



Data protection and the police

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The *Data Protection Act 1998* (DPA), including its exemptions, applies to the police. Section 29 of the Act details the “crime and taxation” exemption which allows personal data either to be processed or withheld from the data subject for the purposes of the prevention or detection of crime or the apprehension or prosecution of offenders. However, the exercise of any such exemption would have to be proportionate, not least in connection with its impact on the privacy of the data subject.

The DPA requires every data controller who is processing personal information to notify the Information Commissioner’s Office unless they are exempt. In general the Chief Constables will be the data controllers for their police forces and will therefore have entries in the searchable [public register of data controllers](#). The register entry describes, in very general terms, the personal data being processed by the data controller.

Subject to any exemptions, the processing of personal data must be in accordance with eight data protection principles given in schedule 1 of the Act. The term “processing” includes obtaining, recording, holding, erasing and disclosing. The eight data protection principles are reproduced below:

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

(a) at least one of the conditions in [Schedule 2](#) is met, and

(b) in the case of sensitive personal data, at least one of the conditions in [Schedule 3](#) is also met.

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

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

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

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

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

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.

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 data subjects in relation to the processing of personal data.

Individuals have a variety of [rights under the Act](#), including the right to access personal data held on them. They can exercise this particular right by submitting a written subject access request under section 7 of the DPA. However, the above-mentioned section 29 exemption can be applied in such cases – though it should be justified on a case-by-case basis.¹

The provision of personal data to the police has to be legitimised in the usual way.² The following appears on the Information Commissioner's Office's website in connection with police requests for information:

Q: If the police approach us for information under what circumstances should we provide it?

There is an exemption under the Data Protection Act that can be applied if the police need some information to prevent or detect crime or catch or prosecute a suspect. However there are limits on the information you can release. If you are satisfied that the information is going to be used for this purpose and that if you did not release the information it would be likely to prejudice (that is, significantly harm) any attempt by the police to prevent a crime or catch a suspect then you can disclose this information.

This is an important subject, for more information, read our good practice note on [Releasing information to prevent or detect crime](#)

¹ R v Secretary of State for the Home Department, ex p. Lord [2003] EWHC 2073; cited in Peter Carey, *Data Protection: A Practical Guide to the UK and EU Law*, third edition 2009 p165

² [Schedule 2](#) of the Act applies in relation to personal data. In addition to this [Schedule 3](#) of the Act applies in the case of sensitive personal data. See the first data protection principle.