



The UK Registrar stimulates debate on implementation of EU Data Protection Directive

The UK Data Protection Registrar's Office does not waste time. Shortly after the Home Office had made public its Consultation Paper on the implementation of the EU Data Protection Directive in March this year (PL&B Newsletter April 1996 p.6), the Registrar issued her own document on this issue.

Provoking debate and response

Entitled *Questions to Answer: Data Protection and the EU Directive 95/46/EC*, this is a 133 page compilation of separate papers written by the Registrar's staff on various issues regarding implementation of the Directive in the UK.

The purpose of the document is to stimulate debate and help data users formulate their own responses to the Home Office Consultation Paper. Urging data users to use her paper as a facilitator in responding to the Home Office, the Registrar, Elizabeth France, writes in the foreword to the document: "This is an opportunity that arises once in fifteen or twenty years to influence legislation. Please take up that opportunity."

In order to assist in preparation of the Registrar's formal response to the Home Office, data users were asked to send to the Registrar's Office a copy of their submissions to the Home Office.

Addressing the issues

The Registrar's Office has produced a comprehensive and detailed document which addresses in depth many issues arising from implementation of the Directive in UK legislation, often speculating beyond the Directive's provisions into the future. With much thought having gone into drafting it, the document provides worthwhile reading.

Although of somewhat intimidating length and complexity, the document is divided into chapters by subject, hence allowing selective reading and examination. The Chapters are organised as follows:

1. **Introduction**, including arguments for a seamless data protection law, difficulties

arising from a dual data protection regime, the Act as privacy legislation etc.

2. **Preliminary Matters**, such as scope, automatic and non-automatic processing, boundaries of community law, sensitive data, criminal convictions.
3. **The Principles**, including interpretation, relationship with the registration system, fair obtaining, Tribunal decision etc.
4. **Registration**, including functions, requirements, areas of administrative difficulty, timescale and fees, multiple registration, possible methods of implementation, risk and non-risk processing, in-house officials etc.
5. **Supervision and Enforcement**, including inadequacies in the Registrar's current powers, investigation, Tribunal, supervisory notices, audit powers etc.
6. **Rights of Data Subjects**, such as right of privacy, right of access, enforced subject access, right to object, automated individual decisions, compensation, consent, provision of information, judicial remedies etc.
7. **Transborder Data Flows**, examining transfer prohibition notices, adequacy of data protection in a third country, prohibition of a transfer to third countries etc.
8. **General and Miscellaneous**, including national supervisory authority, regulation making powers, new technical developments, codes of practice, applicable law, transitional arrangements etc.
9. **Exemptions**, giving overviews of the Act's and the Directive's exemptions and examining future issues such as public interest exemptions, employment/staff planning, personal references, confidential correspondence etc.

Questions to Answer: Data Protection and the EU Directive 95/46/EC may be obtained free of charge from: The Office of the Data Protection Registrar, International Department, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. Tel: (01625) 545 710 Fax: (01625) 524 510 This report was written by Bojana Bellamy, a *Privacy Laws & Business* consultant.