

SECTION THREE

AIMS

- * To learn how data protection legislation confers rights and responsibilities
- * To learn how individuals can make an access request
- * To learn how individuals can make a complaint.

CONCEPTS

- * Rights and Responsibilities
- * Law.

ATTITUDES & VALUES

- * Awareness of Rights.

KNOWLEDGE

- * Data Protection Principles and Law
- * Data Processing
- * Sensitive Data
- * Age of Consent
- * Access Rights
- * Freedom of Information
- * Right of redress or remedial action
- * Case Studies in data protection arena of relevance to young people.

SKILLS

- * Analysis, organisation, collation, enumeration and evaluation of disparate sets of data
- * Communications: discussion, role play, listening, acting, empathising.

SECTION 3.1 RIGHTS AND RESPONSIBILITIES

TEACHERS

The **Data Protection Acts (1988 and 2003)** give individuals **rights** and afford them with certain key protections. At the same time, the Data Protection Acts create obligations and impose **responsibilities** on those who gather and keep personal information (data controllers).

For the most part, organisations (e.g. schools, hospitals, employers, government departments, banks, libraries) and individuals (e.g. doctors, pharmacists) that hold personal information relating to individuals do so in a responsible manner.

It is possible however, that:

- * The information kept about you may be wrong or out of date;
- * It may be given to someone not entitled to see it;
- * You may find yourself receiving 'junk mail' or unsolicited texts or emails;
- * Your privacy might be threatened in other more serious ways.

TEACHERS

Before proceeding to examine 'Rights and Responsibilities' in detail, students need to explore the concept of 'processing' further. Photocopy and distribute a copy of the diagram overleaf to each student and ask them to study the diagram. Ensure they understand that 'processing' does not just involve performing an electronic operation.

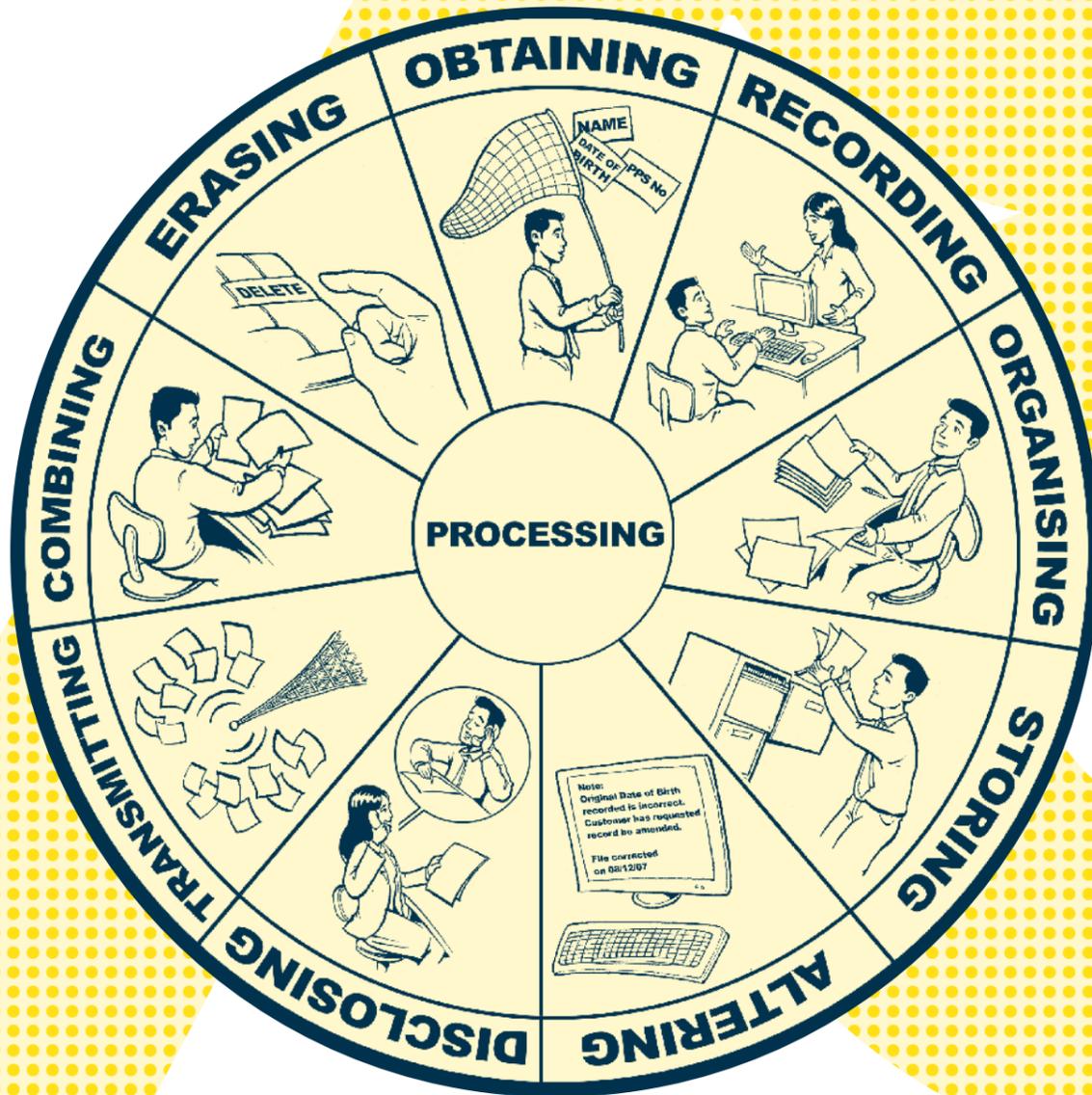
PROCESSING

STUDENTS

The Wheel diagram below will help you understand the many ways in which personal data may be processed.

* Your personal data must be processed in accordance with the Data Protection Acts, 1988 and 2003.

Processing of data covers a whole range of activities with regard to personal data. The Data Protection Acts apply to all personal data held manually in a filing system or electronically.



PROCESSING

TEACHERS

Use the 'Rights & Responsibilities' chart included as an insert at the back of the booklet. Position the 'Rights & Responsibilities' chart in a prominent visible area and read through the rights and responsibilities.

RIGHTS OF DATA SUBJECTS

RESPONSIBILITIES OF DATA CONTROLLERS

Individuals (data subjects) are often requested to provide personal information about themselves to a variety of organisations and individuals (data controllers) for a whole range of purposes on a daily basis.

Data Controllers (organisations and individuals) collect personal information about individual data subjects.

RIGHTS DATA PROTECTION RESPONSIBILITIES

You have the right to ...

- EXPECT FAIR TREATMENT FROM ORGANISATIONS AND INDIVIDUALS IN THE WAY THEY OBTAIN, KEEP, USE AND SHARE YOUR INFORMATION.
- OBJECT TO AN ORGANISATION USING YOUR DETAILS FOR PARTICULAR PURPOSES e.g. DIRECT MARKETING, PASSING YOUR DETAILS ONTO THIRD PARTIES.
- REQUEST THAT INACCURATE INFORMATION ABOUT YOU BE CORRECTED.
- REQUEST THAT ANY INFORMATION ABOUT YOU BE DELETED, IF THE ORGANISATION HAS NO VALID REASON TO HOLD IT.
- COMPLAIN TO THE DATA PROTECTION COMMISSIONER IF YOU FEEL YOUR DATA PROTECTION RIGHTS ARE BEING INFRINGED.
- REQUEST TO SEE A COPY OF ALL INFORMATION ABOUT YOU KEPT BY AN ORGANISATION.

A Data Controller must...

- OBTAIN AND PROCESS YOUR PERSONAL INFORMATION FAIRLY.
- KEEP YOUR PERSONAL DATA FOR ONE OR MORE SPECIFIED PURPOSES AND USE YOUR PERSONAL DATA ONLY IN WAYS COMPATIBLE WITH THESE PURPOSES.
- KEEP YOUR PERSONAL INFORMATION ACCURATE, COMPLETE AND UP-TO-DATE.
- KEEP YOUR PERSONAL INFORMATION SAFE AND SECURE AND ENSURE IT IS NOT KEPT FOR ANY LONGER THAN IS NECESSARY.
- ENSURE PERSONAL DATA HELD ABOUT YOU IS ADEQUATE, RELEVANT AND NOT EXCESSIVE.
- GIVE YOU A COPY OF YOUR PERSONAL DATA ON REQUEST UNLESS EXCEPTIONAL CIRCUMSTANCES APPLY.

www.dataprotection.ie

ACTIVITY 1

TEACHERS

Photocopy the two pages of the 'Do you need to take action?' Activity on pages 47 - 48. Distribute a copy of the worksheets to each member of the class. Allocate the students 10 minutes or so to cover the first four scenarios and then pause to review the students' answers. Use the information provided below to steer the conversation. Return to the activity and ask the students to complete the final four scenarios.

OVERVIEW OF SCENARIOS TEACHERS

Suggested Answers

Brian/Sports Gear Online: Further Action Required

Brian should return to the website he purchased the items from and locate their contact details. Brian should email or call them and state that he does not wish to receive promotional emails in future. As the list may be generated automatically from a customer database, Brian may have to follow instructions to 'unsubscribe' from the mailing list. The company should respect Brian's wishes not to be contacted again. Should the company continue to send Brian unsolicited emails, the ability to pursue and prosecute the company depends on the country or legal jurisdiction in which the company is based. If the company is based in the EU, it will have to have had included details of how to unsubscribe in each message.

Dad's Ticket for Charity: Further Action Required

Advisable that Dad would call the charity and query their communications. Dad may say he doesn't remember them telling him they would keep contacting him once the event was over. The charity might not have asked dad's permission in the first place. Alternatively, the charity could inform him that he failed to tick an 'opt-out' box saying he didn't want to be contacted about future events/campaigns. Nevertheless, even if Dad inadvertently failed to 'opt-out' Dad is entitled to ask the charity to remove his details from the charity's database and not to send him any more texts. The charity must respect this request.

Lucy's Part-Time job: No Further Action Required

Legitimate use. Employers need employees PPS Nos. in order to comply with employment and pay regulations. Employers may also need to check someone's age in order to verify that they are above the minimum legal working age.

ACTIVITY 1

TEACHERS

Brian's Call Card: Further Action Required

This practice is difficult to substantiate as there are a select group of companies in the telecoms sector who make a living from using personal data for further purposes, purposes that may not have been specified at the time of sign-up. Often, customers signing up may have agreed unknowingly to receive further 'offers'. Operators are legally obliged to offer customers a way to 'unsubscribe' from these kinds of services. How to 'unsubscribe' should be indicated in each communication but there are cases where customers are told it will cost them money to unsubscribe. The Office of the Data Protection Commissioner has successfully prosecuted a number of operators in this field and will continue to do so in order to ensure the law is fully observed.

Mam's Supermarket experience: Further Action Required

Mam should contact the supermarket's HQ and double check what their marketing policy is. There is an emerging technology called RFID (radio frequency identification) which involves tagging products with a chip and tracking their journey from warehouse to supermarket aisle to checkout. Some vendors are examining the possibility of tagging supermarket loyalty cards with these chips in order to ascertain when a customer is in the store and to target them accordingly. Privacy concerns focus on the appropriate use of this technology and the need to clearly limit its extent and intrusion into people's movements.

Sarah and DVD store: No Further Action Required

The store has most likely adopted a policy of requiring proof of residence in the event that the customer would fail to return the DVDs or try to dodge overdue fines. If someone were to provide a false address this would give them more scope to abuse their membership.

Retention and disposal practices: Further Action Required

Lucy should notify management immediately and suggest the documents be shredded and marked for secure disposal. Poor security practices with regard to personal data heighten the risk of disclosure to third parties and possible fraud, abuse or identity theft.

Accuracy of Data: No Further Action Required

Dad should contact the Irish Credit Bureau to ascertain what his credit history is and to sort out the mix-up. Many financial institutions use the Irish Credit Bureau as a screening process to investigate people's credit history. If a person has defaulted on a loan this will be marked on the Irish Credit Bureau database. Mistakes due to inaccurate data entry or similar names can occur and the person affected is entitled to have their personal data rectified and amended so that it is accurate.

ACTIVITY 1

STUDENTS

Read the scenarios below and tick the appropriate box.

DO YOU NEED TO TAKE ACTION?

- * Is the level of data being requested acceptable?
- * Would you have concerns as to how the data is being obtained or used?

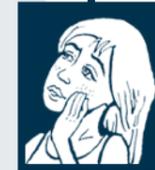
* Do you think the data subjects (Brian, Sarah, Lucy, Mam and Dad) should take action and make some enquiries or objections?

There is no definitive answer for any of these scenarios as not all the facts are known but your teacher can talk through the answers provided and see whether the majority of the class are in agreement as to what is acceptable practice.

Scenario	Further action required. ✓	No further action required. ✓
Brian bought some sports gear over the internet and now he's receiving all sorts of emails concerning sports gear, fitness equipment and vitamin pills. He knows it's not spam or junk mail because it's coming from the same supplier he purchased the gear from. Also, his name is featured within the text of the message and the content is directly targeted at him based on what he bought online.		
A few months ago Dad purchased a ticket for a charity event which he attended two weeks later. At the time of purchase Dad gave his contact details so he could be contacted to confirm times and venue details. Since then Dad has been receiving follow-up texts encouraging him to contribute to various appeals.		



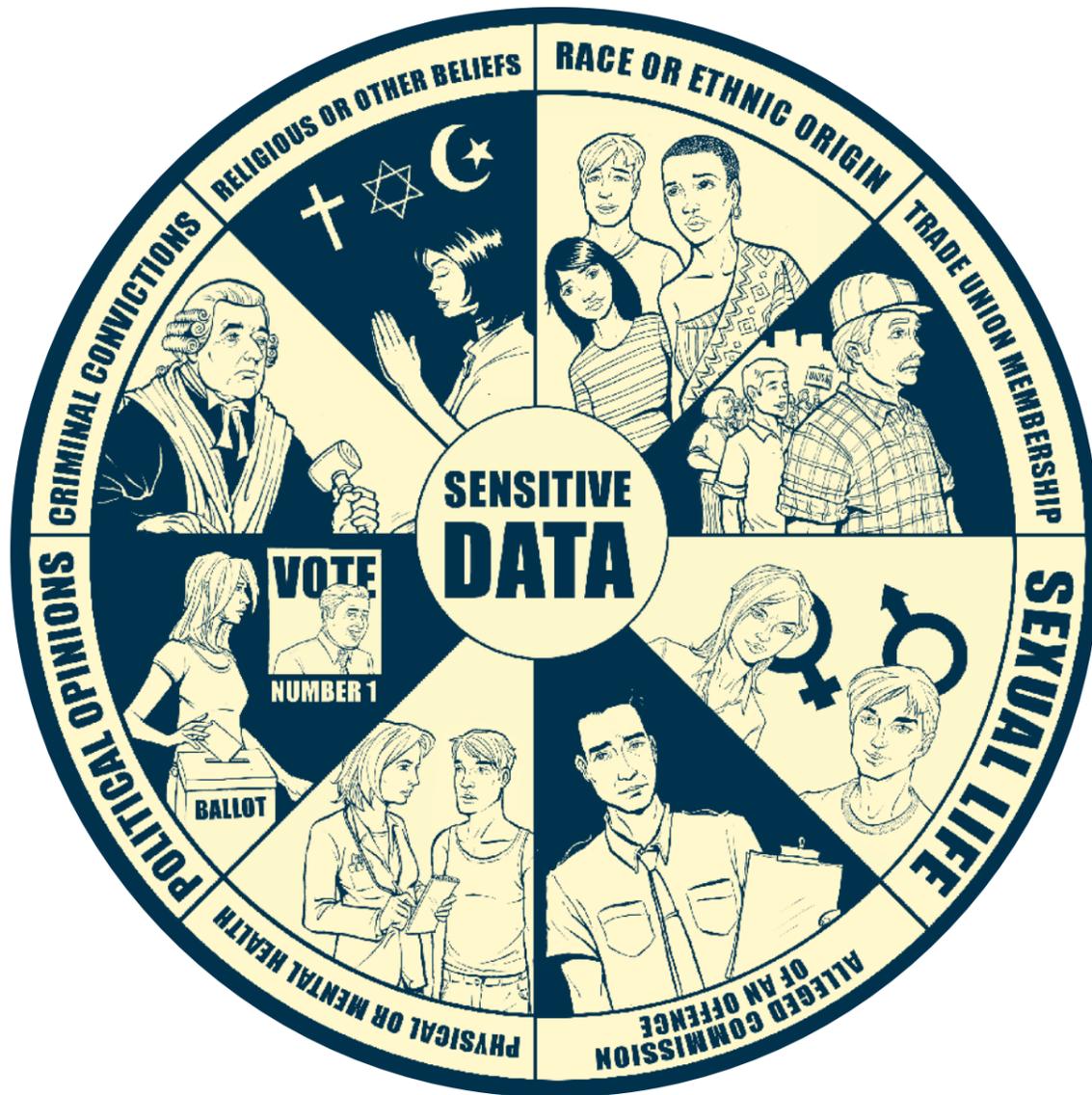
Scenario	Further action required. ✓	No further action required. ✓
When Lucy starts her new part-time job she is asked to present her birth certificate on her first day and provide her PPS Number to her employer. The Employer enters her PPS number onto the system and looks at the birth certificate, returning it to Sarah immediately without making a copy.		
Brian attends an outdoor concert and avails of a free call card offering €15 worth of mobile calls. He fills out a few details about himself on a card in order to receive the free credit. He is now receiving texts about all sorts of offers and holiday deals.		
Mam gets a text when she's in the supermarket to say there is a special offer on detergents in the third aisle. Mam has a loyalty card and so she knows she gave the store her mobile phone number at one stage, but she is confused as to how the supermarket knew when she was in the store or whether it's just a coincidence.		
When Sarah goes to sign up with a local DVD store they refuse her initial application on the basis that they require two letters displaying proof of her home address. Once examined the letters are returned to Sarah.		
Lucy is clocking out from her part-time job when she notices a huge pile of recently discarded customer files are visible from the rubbish bins located to the side of the premises. Lucy knows the files contain details of customers' credit cards.		
Dad applies to a bank for a loan to build an extension onto the house and is horrified when the bank tells him he has a bad credit history and several outstanding debts. The bank refuses Dad's loan application. Dad knows he has no outstanding debts and has never had problems in the past with repaying loans.		



SECTION 3.2 SENSITIVE DATA

STUDENTS

The categories of data featured in the wheel diagram receive extra protection under the Data Protection Acts. Data Controllers must be able to justify why they need this data and they must take extra care when processing this data.



ACTIVITY 1

STUDENTS

The newspaper headlines below could be breaches of data protection laws. Circle which of the options below you think could also be categorised as relating to sensitive personal data.

THE TIMES

Local Authority justifies publishing names and addresses of planning applicants on the web.

DAILY STAR

MEDICAL ASSOCIATION ADMITS RELEASE OF DETAILS ON TRAINEE DOCTORS' RACE AND RELIGIOUS BELIEFS ON TO MA WEBSITE WAS TECHNICAL BLUNDER.

THE ECHO

Trial aborted as prosecution admits disclosing series of allegations against the accused to jury.

THE SENTINEL

Retail giant admits hackers have gained access to credit cards details of customers.

THE TRIBUNE

Mandatory register for Palestinians: a recipe for genocide.

THE VOICE

Union membership payroll deductions used to dock striking teachers pay.

THE HERALD

Results fiasco: University staff post student names alongside exam results on faculty notice board.

THE PEOPLE

Camera lens zoom into private party in star's home.

ACTIVITY 1

TEACHERS

Guideline Answers to newspaper headlines activity on page 50.

Local Authority justifies publishing names and addresses of planning applicants on the web.

Not sensitive data under Data Protection Acts (1988 and 2003). Local Authority may have planning legislation permitting them to put this information into public domain, electronically or otherwise.

Medical Association admits release of details on trainee doctors' race and religious beliefs onto MA website was technical blunder.

Data on race or religious beliefs constitutes sensitive data as outlined in the Acts. The example above was an unintended disclosure of sensitive data. Questions could be asked by the Data Protection Commissioner concerning security practices. Questions could also be raised with regard to the purpose behind requesting these categories of information in the first place.

Mandatory register for Palestinians: a recipe for genocide.

Categorisations of race or ethnic origin qualify as sensitive data under the Data Protection Acts. A government could pass enabling legislation to do this in a situation such as a disputed territory conflict. Such a register would be extremely sensitive if abused. Some population registers based on race or ethnic origin led to persecution.

Retail giant admits hackers have gained access to credit cards details of customers.

Credit card details are not deemed sensitive data under Acts. Affected customers could complain to Data Protection Commissioner but ideally the company would notify the Commissioner of the security breach. The Data Protection Commissioner would then examine security practices.

Union membership payroll deductions used to dock striking teachers pay.

Trade union membership is deemed as sensitive data under the Acts. Data obtained for one purpose should not be used for another purpose.

Trial aborted as prosecution admits disclosing series of allegations against the accused to jury.

Allegations are sensitive data under the Data Protection Acts. Breaks many laws concerning judicial procedure and confidentiality as well as data protection.

University staff post student names alongside exam results on faculty notice board.

Not sensitive data under Acts. Could be viewed as a legitimate complaint.

Lens zoom into private party in star's home.

Not likely to be sensitive data under the acts, however an image is considered personal data so the star could complain that their personal data had been obtained unlawfully.

SECTION 3.3

AGE OF CONSENT

TEACHERS

Discuss information below with the class.

Section 2A(1)(a) of the Data Protection Acts state that if the data subject by reason of his/her physical or mental incapacity or age, is or is likely to be unable to appreciate the nature and effect of such consent, it can be given by a parent or guardian etc.

A person aged eighteen or older can give consent to their data being processed themselves.

18+

The Irish Data Protection Acts (1988 and 2003) are not specific on what age a person needs to be to consent on their own behalf, for their personal data to be processed for a particular purpose.

Data Protection law allows for a degree of flexibility in terms of assessing whether a person is mature enough to give consent themselves depending on the matter in question.

Judging the maturity of 12-18 year olds will vary from case to case and depending on the circumstances.

12-18

Generally, in the case of children under the age of twelve, the explicit consent of a parent or guardian is necessary.

-12



Within the context of a post-primary school environment, data protection law allows **both** students and their parents or guardians to have a role to play in supplying consent to process

the personal data of students. Teachers also have a right to request to view any personal data held about them by the school.



A 14 year old student might sign a slip consenting to their photo appearing in the school yearbook.

The signed consent of a 14 year old post-primary school student may suffice when joining the school library or student-run bank.



A school should seek consent from both the student and the student's parent or guardian in relation to a new fingerprints ID system designed to monitor student attendance. Students and Parents should have the right to refuse to use it.

Consent might be obtained from both the student and the student's parent or guardian in relation to the installation of CCTV beside lockers in the school corridor.



A 15 year old might be deemed mature enough to make a request seeking access to personal data held about them by their doctor.

A parent might be denied access to their 15 year old child's hospital records if this did not serve the best interests of the teenager.



A 16 year old might make a complaint to the Data Protection Commissioner if they feel their personal data has been misused or disclosed inappropriately by their school. Alternatively, the parent of a 16 year old may make a complaint on the child's behalf.

ACTIVITY 3

STUDENTS

Examine the image below and answer the questions that follow



1. Name some of the key rights you have with regard to your data [see 'Rights and Responsibilities' Chart for answers].
2. How can you take steps to be more in control of your data?
3. Have you ever needed to assert your rights in relation to how your data was being processed?

If you would like to receive a free mousemat based on the above design, please email us at info@dataprotection.ie with 'Mousemat' as the subject.

SECTION 3.4

ACCESS REQUESTS

STUDENTS

Below is an information sheet on how to access personal information held about you.

An access request is where you (the data subject) make a formal request to a data controller under the Data Protection Acts requesting they supply you with a copy of all the personal data held about you.

How to make an access request:

Dear ...

I wish to make an access request under the Data Protection Acts 1988 and 2003 for a copy of any information you keep about me, on computer or in manual form. I am making this request under section 4 of the Data Protection Acts. I enclose a cheque/money order for €6.35.

THINGS YOU SHOULD KNOW ABOUT AN ACCESS REQUEST

- * You may be asked to pay a fee, but this cannot exceed €6.35.
- * Once you have made your request, you should also include any additional details that may be necessary to enable the organisation to locate your record; e.g. account number or

PPS number (if you are writing to a public-sector organisation). When requesting some types of record, such as credit records or Garda records, it may also be useful to provide a list of previous addresses, previous names and your date of birth.

- * You must be given the information within 40 days, although most organisations manage to reply much sooner.
- * You can complain to the Office of the Data Protection Commissioner (www.dataprotection.ie) if your access request is refused or not fully complied with.

ACCESS REQUESTS

TEACHERS

Compare and contrast Data Protection and Freedom of Information as presented below with the class.

There are two main options available to individuals in Ireland in terms of seeking access to information held about them. Some access requests can be made either under the Data Protection Acts or the Freedom of Information Acts.

Data Protection Acts, 1988 and 2003

Data Protection concentrates exclusively on personal data belonging to living persons. Data Protection legislation is designed to safeguard your personal data from its creation to how it is obtained, processed, used, stored right through to its disposal. The right of access to one's personal data is only one aspect of data protection legislation and it is designed to allow the individual to know what data is held about them.

Human Rights

Data Protection is based on an individual's basic human right to privacy with regard to their home, correspondence and private life.

The Data Protection Acts 1988 and 2003 cover all organisations in Ireland – public, private or voluntary.

Data Protection Commissioner

Responsible for oversight of the operation of the Data Protection Acts.

www.dataprotection.ie

Freedom of Information Act, 1997 and 2003

Freedom of Information (FOI) is essentially about the right of individuals to seek **information held by public bodies including, information about how decisions are made within the civil and public service.** For instance, as well as seeking information behind the award of a tender or a decision to fund a school in a certain location, citizens are also entitled to seek information about themselves. In some circumstances, access to this information can be refused.

Citizen Rights

'Freedom of Information' is based on the citizen's 'right to know' and focuses on the core values of openness, transparency, accountability.

Over 600 public sector bodies are covered under the Freedom of Information Acts.

Information Commissioner

Responsible for oversight of the operation of the Freedom of Information Acts.

www.oic.gov.ie

ACTIVITY 2

STUDENTS

Read the following case study and answer the questions asked by the teacher.

Sometimes there is an overlap between access request cases handled by the Office of the Data Protection Commissioner and the Information Commissioner (F.O.I.) The following case was dealt with under Freedom of Information but has many resonances with Data Protection.

CASE STUDY

Request to access daughter's hospital records under Freedom of Information Act. McK v Information Commissioner:

At issue was the right of a father under the FOI Act to see the hospital records of his daughter. The parents had separated some years previously. The two children from the marriage remained with the mother but after she died the two children went to live with an aunt and uncle who were appointed joint guardians by the court. In 2002, the Information Commissioner dealt with an appeal from the father who had been refused access to his daughter's records by the hospital.

Freedom of Information legislation provides that a parent will be given access to a child's records where to do so is in the best interests of the child. The Information Commissioner decided that the hospital was correct to refuse to supply the records, taking into account that the child's other legal guardians objected to the father receiving them. The father appealed

to the High Court which, in January 2004, ruled in his favour. The Information Commissioner decided to appeal the decision. In January 2006 the **Supreme Court** upheld the principle that the father must be presumed to be acting in the best interests of his child, but crucially, it did allow for this presumption to be challenged and for **the views of the child to be taken into account**. In the new appeal, following the Supreme Court's decision, the views of the child were taken into account. The Information Commissioner decided that release of the girl's hospital records to her father would not be in her best interests.



ACTIVITY 2

TEACHERS

Ask students the following questions.

	Answers:
The _____ Act specifically contains a reference to the right of the parent to seek access to their child's data if it is in the child's best interest.	The Freedom of Information Act specifically contains a reference to the right of the parent to seek access to their child's data if it is in the child's best interest.
The _____ Court ruled that the child could be consulted if there was an issue concerning their best interest.	The Supreme Court ruled that the child could be consulted if there was an issue concerning their best interest.
Do G.P.'s or hospitals have the right to make a judgement as to whether records should be released?	Do GPs or hospitals have the right to make a judgement as to whether records should be released? Yes.
Can this right be challenged?	Can this right be challenged? Yes.
Do you agree young people should have a say in terms of any access requests made concerning them by their parents or legal guardians?	Do you agree young people should have a say in terms of any access requests made concerning them by their parents or legal guardians? Opinions of class.

ACTIVITY 3 TEACHERS

Photocopy the following Case Studies featured on the pages overleaf.

In this section (3) students have become familiar with the Data Protection laws. In Ireland it is the Data Protection Commissioner's role to see that these laws are upheld in this country.

The Data Protection Commissioner has a wide range of enforcement powers which include:

- * Serving of legal notices compelling data controllers to provide information needed to assist with enquiries.
- * Compelling a data controller to implement the Acts.
- * Investigating complaints made by the general public.
- * Authorising officers to enter premises and to inspect the type of personal information kept, how it is processed and the security measures in place.

A data controller found guilty of an offence under the Acts can be fined amounts up to €100,000, on conviction on indictment and/or may be ordered to delete all or part of the database.

- * Divide the class into groups of four. Distribute one case study to each group. Ask the students to read through the case study and to name the Data Protection issues that they think might be in question. Students can again refer to the 'Rights and Responsibilities' Chart.

- * Each group should nominate a spokesperson. Allow 10 minutes for students to read the piece and to talk about it themselves.

- * When everybody is finished ask the spokesperson to stand up and to give a brief description of the complaint and the issue in question. A note could be made of these on the board.

FOLLOW-UP ACTIVITY

- * Ask students to think about how they would raise awareness about Data Protection amongst young people?
- * Design an information poster for the Office of the Data Protection Commissioner for distribution in secondary schools.

ACTIVITY 3

STUDENTS

CASE STUDY 1

A man complained to the Data Protection Commissioner that his ten-year-old daughter had got a letter from a bank asking did she want a credit card. The man also contacted the bank and was told the mailing list used by the bank had been bought from a marketing company. The marketing company said they had bought data from a UK company. The UK company said they had gotten the man and his daughter's details from a post-holiday survey.

The survey form clearly showed the girl was only ten. The UK company said they normally would not use details of under 18's and that the girl's details were passed on by mistake. The company corrected their error and changes were put in place to make sure that this type of mistake never happens again.



CASE STUDY 2

A parent contacted the Office of the Data Protection Commissioner to complain that the local primary school had been publishing details of pupils on the school web site, without looking for permission from the parents first. Photographs and names of pupils, as well as information about the children's hobbies, likes and dislikes were on the school web site pages. The parent had already raised the matter with the school but was not happy with the response she had received.

the permission of parents, the principal said that the new web site had been mentioned in a recent school newsletter, and that parents had been invited to come to the school to check it out for themselves. However, the Data Protection Commissioner felt that the clear permission of parents or guardians must be obtained before using children under 12's data in this way. The Principal accepted this and undertook not to put personal details of school children on the web site without the permission of a parent or guardian.



The Data Protection Commissioner asked the school to take all personal details down from the web site. The Commissioner then met with the school principal who explained that all the pupils had been very positive about the new web site and that the web site had even won some awards. As regards getting

ACTIVITY 3

STUDENTS

CASE STUDY 3

A research company sent out a survey along with prepaid envelopes and asked people to reply to questions on the form and to return it unsigned (anonymously). However, the prepaid envelopes had unique four digit numbers, suggesting that the survey was not really anonymous and that replies could be traced back to individual people.

The Office of the Data Protection Commissioner arranged a meeting with the company. The company explained that the

numbers on the envelopes were used to check who had sent back replies and for the company to be able to send reminders to those who had not. Once the replies were taken out of the envelopes there was no way of connecting them back to any one person. The Commissioner was satisfied that the survey form responses could not be traced back to individuals.



CASE STUDY 4

A woman wanted to buy a fridge in a shop. She asked the shop assistant if she could pay by instalment scheme. The shop assistant went to check her details on the computer. Other customers who were at the counter were able to clearly see personal information and details about the woman such as her date of birth.

The lady made a complaint to the Data Protection Commissioner. When this case was followed up it was found that the computer screen was badly situated and that it was possible for other customers to see details on the screen even though the staff did try to be discreet.

The owners remodelled the shop and the computer screen was placed in a much more private position.



ACTIVITY 3

STUDENTS

CASE STUDY 5

Some years ago a young man was convicted of a minor offence. He appealed the sentence and was happy when the conviction was 'struck out' (removed from the man's 'record'). In 1996 the man decided to emigrate in and needed a statement of character from the Gardaí. He made an access request to the Gardaí under section 4 of the Data Protection Acts. When the Gardaí responded he was disturbed to find that the original conviction was shown on his file. The man contacted the Data Protection

Office because he was worried that his original conviction was still kept on computer by the Gardaí. The Commissioner told the man that even convictions that have been 'struck out' remain on gardaí files together with information on the successful appeal. The Gardaí gave the man a Character Reference for Emigration, which showed correctly that he had no recorded convictions.

CASE STUDY 6

A woman attended the accident and emergency department of a public hospital. A few months later she was contacted by a company carrying out research. The researchers knew when she had attended the hospital and why, and they asked her to answer some questions. The woman objected to the fact that the hospital had told the researchers about her visit. She took this up herself with the hospital but was not happy with the response so she complained to the Data Protection Commissioner.

The hospital said they had a notice in the waiting area of the accident and emergency department informing patients that the hospital was going to give their information to the researchers and invited them to let the receptionist know if they objected to this.

The Data Protection Commissioner said that the hospital should have asked each person separately whether they wished to participate in the research.



ACTIVITY 3

STUDENTS

CASE STUDY 7

The Data Protection Commissioner received a complaint about a woman who had changed the telephone account details over to her own name after separating from her husband. The husband contacted the phone company and managed to get the access codes for her voicemail. The woman found out that her husband was able to listen to her messages.

The phone company looked into this complaint thoroughly. They were not able to find out exactly how this situation had happened but they did accept that if the man had made up a story to get the details then their procedures

for protecting customer data were not good enough in this instance. The company started a review of the security procedures in their call centres. The phone company now has a strict set of rules for dealing with transfer of telephone services particularly in cases of couples who have separated.



ACTIVITY 3

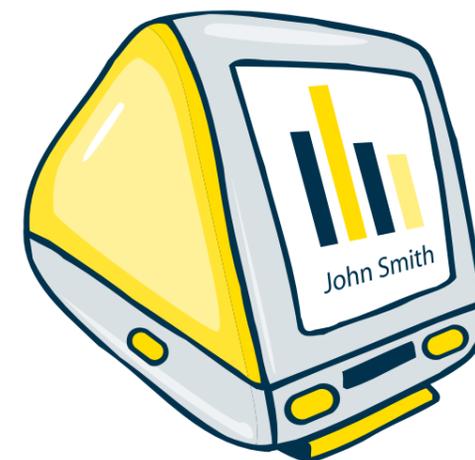
STUDENTS

CASE STUDY 8

A number of employees within a particular company complained to the Data Protection Commissioner because their individual 'performance at work' assessments had been made available to a wide range of managers. The employees felt their confidential details should not be available to people who were not involved in managing them.

When the issue was raised with the company, it was explained that the manager of a particular unit had created a file on computer, setting out performance ratings for staff under his supervision. However the "access permissions" on this file had accidentally been set to allow other people outside of his management team to read it. A staff member had brought the problem to the attention of management,

and the file in question was destroyed. The company arranged for a formal investigation into the matter. The company took immediate steps to tackle the issues involved in this case, particularly making sure that proper security measures were in place from then on.



FOLLOW UP ACTIVITY/ HOMEWORK

TEACHERS

- * Photocopy the complaint form on the opposite page for every member of the class.
- * Make several copies of each case study and ask students to select a case study that they didn't discuss as a group. Ask the students to read their new case study individually and to fill out the complaint form based on their analysis of the situation. Students are free to elaborate or invent details that are not provided in the case study.
- * Consult the annual reports on the website of the Data Protection Commissioner www.dataprotection.ie to find out what is the breakdown in terms of the nature of queries and complaints received each year.

FOLLOW UP ACTIVITY/ HOMEWORK

STUDENTS

Complaint to the Data Protection Commissioner

My name: _____

My address: _____

My e-mail address: _____
(include this if you would like to deal with us by e-mail)

My complaint is against: _____
(name of organisation or individual)

Their address: _____

I have been dealing with: _____
(name of your contact person, if any, within the organisation)

My signature: _____

Today's date: _____

This is my complaint:

- You can attach separate pages if necessary
- Remember to include copies of any letters between you and the organisation or individual
- Give details, including dates if possible, of any attempts you have made to have this matter dealt with by the organisation, and how they have responded to you
- Post your complaint to: The Data Protection Commissioner, Canal House, Station Road, Portarlinton, Co. Laois.