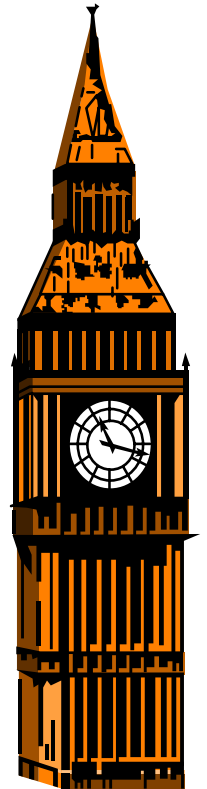


# THE DATA PROTECTION ACT 1998

The Act repeals the Data Protection Act 1984. It extends data protection controls to cover certain manual, as well as computerised, personal data; attaches conditions to, processing, including additional ones for sensitive data; strengthens individuals' rights, in particular the rights to be told about processing, to obtain copies of data and to secure judicial remedies; and replaces registration with notification.



# THE DATA PROTECTION ACT 1998

## DEFINITIONS

**DATA** means information which:-

- is being processed by means of equipment operating automatically in response to instructions given for that purpose.
- is recorded with the intention that it should be processed by means of such equipment, or
- is recorded as part of a relevant filing system or with the intention that it should form part of a relevant filing system.

# THE DATA PROTECTION ACT 1998

## DEFINITIONS

**PERSONAL DATA** means :-

- data which relate to a living individual who can be identified from those data or
- from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller.
- includes any expression of opinion about the individual.

**DATA SUBJECT** means:-

- an individual who is the subject of personal data.

# THE DATA PROTECTION ACT 1998

## DEFINITIONS

**PROCESSING**, in relation to personal data means:-

- obtaining, recording or holding the data or carrying out operation on the data, including -
- organisation, adaptation or alteration of the data.
- retrieval, consultation or use of the data.
- disclosure of the data by transmission, dissemination or otherwise making available, or
- alignment, combination, blocking, erasure or destruction of the data.

# THE DATA PROTECTION ACT 1998

## DEFINITIONS

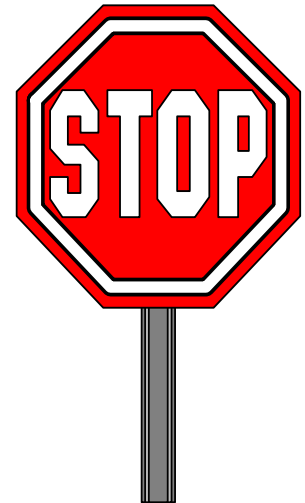
**RELEVANT FILING SYSTEM** means any set of information relating to individuals to the extent that, although the information is not processed by means of equipment operating automatically in response to instructions given for that purpose, the set is structured, either by reference to individuals or by reference to criteria relating to individuals, in such a way that particular information relating to a particular individual is readily accessible.

# THE DATA PROTECTION ACT 1998

## DEFINITIONS

**SENSITIVE PERSONAL DATA** means personal data consisting of information as to :-

- the racial or ethnic origin of the data subject,
- his political opinions,
- his religious beliefs,
- whether he is a member of a trade union,
- his physical or mental health or condition,
- his sexual life.



# THE DATA PROTECTION ACT 1998

## DEFINITIONS

**DATA CONTROLLER** means:-

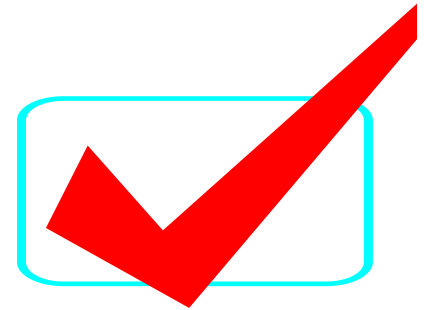
- a person who (either alone or jointly or in common with other persons) determines the purposes for which and the manner in which any personal data are, or are to be, processed.

**DATA PROCESSOR** in relation to personal data means:-

- any person (other than an employee of the data controller) who processes the data on behalf of the data controller.

# DATA PROTECTION ACT 1998

## PRINCIPLE 1



Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless-

- at least one of the conditions in schedule 2 is met, and -
- in the case of sensitive personal data, at least one of the conditions in schedule 3 is also met

# **THE DATA PROTECTION ACT 1998**

## **PRINCIPLE 1**

### **RELEVANT CONDITIONS:- ( Schedule 2)**

- The data subject has given his consent to the processing.
- The processing is necessary for the performance of a contract.
- The processing is necessary for compliance with any legal obligation to which the data controller is subject, other than an obligation imposed by contract.
- The processing is necessary in order to protect the vital interests of the data subject.
- The processing is necessary for the purposes of legitimate interests pursued by the data controller or by a third party.
- The process is necessary for any statutory function.

# THE DATA PROTECTION ACT 1998

## PRINCIPLE 1

**RELEVANT CONDITIONS:** *processing sensitive personal data.* (schedule 3 )

The data subject has given his **explicit consent** to the processing of the personal data.

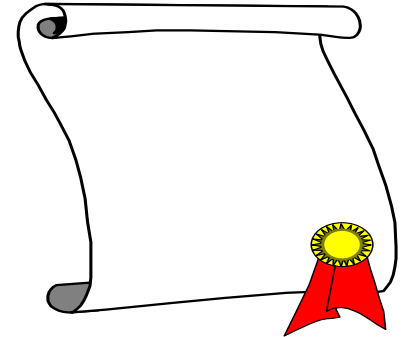
- The processing is necessary re: employment law.

The processing is necessary in order to protect the vital interest of the data subject or another person, in a case where :-

- consent cannot be given by or on behalf of the data subject
- the data controller cannot reasonably be expected to obtain the consent of the data subject, or
- in order to protect the vital interests of another person, in a case where consent by or on behalf of the data subject has been unreasonably withheld.

# DATA PROTECTION ACT 1998

## PRINCIPLE 2



Personal data shall be obtained only for one or more purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.

# DATA PROTECTION ACT 1998

## PRINCIPLE 3

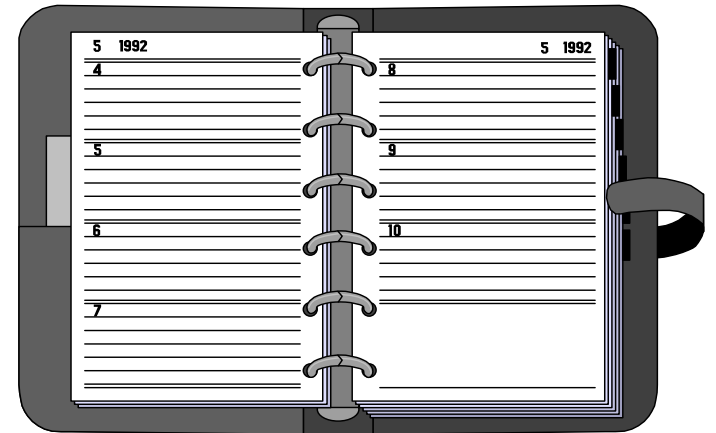


Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.

# DATA PROTECTION ACT 1998

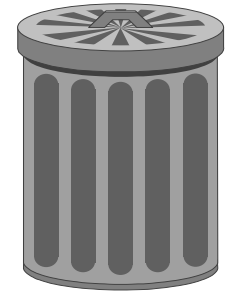
## PRINCIPLE 4.

Personal data shall be accurate, and where necessary, kept up to date.



# DATA PROTECTION ACT 1998

## PRINCIPLE 5.



Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.

# DATA PROTECTION ACT 1998

## PRINCIPLE 6.

Personal data shall be processed in accordance with the rights of the data subjects under this act.

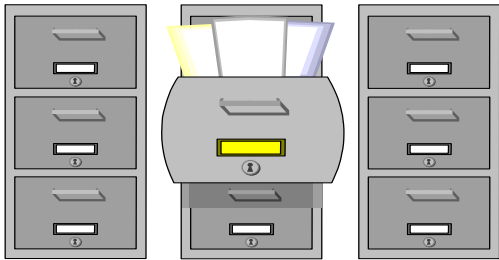


# **DATA PROTECTION ACT 1998**

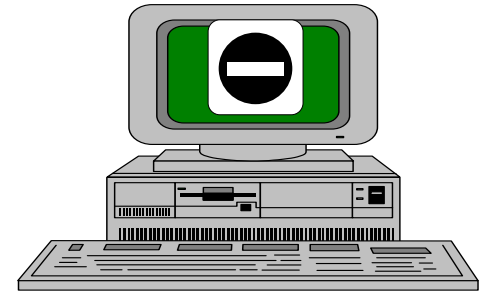
## **RIGHTS OF THE DATA SUBJECT**

- **Access**
- **Prevent Processing**
  - **Damage / Distress**
  - **Direct Marketing**
- **Compensation**
- **Rectification**
- **Automated Decision Making**

# DATA PROTECTION ACT 1998



## PRINCIPLE 7.



Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.

# DATA PROTECTION ACT 1998

## PRINCIPLE 8.



Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of the data subjects in relation to the processing of personal data.

# **DATA PROTECTION ACT 1998**

## **TRANS BORDER DATA FLOW**

- **EEA Countries**
- **Third Countries**
  - **Adequate Protection**
  - **White List**
  - **Consent**
  - **Contracts**

# **DATA PROTECTION ACT 1998**

## **THE PRINCIPLES**

- 1. Fairly & Lawfully Processed**
- 2. Limitation of Purpose**
- 3. Adequate, Relevant etc.**
- 4. Accurate**
- 5. Not Kept Longer Than Necessary**
- 6. Processed in Accordance with Data Subjects' Rights**
- 7. Secure**
- 8. Not Transferred to Countries without Adequate Protection**

# **THE DATA PROTECTION ACT 1998**

- **NOTIFICATION**
- **THE COMMISSIONER**

# THE DATA PROTECTION ACT 1998

## EXEMPTIONS

- National Security
- Crime and Taxation
- Research, History and Statistics
- Domestic purposes

# **DATA PROTECTION ACT 1998**

## **TRANSITION ARRANGEMENTS**

- **Royal Assent .....16 July 1998**
- **Initial Implementation .....24 October 1998**
- **Processing Already Under Way .....24 October 2001**
  - **Automatic**
  - **Manual**
- **Manual Records .....24 October 2007**
  - **Principles 1 - 5 Exempt**