

**DATA PROTECTION ACT  
CLAIMING COMPENSATION**

**SEVEN**



**Information Commissioner**

## **DATA PROTECTION ACT - CLAIMING COMPENSATION**

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## INTRODUCTION

This leaflet deals with the right of an individual to claim compensation from a data controller for damage or damage and distress caused by any contravention by a data controller of the requirements of the Data Protection Act 1998 (the "Act").

**These rights are contained in section 13 of the Act.**

If an individual has only suffered distress, compensation is not available unless the processing of the personal data is for the "special purposes" which means processing for artistic, literary or journalistic purposes.

This leaflet is part of a series of eight leaflets which explain your rights under the Data Protection Act.

Details of our other leaflets can be found at the back. If you would like any of these please contact the Information Commissioner's Office. You will find our contact details on the back cover.

## **MAKING A CLAIM FOR COMPENSATION**

You do not have to make a claim to court if the data controller agrees to pay you compensation. If you fail to reach an agreement, however, you may make an application to the court for compensation alone or your claim may be combined with an application to remedy any breach of the Act.

Even where the Commissioner has made an assessment that it is likely that the processing does not comply with the Act, you still have to apply to court if you require compensation, as the Commissioner cannot award compensation.

For information as to how to make an application to the court, please refer to the Commissioner's publication entitled **"Taking a case to court"**.

## **HOW MUCH WILL THE COURT AWARD IF A CLAIM FOR COMPENSATION IS SUCCESSFUL?**

There are no guidelines as to appropriate levels of compensation for a claim under the Act and the Commissioner is not routinely advised of the outcome of cases where individuals have made a successful claim for compensation. The judge hearing the case has discretion in these matters and would have to take into consideration many factors including the seriousness of the breach and the effect upon the claimant, particularly when considering damages for distress.

Even in cases where you are able to state in your application to the court the exact sum of money you have lost as a direct result of the data controller's contravention of the Act, the judge retains a discretion and may disallow any part of your claim and award a lesser sum or no compensation at all.

It is important to bear in mind that, even if the court does award compensation, the data controller may refuse to pay or be unable to pay. In this event, the court will advise you of the options open to you to enforce the judgment of the court.



## **1. YOUR RIGHTS AND HOW TO ENFORCE THEM**



## **2. SUBJECT ACCESS - A GUIDE FOR DATA SUBJECTS**



## **3. INCORRECT INFORMATION - WHAT CAN I DO?**



## **4. HELP! HOW CAN I STOP THEM PROCESSING MY PERSONAL INFORMATION?**



## **5. STOPPING UNWANTED MARKETING MATERIALS**



## **6. PREVENTING DECISIONS BASED ON AUTOMATIC PROCESSING OF MY PERSONAL INFORMATION**



## **8. TAKING A CASE TO COURT**

*To order copies of the above leaflet contact the Information Commissioner's Office. You will find the details on the back cover.*

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