

# Claiming Compensation

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This leaflet is part of a series of nine leaflets which explain your rights under Data Protection Law and how to enforce those rights.

This leaflet deals with the right of an individual to claim compensation from a data controller for damage or distress caused by any contravention by a data controller of the requirements of the Law. These rights are contained in a/s 13 of the Law.

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This guidance relates to both the Data Protection (Jersey) Law 2005 and the Data Protection (Bailiwick of Guernsey) Law, 2001.

Where the Laws differ and to show differences between the two jurisdictions the page will be split as shown below.

## Jersey

Commissioner = Information  
Commissioner

a = article within the Law

## Guernsey

Commissioner = Data Protection  
Commissioner

s = section of the Law

Where numbering of passages from the Laws are the same it will be shown as a/s.

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## Making a claim for compensation

If you feel you have been disadvantaged as a result of a breach of the Law you can approach the data controller in question to seek compensation. If you fail to reach an agreement you can make an application to the court for compensation, either on its own or as part of an application to remedy the breach of the Law.

Compensation can be claimed under the Law for any damage and/or distress caused by the actions of the data controller.

Even where the Commissioner has made an assessment that it is likely that the processing does not comply with the Law, you still have to apply to court if you require compensation, as the Commissioner cannot award compensation.

It should be noted that it is not necessary for the Commissioner to have made an assessment of the processing for you to make a claim to the court for compensation.

For information as to how to make an application to the court, please refer to the Commissioner's publication entitled "Taking a case to court".

## How much will the Court award if a claim for compensation is successful?

There are no guidelines as to appropriate levels of compensation for a claim under the Law and the Commissioner is not routinely advised of the outcome of cases where individuals have made a successful claim for compensation. The judge hearing the case has discretion in these matters and would have to take into consideration many factors including the seriousness of the breach and the effect upon the claimant, particularly when considering compensation for distress.

Even in cases where you are able to state in your application to the court the exact sum of money you have lost as a direct result of the data controller's contravention of the Law, the judge retains discretion and may disallow any part of your claim and award a lesser sum or no compensation at all.

It is important to bear in mind that, even if the court does award compensation, the data controller may refuse to pay or be unable to pay. In this event, the court will advise you of the options open to you to enforce the judgment of the court.

## Other publications in this series...

Each leaflet sets out what your rights are and, where possible, includes examples of letters and notices to send to the data controller. You will also find information to help you if you decide to take legal proceedings against a data controller.

Your Rights and How to Enforce Them

Subject Access - A guide for data subjects

Help! How can I stop them processing my personal information?

Incorrect information - What can I do?

No credit? Credit explained

Stopping unwanted marketing materials

Preventing decisions based on automatic processing of my personal information

Taking a case to court

All the leaflets and other publications produced by the Commissioner referred to in this publication may be obtained from our website [www.dataci.org](http://www.dataci.org) or by contacting the Office (details found on the last page of this document).

## Useful contact information:

### Jersey

#### **Citizens Advice Bureau**

The Annexe  
St. Paul's Community Centre  
New Street  
St. Helier  
Jersey  
JE2 3WP

T: 0800 7350249 (Freephone)  
W: [www.cab.org.je](http://www.cab.org.je)  
Email: [advice@cab.org.je](mailto:advice@cab.org.je)

#### **Jersey Law Society**

PO Box 493  
St Helier  
Jersey  
JE4 5SZ

T: +44 (0)1534 613920  
F: +44 (0)1534 613928  
W: [www.jerseylawsociety.je](http://www.jerseylawsociety.je)  
Email: [admin@jerseylawsociety.je](mailto:admin@jerseylawsociety.je)

#### **Jersey Advisory & Conciliation Service (JACS)**

Trinity House  
West Centre  
Bath Street  
St Helier  
Jersey  
JE2 4ST

T: +44 (0) 01534 730503  
F: +44 (0) 01534 733942  
W: [www.jacs.org.je](http://www.jacs.org.je)  
Email: [jacs@jacs.org.je](mailto:jacs@jacs.org.je)

### Guernsey

#### **Citizens Advice Bureau**

Bridge Avenue  
The Bridge  
St Sampson's  
Guernsey  
GY2 4QS

T: +44 (0)1481 242266  
W: [www.cabguernsey.org](http://www.cabguernsey.org)

#### **The Guernsey Bar**

c/o Mathew Newman  
Bar Secretary  
Ogier House  
St Julian's Avenue  
St Peter Port  
Guernsey  
GY1 1WA

W: [www.guernseybar.com](http://www.guernseybar.com)  
Email: [barsecretary@ogier.com](mailto:barsecretary@ogier.com)

## Contact the Commissioner

### Enquiries and Publication Requests

#### Jersey

**Office of the Information Commissioner**

Brunel House  
Old Street  
St Helier  
Jersey  
JE2 3RG

T: +44 (0)1534 716530

W: [www.dataci.org](http://www.dataci.org)

Email: [enquiries@dataci.org](mailto:enquiries@dataci.org)

#### Guernsey

**Office of the Data Protection Commissioner**

Guernsey Information Centre  
North Esplanade  
St Peter Port  
Guernsey  
GY1 2LQ

T: +44 (0)1481 742074

W: [www.dataci.org](http://www.dataci.org)

Email: [enquiries@dataci.org](mailto:enquiries@dataci.org)