a court for compensation alone or you can combine your claim with an action to put right any breach of the Act.

The Information Commissioner cannot award compensation, even when he has said that in his view the organisation did break the Act. You would still have to make a claim to a court.

How do I go about taking a case to court?

Our leaflet, [Taking a case to court](#), will help you to do this.

Will it help me in court to have asked the Information Commissioner whether the Act has been broken?

It may do. You can ask the Commissioner to assess if the organisation broke the Act and he will tell you whether, in his view, it was likely or unlikely that the organisation broke the law. You can give a copy of his letter to the court together with the evidence you have to prove your claim. However, a court will take their own view of the law and the judge may well not agree with the Commissioner's view.

You may wish to ask our helpline first to see if it is worth asking the Commissioner to assess your complaint. You can find a complaints form on our website. Whether you complain to the Commissioner or take a case to court, you will need evidence to back up what you say.

How much will the court award me if my claim is successful?

There are no guidelines about levels of compensation for a claim under the Act. It will be up to the judge hearing the case and he would take into account all the circumstances, including how serious he thought the breach was, the impact it had on you, particularly when assessing the distress you suffered. Even when you can show the court the exact sum of money you have lost as a result of the breach of the Act, it is still up to the judge to make the award and he may reduce your claim or award nothing at all.

It is also important to remember that even if the court awards you compensation, the organisation may refuse, or not be able to pay. If this happens you should ask the court about what you should do to enforce the judgment.

Useful contacts

Citizens Advice

www.citizensadvice.org.uk

www.adviceguide.org.uk

or your local citizens advice office

Court Service

www.courtservice.gov.uk

V1.0

20.12.06

The Department for Constitutional Affairs

www.dca.gov.uk

Legal Services Commission

www.legalservices.gov.uk

More information

If you need any more information about this or any other aspect of data protection, please contact us.

Phone: **08456 30 60 60**
 01625 54 57 45

E-mail: please use the online enquiry form on our website

Website: www.ico.gov.uk

V1.0
20.12.06