



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

Press Release

For immediate release

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Don't use data protection as a duck out, ICO urges organisations

The Information Commissioner's Office (ICO) is urging organisations not to hide behind the Data Protection Act unnecessarily when dealing with individuals. The ICO's call comes at the start of Stupid Aid Week (*1-5 September*) which highlights common misunderstandings such as the belief by some organisations that data protection stops them giving out any personal information or prevents them from dealing with certain types of enquiries.

Examples of data protection duck outs include parents not being allowed to take photos of their child at a nativity play; teachers unable to promote the successes of pupils in the local media and priests prevented from praying for an ill person by name during mass.

David Smith, Deputy Commissioner at the Information Commissioner's Office, said: "All too often we hear of cases where organisations have not properly thought through whether they can respond to enquiries from individuals. They have simply said no and used data protection as a duck out. The Data Protection Act does not impose a blanket ban on the release of personal information. What it does do is require a common sense approach. It should not be used as an excuse by those reluctant to take a balanced decision. The Act plays a very important role in protecting all our personal information that can be undermined when it is used in a way that defies common sense.

"Recent high profile data breaches have reinforced the value of the Data Protection Act which requires organisations to keep personal information accurate, up to date

and secure. Data protection makes good business sense so it is in the best interests of organisations to make sure they understand and use the Act correctly.”

Examples of data protection myths include:

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 issue.

Myth – Under the Data Protection Act an insurance company cannot send out a claim form if it has been requested by someone other than the policy holder e.g. the policy holder’s wife

Reality - The Data Protection Act would not prevent an insurance company from sending out a claim form if it has been requested on behalf of the policy holder. We would expect staff working in the insurance company to take a common sense approach.

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

Reality - 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 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.

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 results – 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

Reality – The Daily Telegraph reported on 30th 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.

The Data Protection Act mainly covers personal information held electronically. It is 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.

ENDS

If you need more information, please contact the Information Commissioner's press office on 020 7025 7580 or visit the website at: www.ico.gov.uk

Notes to Editors

1. The Information Commissioner promotes public access to official information and protects personal information. The ICO is an independent body with specific responsibilities set out in the Data Protection Act 1998, the Freedom of Information Act 2000, Environmental Information Regulations 2004 and Privacy and Electronic Communications Regulations 2003.
2. For more information about the Information Commissioner's Office subscribe to our e-newsletter at www.ico.gov.uk
3. The guide called 'Overcome stupidity in the world around you' is being launched during Stupid Aid Week by the Flexible Thinking Forum, a not for profit organisation. It is written by Andy Green, a leading creativity expert
4. Anyone who processes personal information must comply with eight principles, which make sure that personal information is:
 - Fairly and lawfully processed
 - Processed for limited purposes
 - Adequate, relevant and not excessive
 - Accurate and up to date
 - Not kept for longer than is necessary
 - Processed in line with your rights
 - Secure
 - Not transferred to other countries without adequate protection