Data Protection: Compliance in Practice

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Executive summary

DATA PROTECTION is a key aspect of many roles in the public, private and third sectors. Information governance as a whole has come onto the agenda in the last few years. Data can be dealt with as a triangle, made up of information management, information security and information governance. This comprises: an understanding of what information can be shared and on what legal basis; how we manage records and information; how we deal with information and how we publish it; and information security – how we keep it safe.

When it lost two data discs in 2007, HMRC in many ways did the rest of us a favour because it instantly raised awareness and put data protection firmly on the agenda. Jobs concerned with data protection have become busier in recent years. Requests under the Freedom of Information Act 2000 (FoIA), in particular, are soaring but we are also finding the same pattern with data protection requests. As people become aware of what they can ask for, the number of subject access requests is increasing dramatically. People can ask to see what data you hold on them; they can correct, delete, or amend it as they see fit. The whole area of data protection is a hot topic.

People are taking more legal action as a result, and the Information Commissioner's Office (ICO) is able to fine individuals and organisations when they lose data. Data protection has now become a risk management issue for your organisation with real money at stake; the maximum fine that can be imposed by the ICO is £500,000. Whereas the loss of data might previously have resulted in bad press, or the loss of employee hours given over to the sending of apology letters, the ICO is now considering increasing the maximum fine to £1 million. Unless you have cash in reserve to cover such a fine, data protection issues cannot be ignored by *any* organisation. Though it may be seen by management as a bureaucratic back office function that is at risk of budget cuts along with everything else, the risk of significant fines can be enough to ensure the focus remains on compliance. Data protection is a frontline service that requires dedicated resources.

This report provides a comprehensive and easy to understand analysis of the key data protection issues that currently affect organisations. With the emphasis on real-world examples and practical advice, this report will be indispensable for anyone working with personal data in any form.

Chapter 1 explains the Data Protection Act 1998 (DPA) in plain English, focusing on its key principles and the areas that are currently under consideration for amendment. Chapter 2 discusses the many laws and guidelines with which the Act interacts, including the Human Rights Act 1998, the Freedom of Information Act 2000 and the Regulation of Investigatory Powers Act 2000. The growing area of subject access requests is covered in detail in Chapter 3, beginning with the various exemptions contained within the Data

Protection Act that may prove useful when dealing with subject access requests. This chapter also explores the different types of requests you may come across and illustrates the importance of keeping accurate records. Chapter 4 takes a look at the ICO, documenting key sources of information for the data protection practitioner and discussing the functions and powers of the Information Commissioner (IC).

The final chapter explores the key issues related to information sharing, illustrating the importance of data processing agreements and offering practical tips to ensure that you follow fair processing rules. Chapter 5 includes case studies to demonstrate the benefits of fit-for-purpose systems and procedures, rounding off with a look at e-mails and marketing.

About the author

LYNN WYETH is head of information governance at Leicester City Council, responsible for data protection, freedom of information, the Regulation of Investigatory Powers Act (RIPA), CCTV, some human rights, information sharing and those areas of work that fall into information governance.

Her first Ark report, *A Practical Guide to Handling Freedom of Information Requests*, was published in September 2011.