



**Information Commissioner's Office**  
Promoting public access to official information  
and protecting your personal information

## **Data Protection myths and realities**

Data protection law reinforces common sense rules of information handling, which most organisations try to follow anyway. It is there to ensure that organisations manage the personal information they hold in a sensible way. Organisations must keep the information accurate and up to date, they must only keep it for as long as they need it for a specified purpose and they must keep it secure. Some organisations understandably err on the side of caution and do not release information when they could do so. Unfortunately, some organisations continue to use the Data Protection Act 1998 as an excuse not to do something, rather than seeing it as good business sense to treat their customers and their information with respect.

Here are some common data protection myths and realities, including some case studies which have recently appeared in the media.

### **Myth – “The Data Protection Act stops parents from taking photos in schools”.**

**Reality** - Photographs taken purely for personal use are exempt from the Data Protection Act. This means that parents, friends and family members can take photographs for the family album of their children and friends participating in school activities and can film events at school. The Data Protection Act does apply where photographs are taken for official use by schools and colleges, such as for identity passes, and these images are stored with personal details such as names. Where the Act does apply, it will usually be enough for the photographer to ask for permission to ensure compliance with the Act. The Information Commissioner's Office has issued [practical guidance](#) on this subject.

**Myth – “The Data Protection Act means a company is never allowed to give a customer’s details to a third party”.**

**Reality** – Where an organisation is satisfied that as someone asking for information about another person’s account is authorised to access it, the Act does not prevent this. From time to time, the Commissioner receives complaints from a parent that a bank or a phone company refuses to allow them information about their adult child’s account, or from someone complaining that a gas or electricity company will not tell them whether their elderly relative or neighbour is in arrears and in danger of being cut off. Organisations should be cautious about releasing a customer’s details. There is a market in personal information and unscrupulous individuals try to obtain information about others by deception. Where a couple are estranged, or parents and adult child are estranged, one party may try and obtain information by deception.

Therefore organisations must have appropriate safeguards in place to ensure that, if staff decide to reveal a customer’s personal details, such as bank account information, they are sure that the person they are speaking to is either their customer or someone acting on their behalf (for example, evidence that the account holder has given authority). Staff should consider whether or not they actually need to give out any personal information. There may be occasions when it is reasonable to reveal some limited information to someone other than the account holder. Organisations have good reason to be careful about accepting instructions from someone other than the account holder where this will result in charges being incurred, even if no personal information will be released. However, this is a matter of contractual obligations and not data protection.

Where one individual frequently acts on behalf of a relative or partner they should see if it is possible to provide the relevant organisations with evidence of authorisation, perhaps by means of a password.

The Information Commissioner's Office has produced some [practical guidance](#) on this subject.

**Myth – “The Data Protection Act stops parents from finding out their children’s exam results”.**

The Daily Telegraph reported on 30 September 2005, the case of an 11-year-old girl who sat her flute exam but was unable to find out her result. The exam board cited the Data Protection Act and said that only the person who made the application, the flute teacher, could see the results. The original article resulted in several letters in the press blasting the Act.

**Reality** – The Information Commissioner's Office has issued [practical guidance](#) on the publication of exam results. The Act does not prevent the exam board from giving results to the student or her mother. An exam board could ensure that the information is disclosed to the right person by sending it to the student's home address. It is clearly unfair and unnecessary that the student's mother in this case had to make a subject access request to discover her daughter's exam result - but at least data protection access rights made sure she got the information to which she was entitled.

**Myth – “The Data Protection Act prevents priests from naming sick parishioners during church prayers”.**

The Daily Telegraph reported on 30<sup>th</sup> September 2005 that priests within the Roman Catholic Church were told to stop praying for sick parishioners by name for fear that they may be prosecuted under the Data Protection Act.

**Reality** – The Data Protection Act mainly covers personal information held electronically. It is very unlikely that this sort of information about members of the local congregation would be held on computer or in a complex paper filing system and so it wouldn't be covered by the Act. Even if the information was covered by the Act, it would not prevent the name of a sick member of the congregation being read out if the individual concerned was happy for this to

happen. However, if someone had specifically asked not to be mentioned by name in prayers, or the priest thought it likely they would not be happy with this, then the priest, who owes duties of care and confidentiality to parishioners, would respect their wishes.

**Myth – “The Data Protection Act prevents the releases of offenders’ details to victims”.**

The case of a car owner trying to find out who damaged his car gained some coverage in the national and local press, including a letter written by Ann Widdecombe for The Daily Express in August 2005. It was reported that the car, which was un-insured as it was off the road and out of use, was vandalised on the owner’s driveway by a youth. Police apprehended the culprit but refused to release the youth’s details to the owner who wanted to bring civil proceedings against him to repair the damage to his car. The police cited the Data Protection Act as the reason.

**Reality** – The claim that the Data Protection Act 1998 stops the police disclosing details of cautioned offenders to the victims of their crime is incorrect. The Data Protection Act is not a barrier to disclosing relevant details where civil proceedings by the victim are contemplated. Although the police always need to be careful about the information they do disclose, they have received clear guidance from the Home Office on what details can be passed on to victims. The ICO discussed the matter with the police force, and they later released the information to the owner.