

Incorrect Information

What can I do?

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

It deals with the right under the Law for an individual to apply to the court for the rectification, blocking, erasure or destruction of inaccurate personal data and any other personal data in respect of which he is the data subject.

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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If the data controller is holding inaccurate personal data about me, what should I do?

You should write to the data controller to tell him what you believe is wrong with the personal data and what should be done to correct it.

There is no particular form of words that you need to use provided that you make clear the following:

- your identity and the personal data to which you refer; and
- what should be done to correct the personal data.

If you are sending the letter by post, it is advisable to send it by recorded delivery.

The letter may be submitted by electronic means provided that the data controller is able to identify you and the personal data to which you refer from your letter and the letter is capable of being used for subsequent reference.

You should keep a copy of the letter you send and any reply you receive from the data controller, together with any other communications, recording the dates of all correspondence. This will be important as evidence in any future consideration by the Commissioner or the court.

To whom should the letter be addressed?

If you do not have the name of a particular individual within the data controller's organisation who you know can deal with your letter, you should address the letter to either the managing director or company secretary.

What should I do if the data controller does not comply with my request?

You should write again to the data controller enclosing a copy of your original letter and requesting a response.

If the data controller refuses or fails to comply with your request, you may make a request to the Commissioner for an assessment as to whether it is likely or unlikely that the processing of your personal data has been or is being carried out in compliance with the provisions of the Law. You also have rights under the Law to pursue the matter yourself through the court pursuant to a/s 14.

If the Commissioner makes an assessment that the matters that concern you are likely to involve a breach of the Law, this may help you to resolve a dispute or to make a decision as to whether to take legal action against a data controller under the Law. However, it is not necessary for you to have obtained an assessment from the Commissioner before taking a matter to court.

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".

Further information relating to assessments may be obtained from the Commissioner's website or by contacting the Commissioner's Office.

What orders can a Court make?

If the court is satisfied that the personal data are inaccurate the court may order the data controller to block, rectify, erase or destroy those data. The court may also order the data controller to rectify, block, erase or destroy any other personal data containing expression of opinion which the court believes to be based on the inaccurate data.

There may be circumstances where your personal data, although inaccurate, accurately reflect information obtained from a third party. In this situation the court will consider:

- whether the data controller took reasonable steps to ensure that the data were correct, having regard to the purpose or purposes for which the data were obtained and further processed; and
- if you have notified the data controller of your views that the data are inaccurate and, if so, whether the data indicate that fact.

If the court is satisfied that these requirements are met, the court may either order the data controller to block, rectify, erase or destroy the data or it may make an order requiring the data to be supplemented by such statement of the true facts relating to the matters dealt with by the data as the court may approve.

In the event that these requirements have not been complied with the court may, instead, make such order as it thinks fit to secure compliance to meet those requirements.

What obligation has a Data Controller to notify third parties that the data have been rectified, blocked, erased or destroyed?

In certain circumstances the court may also order the data controller to notify any third party to whom the data have been disclosed of the rectification, blocking, erasure or destruction. When deciding whether it is reasonably practicable to require this notification the court must have particular regard to the number of persons who would have to be notified.

If I believe that I have suffered damage by reason of the inaccurate data, what other orders might the Court make?

If the court is satisfied that the data subject has suffered damage by;

- reason of a contravention by the data controller of any of the requirements of the Law
- and in respect of any personal data, in circumstances where the data subject is entitled to a payment of compensation,
- and there is a substantial risk of further contravention in respect of those data,

the court may order the rectification, blocking, erasure or destruction of any of those data.

Please refer to "Claiming compensation" for further information as to your rights to claim compensation from 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?

No credit? Credit explained

Stopping unwanted marketing materials

Preventing decisions based on automatic processing of my personal information

Claiming compensation

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 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
Email: 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
Email: 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
Email: 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

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
Email: barsecretary@ogier.com

Contact the Commissioner

Enquiries and Publication Requests

Jersey

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Commissioner**

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Old Street
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Email: enquiries@dataci.org

Guernsey

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Commissioner**

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St Peter Port
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GY1 2LQ

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