



## The future of UK registration

The Data Protection Registrar, Elizabeth France, has undertaken to revise the method of registration which is a central element in the UK Data Protection Act 1984. This report, by Barbara Ridley, The Registration Project Manager, outlines the reasons for that decision and the timetable for implementing it.

### Why revision is necessary

The Registrar's decision to revise the method of registration resulted from a culmination of several factors. Two major influences were:

- *The House of Commons Public Accounts Committee* (June 1994) reported that in their view more data users should have been registered than had done so; it recommended various methods to encourage data users to register. It is the Registrar's belief that simplifying the method of registration is one way of providing that encouragement.
- *The European Union General Data Protection Directive* (the Directive) was adopted in October 1995. The latest date for the implementation of the Directive's requirements is October 1998. Whilst the Directive closely follows the Data Protection Act 1984 (the Act), some new requirements relating to registration are introduced.

The first step to address these and other issues is a change of the computing platform from main frame batch processing to desk top technology. This change was introduced in March. It allows a much greater degree of flexibility when dealing with new applications, amendments to register entries and renewal processing. The system provides templated registrations (see box on next page) based on the business of the applicant; this should assist applicants in understanding and completing registration documentation. The new system operates in real time, allowing transactions to be processed more quickly and effectively than previously. The flexibility of the system will allow

the incorporation of changes to registration requirements resulting from the Directive.

There are a number of similarities between the registration provisions of the Act and those of the Directive:

- registration (called "notification" in the Directive) covering purposes, data subjects, data classes, sources and disclosures of data will remain;
- there will be exemptions from registration and, though registration will remain, there is an option for some controllers to register in a simplified form.

Elements incorporated in the Directive but new to the Data Protection Act 1984 are:

- *special rules about processing sensitive personal data* (i.e. racial or ethnic origin, political opinions, religious, philosophical or other beliefs, data relating to either physical or mental health or sex life, criminal offences or convictions);
- processing operations likely to present specific risks to the rights and freedoms of data subjects will be subject to *prior checking* before any processing may start.

The Registrar welcomes the opportunity afforded by the Directive to simplify registration.

The revision to the method of registration has been planned with these possible changes in mind. Although the full details of any legislative changes will not be known until later in the year, the Registrar's proposed timetable will allow these changes to be incorporated in the revised method introduced in 1998. The aim is for a method which is sufficiently flexible to meet the Directive's requirements and to deliver an accessible and accurate register

entry which facilitates compliance monitoring.

### The proposal's fundamental changes

The Registrar is proposing some fundamental changes to the approach to registration, concentrating on the nature of the data user's business and focusing on the use of sensitive data

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with the relationship between data and its sources and disclosures identified.

Standard purposes for general administrative activities will be introduced and the number of other class codes will be significantly reduced.

Users of complex databases will be required to provide more detail of their overall activities than those with less complex databases.

These changes will enable the introduction of a streamed approach to registration allowing a simple and easy route for the less complex users, whilst allowing those who process the more complex or sensitive data the freedom to provide the information contained in their register entry, in a coherent way.

### **Template registration system begins**

The template registration system began operation this month. Callers who telephone the ODPR asking for a registration form are asked for their sector, company name, contact name, address, telephone number, contact address for access requests, and company registration number. Callers are also asked whether their organisation is a data user, a data processing bureau or both.

The staff of the Office of the Data Protection Registrar inputs these details into a computer terminal and the system produces a standard registration for that sector addressed to that enquirer. The standard form includes the standard purposes associated with that sector, with the most appropriate codes highlighted, for example, data subjects, data classes, sources and disclosures.

The completed standard form is then mailed to the enquirer for checking to see whether any changes are needed for that specific organisation. The data user then sends back to the ODPR the form with any amendments and a cheque for £75. A copy of the official register entry is then mailed to the new registrant shortly afterwards.

If the ODPR has not heard from enquirers within about two weeks, they are sent a reminder letter.

The new system makes registration much easier for those unfamiliar with the traditional forms and speeds administration at the ODPR.

The business templates are in the following categories:

**Finance:**

Accountants, independent financial advisers, trustees of a pension scheme, tied agents, credit unions

**Health:**

Doctors, dentists, pharmacists, opticians, residential care

**Churches/Religion/Charity:**

Charitable organisations, church administration, pastoral care (i.e. vicar, minister or priest in charge of a church)

**Legal:**

Solicitors, private investigators

**Services:**

Fast food delivery outlets, hire services, debt tracing and collection, citizens advice bureaux, veterinary surgeons, estate agency/property management, will writers, curriculum vitae services, employment agencies, employment agencies, consultants

**Leisure:**

Travel agents, club/society, theatre/cinema, video shops

**General:**

Motor traders (new and used), small business, manufacturers, hotel management, mail order traders, retail/wholesale, software development, newsagents

**Education:**

School governing bodies, school headteachers, private schools



## Timetable

The project for the development of the revision to the system will be included in a procurement exercise which is being conducted under the EC/GATT provisions.

A prospectus for the tender document will be ready for issue by the middle of 1996. Under the regulations there must then be a three month offer period, following which the Registrar will consider the responses and be in a position to appoint a provider for the services early in 1997.

The Registrar will have a Consultation Document outlining the registration proposal available for circulation in May 1996. A three month period will be allowed for responses to the proposal. The responses will then be analysed and where necessary, incorporated in the System Requirement Document which will form part of the prospectus referred to above. By early 1997, the appointed service provider will begin development of the system with a view to implementation in early 1998.

## Transition

It is anticipated that current registrations will be replaced by registration in the revised form. This will be a phased process which will require careful planning and discussions with some data users. Those discussions can begin as the system is developed during 1997.

## Obtaining a copy of the consultation document

The Consultation Document will be available in May 1996. It will be sent to data users, representative bodies and frequent contacts of the Office of the Data Protection Registrar.

**If you would like a copy, please contact the author of this report whose contact details are:**  
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## House of Lords ruling gives a strict interpretation of "use" in the UK Data Protection Act

**On 9th February, the House of Lords, the UK's supreme court, ruled that a simple retrieval of information from a computer database, without the subsequent use of that information, does not constitute the "use" of data within the meaning of the UK Data Protection Act 1984.**

### The facts and the charge

The case (PL&B Dec. '93 p.20) involved a police constable who, on two occasions, had made use of the police national computer to check the registration numbers of vehicles owned by debtors of clients of a debt collection business, the director of which was a friend of the constable in question. The first computer search did not reveal any personal data. Although the second computer search did reveal personal data, there was no evidence that the constable subsequently made any use of the information so obtained.

The constable was charged with offences under the Section 5(2) and (5) of the Data Protection Act 1984, i.e. to have used on two occasions personal data held in the police national computer for a purpose other than the registered purpose of policing.

Section 5(2)(b) provides that "A person in respect of whom such an entry is contained in the register shall not.....(b) hold any such data, or use any such data held by him, for any purpose other than the purpose or purposes described in the entry..." The Act further provides in Section 5(5) that any person who knowingly or recklessly contravenes the provisions of section 5(2) is guilty of an offence.

The defendant was convicted and fined on the basis that the offence was committed as soon as personal data was retrieved from the computer with the intention of using the information for an unregistered purpose, whether or not it was put to any actual use.

The convictions were quashed on appeal and the prosecution subsequently appealed to the House of Lords.

The main legal issue revolved around what constituted the "use of data" under Section 5(2)(b)