



Information Commissioner's Office
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Data Protection Good Practice Note:

The use and disclosure of information about business people

The aim of this good practice note is to explain to local authorities how the Data Protection Act (the Act) applies to the sharing and use of information about business people. This could be information, for example, about a business person's payment of business rates or the results of an environmental health inspection of his or her premises.

We cannot provide detailed rules for the use or sharing of particular items of information in every circumstance. However, we can help local authorities and others to make sensible judgements about their information use, bearing in mind the nature of the information they hold, what they want to do with it and what the consequences of this will be. We fully appreciate the need for local authorities to make best use of the information they hold.

The Act should not be applied in an unnecessarily restrictive way. The Act should only be cited as a reason for doing, or not doing, something if that is the genuine and considered reason.

Does the Act apply to information about business people?

Information about people who run businesses, and the businesses they run, will often be covered by the Act. This is because information about a person's business, activities, possessions, and so on is generally personal information about that person. Information about a sole trader's business will be personal information about him. However, information about people acting only in a business capacity should be treated differently to information about their private lives.

This is because running a business is, in the main, a public activity and business people cannot expect the same degree of privacy in relation to their business activities as they can in relation to their private lives.

Business information that does not identify individuals is not covered by the Act.

Can information collected for a particular purpose, for example, the administration and collection of business rates, be used more widely?

The Act does not prevent a local authority using the information it holds to provide better services to business people. If a local authority wishes to use or share information about people in a way that could not be considered unfair or detrimental, the Act will not prevent this. This could include using that information to carry out its work more effectively. With suitable safeguards, the better use and sharing of information can clearly present benefits to business and to society more generally. We will recognise this in the way we regulate.

What are the considerations for using or sharing information about business people?

Some information held about business people will be more sensitive than other information. The way that information may be used or shared should reflect this. Some information about businesses is clearly not sensitive. For example, information about a business person's line of trade and trading address is usually available from sources such as trade directories and phone books. However, other information about business people is much more sensitive, for example, information about their earnings or criminal convictions.

Information that relates not just to a business activity but also a business person's private life will need to be considered more carefully. An example of this is when a business address is also the home of the business person and their family.

The Act does contain various exemptions which would allow the disclosure of even sensitive information, on a case by case basis, where not doing so would be likely to prejudice purposes such as law enforcement or the assessment or collection of a tax or duty. .

Transparency is a key requirement of the Act

Local authorities should make business people aware of how information about them will be used or shared. Local authorities can notify local business people of this as part of their day-to-day communications with them, for example when the business rates bill is sent out. If a significant change to the use or sharing of information about business people is intended, local authorities will usually need to seek their views if the use of their information will go beyond what they would reasonably expect.

If a business person objects to how their information is being used, does a local authority have to stop?

The Act gives an individual the right to prevent the processing of information in limited circumstances. It would be wise for local authorities and other organisations to take account of any objections they receive about their use or sharing of personal information. There may well be compelling reasons for a business person's objection to the use or sharing of certain information about them. However, provided the processing of the information does not cause,

nor is likely to cause, substantial, unwarranted damage or distress, then the processing may go ahead despite an individual's objection to it. The local authority should respond to an objection in 21 days explaining why they consider it is unjustified and what action, if any, they have taken about it. The individual is then entitled to take the matter to court if they disagree. The Act does not require organisations to set up 'parallel' systems just because someone objects to their personal information being handled in a particular way.

Does a local authority need the individual's consent to use or disclose information about their business activities?

The Act does not require an individual's consent to use or disclose information about them. The Act provides alternative legal bases for processing personal information. The most appropriate legitimate basis for processing by local authorities will usually be that it is necessary to carry out statutory functions. Consent provides only a limited basis for processing personal information because it can always be withdrawn. However, where a person has been asked to consent to the processing of information and has refused, their objection should normally be respected

Will a business person be able to ask for a copy of their information?

Yes. Where a local authority is processing personal information about a business person they will normally be entitled, amongst other things, to a copy of the information that is held about them. Our website has more detailed information about what are called 'subject access' rights and how an organisation should respond.

More information

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

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

Website: www.ico.gov.uk