

Data Protection Act 1998

DAMA – Data Management and Data
Protection

Birmingham

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Information Commissioner's Mission

“Promoting public access to official information and protecting your personal information”

Everyone Else's Mission

"Know where to find the information and how to use it - that's the secret of success"

Albert Einstein

Taking rights seriously

“Knowledge is power” (Annual Report 2005)

- The key to both Data Protection and Freedom of Information
- Freedom of Information brings official information into the open (“Power to the people”)
- Data Protection safeguards information about individuals (“Not too much information about people”)
- Both focus on good information handling
- Both create important information rights

Freedom of Information

- Open Government – The Right to Know
- Presumption of disclosure unless good reason for secrecy
- Trust in government
- Transparency is crucial to accountability and democratic process
- Brings knowledge to the people as the ultimate custodians of power
- Serves as a reminder that governments serve the people, not vice-versa

The Right to Know – Jan. 2005

- Any person can make a Request....
- ...for any information “held” by any of 115,000 public authorities
- Duty to respond within 20 working days
- Presumption of disclosure
- 23 exemptions – most Qualified
- Greater “public interest”?
- Information Commissioner rules on complaints and promotes good practice

Freedom of Information - Emerging Impressions

- High media profile
- Making an impact - being taken seriously
- Larger public bodies generally well-prepared
- Significant disclosures achieved
- Refusals largely unchallenged
- Resource intensive in early days
- Boundaries being tested
- Culture changing, **but not yet changed**

Taking Rights Seriously – Data Protection = 3rd social issue

- Preventing crime 88%
- Improving education 84%
- *Protecting personal information* 83%
- NHS 83%
- Equal rights 81%
- Protecting freedom of speech 80%
- National security 78%
- Environmental issues 74%

Top concerns include....

- Passing details to unknown organisations 85%
- Not keeping information securely 85%
- Using information for unintended purposes 84%
- Requesting too much info. 74%
- Holding info. for too long 69%

DP – The legal framework

- ECHR – Article 8
- Right to respect for private life – subject to what is necessary in a democratic society in the interests of national security, public safety or the prevention of disorder or crime etc.
- DPA 1984
- EU DP Directive 1995
- Data Protection Act 1998
- Privacy & Electronic Communications Regulations 2004

Rationales for Data Protection

- Ensures transparency, access, accuracy and security of personal information
- Prevents too much information about the individual being held by government, commercial and voluntary organisations
- Restrain the power which would come from others having too much knowledge about our private lives
- A barrier to a Surveillance Society

Data Protection Principles

Personal information (mainly) on computer.....

- Fairly and lawfully “processed”
- Processed for specified purposes
- Adequate, relevant and not excessive
- Accurate and up to date
- Not kept longer than necessary
- Processed in accordance with individual's rights
- Kept secure
- Restrictions on transfers outside EEA

Data Protection Rights

- Information about how your personal information will be used
- Opt-in, opt-out and other choices
- Restrictions on disclosures
- “Subject Access” – right to a hard copy
- Prevention of harmful processing and direct marketing
- Rectification, blocking, erasure and destruction

ICO Strategic approach to DP

- *“Practical, down to earth approach – to simplify for the majority who try to handle personal information well, and tougher for the minority who do not”*
- Enlightened self-interest, not red tape
- More effective for individuals
- Regulatory reform agenda

ICO Strategic Approach for DP

- Plain, straightforward guidance
- Demystify and simplify
- Address Data Protection myths
- Influence political agenda
- Helpline service
- Deal with individuals' complaints - *if* legitimate grievance with substance and effective solution
- “Selective to be Effective” Regulatory Strategy

Current Data Protection issues

- Employment Code and Quick Guide
- Section 55 issues
- Identity Cards
- Children's Indexes
- Connecting for Health
- IT infrastructure, CCTV etc
- "Sleep-walking into a Surveillance Society?"

Self-interest? Confidence in info-handling by organisations

- Internet sites 16%
- Retailers 20%
- Telecoms companies 20%
- Credit reference agencies 24%
- Tax / benefits offices 30%
- Govt. departments 42%
- NHS 64%
- Schools & colleges 16%

ChoicePoint

- Unauthorised access to personal data of 145,000 citizens
- 750+ frauds
- Share price dropped substantially – 9% in one day
- Discontinued processing sensitive data
- Lost revenues \$15 - \$20 million
- Class action suits
- \$11.5 million legal fees
- Requirements to notify all customers
- Citizens' access to files

Taking Information Rights Seriously

Contact us...

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