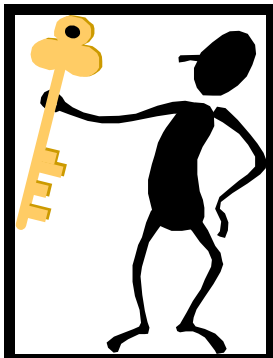


West Sussex Record Office



Searchroom Leaflet No. 12: The Data Protection Act

If you wish to carry out research into the life of someone who lived within the last 100 years then you may find that the records you need to look at have restricted access under the terms of the Data Protection Act. **So do please take time to read this leaflet as it may affect your use of documents held by the Record Office.**

The Data Protection Act 1998

This is a law which was introduced to protect personal data, that is data about living individuals, or 'data subjects', no matter how it is processed (which includes just holding the data) or who processes it. Examples of personal data are name, address, date of birth and other information concerning a person's life. The Act sets out certain rules which **all** users of personal information must obey, and rights which they must respect.

The rules or principles of Data Protection

- 1 Personal data shall be processed fairly and lawfully
- 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 the purpose(s)
- 3 Personal data shall be adequate, relevant and not excessive in relation to the purpose(s) for which they are processed
- 4 Personal data shall be accurate and where necessary, kept up to date
- 5 Personal data processed for any purpose or purposes shall not be kept for longer than necessary
- 6 Personal data shall be processed in accordance with the rights of data subjects under the Act
- 7 Appropriate measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss, destruction of or damage to personal data
- 8 Personal data shall not be transferred outside the European Economic Area unless (there is) an adequate level of protection for the rights and freedom of data subjects .

Record Office responsibilities under the Act

West Sussex Record Office takes its responsibilities under the Data Protection Act 1998 seriously. The Act is applied retrospectively in order to protect the personal data of living individuals and applies to electronic and manual records. Due to the Act there will be **restricted access** to records that contain personal details about living individuals that may cause substantial damage and/or substantial distress. In some cases records, such as registers, will contain such personal data about more than one individual.

Please be aware that in some circumstances you may be required to provide a copy of a death certificate to prove that the person has died before we can release information.

What does Restricted Access mean?

Basically, it means that some documents can only be viewed as long as you are willing to sign a Data Protection Statement first. Some documents, however, are so sensitive that we are not able to produce them in the searchroom but, where this is the case, a procedure exists for you to request access to the information. Some records, however, have a set closure period such as Coroner's records (75 years) and Court records (30 years) and you will not be able to access these records within this time frame without written authorisation from the appropriate body.

We will also occasionally need to restrict access due to **third party information** contained within the records.

What is Third Party information?

Information about Mr Smith who died in 1970, for example, dating from the 1960s may have personal information about Mrs Brown and Mr Green, and this would be regarded as 'third party information'. In this instance as the third parties could reasonably be considered to still be alive, if the information may cause Mrs Brown and Mr Green substantial damage and/or substantial distress then you will be unable to view the original record. You will however, have the option of using our research service to access Mr Smith's information after providing a copy of his death certificate.

Examples of records subject to the Act

Records containing information on people who have lived and died within the last 100 years fall within the terms of the Act. Some categories of records are potentially at least particularly sensitive and are therefore subject to restricted access: school, hospital, court, police, prison, social service records, for example.

We are constantly reviewing the records we keep to ensure that they are dealt with appropriately. In some cases a decision about public access will rest not with the Record Office as custodian but with the owners (eg. the Police Authority or the Coroner).

Should you believe your research may be affected by the Act you are advised to discuss your research needs with the Duty Archivist.

What are my responsibilities under the Data Protection Act as a researcher?

The Data Protection Act includes, at section 33, an exemption from the 2nd and 5th Principles of the Act providing data are used for research **only** and not to support decisions respecting individuals, and providing they are not processed in such a way that substantial damage or distress are caused.

By signing our searchroom visitors book you are agreeing to comply with these conditions and also with Data Protection Principles 1, 3, 4, 6, 7 and 8.

The usual closure periods on particularly

sensitive records will apply and you should note that **fairness** to people about whom personal data are held is the overriding concern of the Act.

If you put the data through new processing such as copying, transmission abroad, or publication, or if you wish to use it for purposes other than historical research, this makes you responsible for compliance with **the whole** of the Data Protection Act. This will be a sole responsibility, and the Record Office will not be liable if you fail to comply. If you are unsure whether the activity you wish to perform comes under the Act, please contact the County Archivist.

Have you other advice about accessing records that are affected by the Act?

It would be useful to have a copy of the person's death certificate to prove that the person has died and that their information is not covered by the Act. However, the information you require will often be contained in documents that do not conveniently have what you need separated from other people's information. It may, therefore, be appropriate to contact us prior to your visit to discuss how best to proceed with your research. We understand that restrictions to accessing records can be frustrating, but we are here to help so please do not hesitate to contact us to discuss your enquiry. Our contact details are on our general leaflet.

What if I can't visit to do the research myself?

We have a research service that can search the records on your behalf to try and find the information you require. You can find out the current fees for this service and download an application form from our website, or contact us to request an application form.

WSRO thanks the Hampshire Record Office and the Dorset History Centre for help in compiling this leaflet.

A large-print version of this leaflet is available in a special folder in the searchroom