

Keeping the right staff records

A guide for UK businesses

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There are clear **legal** and **business** reasons for keeping data on your workers.

Sufficient records must be kept to comply with the law. The Data Protection Act 1998 governs how you keep staff records and what you do with them. Under the Act, employees are entitled to access certain records and can seek compensation for damage or distress suffered as a result of a breach of the Act. This means that you should take care when recording information about individuals.

Keeping accurate records, eg on staff absences and turnover, can help you take decisions based on facts. This may help you run your business more efficiently.

This guide explains what records you should keep and for how long. It offers advice on how to set up a staff records system. It also explains your legal obligations as an employer and your employees' rights regarding information held on them.

Benefits of keeping the right staff records

To comply with the law, you should keep records on:

- hours worked - to meet the requirements of the Working Time Regulations
- pay rates - to meet the statutory requirement to issue workers with pay statements and to ensure you meet the requirements of the National Minimum Wage Act 1998
- tax and National Insurance - for HM Revenue & Customs
- holidays - to comply with the Working Time Regulations
- sickness of more than four days and how much Statutory Sick Pay you have paid
- accidents, injuries and dangerous occurrences - to meet health and safety requirements
- accounting data
- crime prevention information
- pensions data
- mortgage or insurance administration

Keeping records on your staff beyond those required by law can help you make more **informed** decisions about personnel policies, such as recruitment, training, equal opportunities, staff development, dismissal and promotion. Inadequate records can lead to problems when dealing with absence levels, labour turnover, sickness, lateness and discipline.

According to the principles of the Data Protection Act 1998, any personal information you keep on your staff should be adequate, relevant and not excessive. [Download guidance for small businesses on how to deal with the Data](#)

[Protection Act from the Information Commissioner's Office \(ICO\) website \(PDF\)](#) - Opens in a new window.

It is also a good idea to keep records of:

- personal details - name, address, emergency contact, qualifications, work-relevant disability
- employment history - date employment began, promotions, job title(s)
- details of terms and conditions - including a copy of each employee's employment contract
- absence details - records of lateness, sickness, and any other authorised or unauthorised absences
- training and appraisals
- meetings with trade unions/employee representatives
- disciplinary action
- termination of employments and redundancy consultations - to show you have complied with redundancy legislation and provide evidence to defend claims made against you

Keeping accurate records will help you assess the **performance** and **productivity** of employees and match staff resources with production or service requirements. It may also help you to avoid potential disputes with employees and help you to ensure that you respect equal opportunities and treat everyone consistently and fairly.

Setting up a staff records system

A good staff records system is:

- simple to use
- designed so that it's easy to retrieve relevant information
- accurate, reliable and consistent
- secure and confidential
- expandable and adaptable to meet future needs
- cost effective and easy to maintain

Some businesses find manual records inefficient as the business grows because keeping records up to date and accurate can become difficult. A centrally administered computerised system avoids these problems and makes information easier to retrieve. However, such systems require upfront costs and extra training.

In the event of a tribunal claim against you, it's most convenient to have original documents as evidence. Computerised records of them may be used but may need supporting evidence. If you keep only electronic records, it's easier if the electronic forms resemble the original.

It's worthwhile designing standard **documents** for each procedure, eg for staff appraisals or holiday requests, etc. Easy-to-read, logical documents will be easier to use and retrieve. Involve staff who use the records in designing them, and train them to know what to keep, where, and in what form.

Your record keeping system must comply with the Data Protection Act 1998. In particular, you must ensure that your use of personal data complies with the eight data protection principles. These require, for example, that you:

- tell individuals why you are collecting their information and what will be done with it, ensuring that there is a clear and foreseeable need for all information collected
- train staff to ensure they follow the Act when processing sensitive information, eg data on an employee's political or religious beliefs
- use personal information in a secure and confidential way, eg don't give information to third parties unless you are sure that they are entitled to that information
- give individuals a right of access to personal information held about them

[Download advice on keeping employment records from the Information Commissioner's Office \(ICO\) website \(PDF\) - Opens in a new window.](#)

You have a duty to keep personal records secure by taking appropriate technical and organisational measures. Recommended measures include:

- making sure your filing system is locked and electronic records are protected by passwords, anti-virus software and firewalls
- making sure only those employees who need to use the data have access to it
- putting an audit trail into computerised systems so you can check who has accessed a particular record

How long to keep staff records

By law you must keep certain records for a set period of time. It is a good idea to keep records for six years, to cover the time limit for bringing any legal action against you, including National Minimum Wage claims and contractual claims.

[Read a detailed guide to statutory and recommended retention periods for staff records at the Chartered Institute of Personnel and Development \(CIPD\) website - Opens in a new window.](#)

When retaining any information you should remember that under the Data Protection Act 1998, data must not be kept longer than is necessary for a particular purpose. When deciding what is necessary, you will need to consider both your legal obligations and the needs of your business.

The Data Protection Act will not prevent personal data being held by employers as long as the records are still necessary for the purpose they were collected for. It will require that you delete personal data once it is no longer necessary to have that data.

When you decide to dispose of data, make sure this is done securely and effectively, eg by shredding. Where possible, make data on workers and former workers anonymous.

Record	Statutory retention period
Accident reports	Three years after date of last entry. There are rules on recording incidents involving hazardous substances. See our guide on how to record and report an accident or incident .
Income tax and National Insurance returns/records	At least three years after the end of the tax year they relate to
Statutory Maternity Pay records	Three years after the end of the relevant tax period
Statutory Sick Pay records	Three years after the end of the relevant tax period
Wage/salary records	Six years
Retirement Benefits Schemes - notifiable events, eg relating to incapacity	Six years from the end of the scheme year in which the event took place

Record	Recommended retention period
Application forms/interview notes for unsuccessful candidates	One year
Health and safety records of consultations	Permanently
Parental leave taken	Five years from birth/adoption, or until child is 18 if disabled
Pensioners' records	12 years after benefit ceases
Disciplinary, working time and training records	Six years after employment ceases
Redundancy details	Six years from date of redundancy
Senior executives' records	Permanently for historical purposes
Trade union agreements	Ten years after ceasing to be effective
Minutes of trustee/work council meetings	Permanently
"Right to work" documents	Two years after employment ceases

Staff records: your duties to protect data

The Data Protection Act 1998 is concerned with **personal** data - information about living, identifiable individuals held on computer or in certain structured manual files. There are eight clear principles for processing such data to comply with the Act.

Data should be:

- processed fairly and lawfully - make sure employees know the purposes for using their data
- for specified and lawful purposes - beware of using information obtained for one purpose for a different purpose
- adequate, relevant and not excessive
- accurate and, where necessary, kept up to date
- kept no longer than necessary
- processed in line with individuals' rights, including their right to access
- kept secure
- prevented from being transferred to countries outside of the European Economic Area (made up of the European Union nations, Norway, Lichtenstein and Iceland) unless there is adequate protection for personal data

As the **data controller**, you're responsible for complying with the Act. As well as complying with the data protection principles, this means that you may have to notify the Information Commissioner when you process personal data. You can [use our interactive tool to find out whether you need to notify the Information Commissioner about the data your business holds](#).

See our guide on how to [comply with data protection legislation](#).

Failure to comply with the Act can result in the Information Commissioner issuing an Enforcement Notice, the contravention of which is a criminal offence. Staff and other individuals can also seek compensation if they suffer damage (usually physical or financial) or distress as a result of a breach of the Act by your business.

You must keep the eight data protection principles in mind when deciding what information to collect, when establishing procedures for processing this information, and when dealing with requests from employees.

[You can download guidance on how to comply with the Data Protection Act from the Information Commissioner's Office \(ICO\) website \(PDF\) - Opens in a new window.](#)

You also have a duty to respond to employees' requests for access to their records. See the page in this guide on [staff records: your employees' rights](#).

Staff records: your employees' rights

Under the Data Protection Act 1998, anyone can ask for access to the records you keep on them. The request - a **subject access request** - must be in writing. An email will do.

You can charge up to £10 for providing the information. You must reply within 40 calendar days. You can ask for evidence to prove their identity and for information you may need to help you find the information they are seeking. The 40-day period starts from when you have received a written request, a fee, if you have asked for one, and from the receipt of any additional information you may have asked for.

When you provide the data, make sure you don't violate anyone else's rights - eg if you get a complaint about a worker, and that worker then requests access to their file, this could lead to the complainant being identified. To avoid this, remove the name of the complainant from the information provided.

There are several exceptions to the right of subject access by the Data Protection Act, including exemptions relating to:

- information held for management planning, eg plans to promote an employee or make an employee redundant
- information as to an employer's intentions in respect of negotiations with the requester
- references given in confidence by the employer (references received by an employer are not exempt) - [download information about subject access and employment references from the Information](#)

[Commissioner's Office \(ICO\) website \(PDF\) - Opens in a new window](#)

- information about the prevention or detection of a crime, or the arrest or prosecution of offenders
- information that may affect the price of a company's shares
- information that may identify someone else

[Find out about the Data Protection Act at the ICO website - Opens in a new window.](#)

Employees have other rights as well, including the right to:

- have inaccurate personal data corrected
- compensation for damage suffered as a result of a breach of the Act
- prevent processing likely to cause substantial damage or substantial distress
- prevent direct marketing
- know the logic behind any automated decision taken about them, eg psychometric testing decisions

If a worker has reasonable grounds to believe they haven't been paid the National Minimum Wage, they have the right to see their pay records. They must make a written request, and you must then produce the records within 14 days.

[Read about the National Minimum Wage at the Department for Business, Enterprise and Regulatory Reform website - Opens in a new window.](#)

Further Guidance

Acas Helpline

08457 47 47 47

National Minimum Wage Helpline

0845 6000 678

Health & Safety Executive Infoline

0845 345 0055

Information Commissioner's Office Data Protection Helpline

01625 545 745

Chartered Institute of Personnel and Development Enquiry Line

020 8612 6200

Information Commissioner's Office Notification Line

01625 545 740

Related guides on businesslink.gov.uk

Manage your personal list of starting-up tasks with our Business start-up organiser

Pay - an overview of obligations

Understanding National Minimum Wage law

Understand statutory sick pay

Know how much holiday to give your staff

Manage absence and sickness

Record and report an accident or incident

Inform and consult your employees

Use our interactive tool to find out whether you need to notify the Information Commissioner about the data your business holds

Comply with data protection legislation

Keeping your systems and data secure

Set up employment policies for your business

Reduce the risk of employment tribunal claims

Monitoring and security of staff

Related web sites you might find useful

Read a guide on personnel data and record keeping at the Acas website

<http://www.acas.org.uk/index.aspx?articleid=717>

Download guidance on how to comply with the Data Protection Act from the ICO website (PDF)

http://www.ico.gov.uk/upload/documents/library/d/ata_protection/practical_application/getting_it_right_-_data_protection_for_small_businesses.pdf

Download advice on keeping employment records in the Quick Guide to the Employment Practices Code from the ICO website (PDF)

http://www.ico.gov.uk/upload/documents/library/d/ata_protection/practical_application/quick_guide_to_employment_practices_code.pdf

Read a guide to statutory retention periods for staff records at the CIPD website

<http://www.cipd.co.uk/subjects/hrpract/psnlrecrd/r/etrecords.htm?lsSrchRes=1>

Read about the National Minimum Wage at the Department for Business, Enterprise and Regulatory Reform website

<http://www.berr.gov.uk/employment/pay/national-minimum-wage/index.html>

Technology Management is a full service IT consultancy for SMEs across the Midlands region.

Among the products and services available, Technology Managements offers businesses the Pegasus Opera II Personnel module to help manage and automate the job of keeping staff records.

Further information is available at www.tecman.co.uk

