

Understanding the rights of others

9.1 Data Protection Act

The Data Protection Act 1998 came into force on 1st March 2000 and makes it a legal requirement for businesses to collect, hold and process personal data in a secure way. It applies to computerised records, as well as to certain manual records.

It is a legal requirement to comply with the Data Protection Act. If you hold information about individuals, i.e. customers, employees, suppliers, clients or members of the public you must "notify". The Act requires the Information Commissioner to maintain a Register of data controllers and the purposes for which that personal information is held. Some groups/businesses are exempt but you would need to confirm that via the website www.informationcommissioner.gov.uk or the Notification Line on 01625 545740. Failure to notify if you are not exempt carries a fine.

The standard fee for notification is currently £35. The form can be completed on-line but it must then be printed off, signed and posted to them.

The Data Protection Act also gives individuals certain rights, including the right to see information that is held about them and to have it corrected if it is wrong. If someone requests this it must be dealt with promptly and certainly within 40 days of receiving it.

All staff must follow the eight enforceable data protection principles.

Data must be:

1. Fairly and lawfully processed
2. Processed for limited purposes
3. Adequate, relevant and not excessive
4. Accurate
5. Not kept for longer than is necessary
6. Processed in line with your rights
7. Secure
8. Not transferred to countries without adequate protection

The Information Commissioner's website has guidance documents to help you understand the act, including some specifically for small businesses.

The Information Commissioner's contact:

Email: mail@ico.gsi.gov.uk

Helpline: 01625 545745

Notification Line: 01625 545740.

www.informationcommissioner.gov.uk

9.2 Freedom of Information Act.

This Act came into force on 1st January 2005. There is one Act for England, Wales and Northern Ireland and a separate one for Scotland. Anyone can request information whether or not that information is about them. There are some exemptions, i.e. if it relates to commercially sensitive information or to another person, which is when the Data Protection Act will take precedence over the FOI Act. The Act is seen as relating to public authorities, but any group or organisation receiving public money should also be open to requests for information. Detailed information about the Act is available from The

Department for Constitutional Affairs, www.dca.gov.uk. Or for Scotland through the Scottish Executive www.scotland.gov.uk or the Scottish Information Commissioner www.itspublic-knowledge.info.

9.3 Copyright

Copyright can be a minefield. It gives the creators of a range of materials control over their use, known as intellectual property rights. This covers literature, newspapers, magazines, art, music, sound recordings, films and broadcasts. Copyright gives moral and economic rights over the work and protects it regardless of the medium in which it exists (including the internet).

Moral rights mean they are recognised as the owner/originator of the work and can object to it being “distorted” or “mutilated” i.e. to use a piece of work without crediting the author/owner, or to change the words of a poem or article without permission, would infringe their copyright and might be seen as affecting the reputation of the writer.

Economic rights, of course mean they should be suitably rewarded for the use of their work.

Copyright does not protect ideas, names or titles. Trade marks have a different set of rules (*see 10.2 – Trade Marks*).

(a) Books, Journals and Magazines

A new copyright law (The Copyright and Related Rights Regulations 2003) came into force on 31st October 2003. Any commercial organisation copying or scanning extracts from published books, journals or magazines requires a Copyright Licensing Agency Limited (CLA) license or to seek the permission of the copyright owner. The cost of an annual license varies but can be just under £100 for a small business.

The CLA is a non-profit making company owned by its members, the Author’s Licensing and Collecting Society Ltd. and the Publisher’s Licensing Society Ltd, formed to

encourage and promote respect for copyright. There are some exceptions that allow a limited use of copyrighted works without infringing that copyright.

These exceptions relate to non-commercial research, private study, criticism or review (which can be classified as fair dealing), reporting current events (news), judicial proceedings (news again), teaching in schools and other educational establishments and to help visually impaired people.

The source of this information is www.intellectual-property.gov.uk, a website which explains copyright and has a list of contacts for the different organisations involved in protecting it. It is always worth checking with the relevant organisation.

(b) Newspapers

Everything printed in a newspaper belongs to someone. You need permission to copy from a newspaper. The Newspaper Licensing Agency (NLA) was formed in 1996 as a one-stop shop, before that you had to contact each and every newspaper. The NLA license allows you to photocopy/fax and digitally copy and transmit cuttings for internal use, you can also have a license with specialised rights to distribute externally.

If an employee of your organisation/company copies a newspaper article on your photocopier and/or sends it through your fax machine – whether authorised or not – it is your company that will be liable. You need to be licensed.

Any copying of newspapers that was carried out before 1996 is also liable but the NLA can indemnify your organisation for a one-off fee. For more information on a license from the NLA and the rules for copying newspaper articles: www.nla.co.uk.

(c) **Ordnance Survey Maps**

A license is needed to use the mapping products. They have a variety of licenses for business, local authority/central government, education, media and private individual. More information from www.ordnancesurvey.co.uk/oswebsite/business/copyright

(d) **Music**

Playing copyright music in public needs a PRS (Performing Rights Society) licence. The licence should be taken out by the owner of the "premises" see www.prs.co.uk. If the music is from tape or CD, you also need a license from PPL (Phonographic Performance Limited) see www.ppluk.com