

## Employment E-Brief No 60

### GUIDANCE ON DATA SUBJECT ACCESS REQUESTS

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The case of Durant v Financial Services Authority 2003 has provided useful clarification on when Data Subject Access Requests need to be complied with. The matter is becoming important to businesses who are increasingly facing such requests from individuals.

Under the Data Protection Act, an individual is entitled to obtain a copy of all personal data held by a data controller. However, the documents requested must constitute 'personal data' and be organised within a 'relevant filing system'.

This case made it clear that the purpose of the Act is to allow an individual access to 'personal data' to check that there has not been an unlawful invasion of privacy. It does not provide an automatic access to any information in which the individual is named. Accordingly, a narrow definition was given to the term 'personal data', reducing the possibility of using it for a fishing exercise.

Considering 'relevant filing systems', it was confirmed that information must relate to an individual and be structured by reference to an individual or by reference to criteria relating to individuals and must be readily accessible. Manual files should have similar access ability as a computerised system, and emphasis was put on the speed in which data could be located. If a long manual search is required, then it is unlikely to be a relevant filing system.

This decision is obviously important and controls the extent to which businesses need to comply with Data Subject Access Requests and as a result, the information commissioner will need to review its Code of Practice.

When faced with such a request, employers and businesses should still take legal advice to ensure compliance with their duty, but this case will assist them.

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