

Information Padlock/Signpost

Be Open...



The New symbol alerts people to the fact that their information is being collected, and directs them to sources, which will clearly explain how their information is to be used.

The informed approach for better data use

Increasingly, organisations are recognising the value of using personal information to develop, sell and distribute the goods and services they offer. In many cases, the developments in the collection and processing of personal information have enabled data controllers (those who collect and use personal data) to tailor their goods and services for the benefit of their customers. However, some people find the detailed monitoring of their interests and purchasing habits intrusive. Sometimes problems can also occur if personal information is entered incorrectly, is out of date, or is confused with someone else's.

Broadly speaking, the Data Protection Act 1998 works in two ways. It gives data subjects (individuals who are the subject of personal data) certain rights. It also requires data controllers to be open about how the information is used and to follow the eight principles of 'good information handling'.

The principles of 'good information handling' lay clear obligations on data controllers. However, individuals can take steps to prevent any mishandling of their information by ensuring that they are aware of the purpose(s) for which information is being collected from them, at the time it is collected.

To assist in this, the Information Commissioner and the National Consumer Council have devised an 'information padlock' symbol to act as a signpost which will, at a glance, tell data subjects that personal information about them is being collected to be processed. The symbol is available to data controllers to use on their media to signpost individuals towards information regarding the use of their personal data.

The first principle of 'good information handling'

This first principle requires that data controllers process personal data fairly and lawfully. Processing covers obtaining, recording, retrieval, consultation, holding, disclosing and use of data. Data controllers must not process personal data unless at least one of the following conditions are met:

- the individual has given his or her consent to the processing;
- processing is necessary for the performance of a contract with the individual;
- processing is required under a legal obligation;
- processing is necessary to protect the vital interests of the individual;
- processing is necessary to carry out public functions;
- processing is necessary in order to pursue the legitimate interests of the data controller or third parties (unless it could prejudice the interests of the individual).

The Data Protection Act imposes further restrictions on the processing of sensitive personal data which include information about racial or ethnic origin; political opinions; religious or other beliefs; trade union membership; health; sex life; criminal allegations, proceedings or convictions.

The case for consent

So long as there is no likelihood of a significant adverse effect on the individual as a result of processing their information, the specific consent of the data subject will not always be required.

Where consent needs to be sought, the data subject should be left in no doubt that they are giving their consent - consent should be specific and informed. It cannot be inferred from non-response to a request or communication between a data controller and individual, nor can consent given under duress or on the basis of misleading information be deemed valid. Even where consent has previously been given, the data controller cannot assume that this will endure forever, and individuals must be allowed to withdraw consent at anytime after it is provided.

In many cases the data controller may not need to provide individuals with too much detail in order to ensure that he or she is informed (for example when providing address details for a newspaper delivery). In others, nothing less than clear written consent will be required. Here the individual will need to be assured that they are fully informed of the details of the purposes for which the information is being collected, the length of time it will be retained and any third parties to whom the information will be disclosed.

When consent is being sought for processing sensitive data, explicit consent is required. This means that the individual is absolutely clear about the detail of the processing. This should include the type of data and information to be processed, the reasons for processing and any part of the processing which may have an effect on the individual (for example any parties to whom the data or information are disclosed).

Fairness in process

Whichever condition is satisfied for processing personal data, the data controller must ensure that his/her processing is fair. This means that when obtaining data from a data subject, the data controller must ensure that the following information is made readily available:

- the identity of the data controller
- the identity of any nominated representative for the purposes of the Act
- the purpose(s) for which the data will be processed
- any other information necessary to ensure fairness: such as the likely consequences of the processing, and whether they envisage the data being disclosed to a third party.

In many cases where personal data are obtained from someone other than the data subject, the data controller must provide the above information to the data subject.

There are very limited exceptions from the fair processing code, but these do not absolve the data controller from the overriding duty to process personal data fairly and lawfully. More detailed information on these and the other provisions of the Data Protection Act 1998, including the rights of individuals, can be obtained from the Commissioner's office.

Where to site the signpost

The 'information padlock' signpost is intended for use by all data controllers. It should be clearly positioned at any point where information is requested - this could be within any medium, such as an advertisement coupon, application form or Internet site. If an option box is used, the signpost should be placed next to it.

Wherever the signpost appears, an explanation of why the information is requested should be detailed, or directions given to where such an explanation is provided.

The signpost can be reproduced in any colour and may be reversed-out if necessary. No minimum or maximum size is recommended, but the symbol should always be clear to any reader.

Copies of the signpost and this leaflet (word & .pdf) can be downloaded at the end of this text. Printed copies of the symbol for use as bromides are available from the Marketing Communications Department.

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

To notify call: 01625 545 740
Information Line: 01625 545 745
Switchboard: 01625 545 700
Fax: 01625 524 510
DX: 20819 Wilmslow
e-mail: data@dataprotection.gov.uk
Website: www.informationcommissioner.gov.uk

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