



UK Data Protection Registrar starts prosecutions under Criminal Justice Amendments

The Data Protection Registrar is now conducting prosecutions under the new criminal offences created by Section 5 of the UK Data Protection Act (see PL&B April 1996 p 20).

Section 161 of the Criminal Justice and Public Order Act 1994 amended the Data Protection Act 1984 by adding three new criminal offences inserted at section 5 subsections (6), (7) and (8): Section 5(6) creates the offence of *unlawfully procuring information*; Section 5(7) the offence of *selling that information*; and Section 5(8) the offence of *offering to sell that information*. These three additional offences became operative on February 3rd 1995.

First prosecution convicts investigator

The first prosecution under the new amendment took place in July 1996 in Weston-super-Mare, when Mr Paul Coles, a part-time private investigator, was convicted under Section 5(6) and 5(7) of the Data Protection Act. Mr Coles had been paid by a client to obtain the name and address of the registered keeper of a motor vehicle, which he did by requesting the information on a false pretext from the Driver and Vehicle Licensing Agency (DVLA).

He pleaded guilty and was fined £500 for procuring and £1,000 for selling the information. He was also ordered to pay costs of £500.

Case involving unofficial credit search

In December 1996, an Aylesbury magistrate tried and convicted Mr Graham Ford. The individual concerned was an employee of a large commercial company (not a bank or other financial institution) which had on-line facilities to a credit reference agency. The employee used these on-line facilities to do a credit search on someone for his own personal and domestic purposes. This search had nothing to do with his employer's business. The search, purporting to have been made by the individual's employers, was discovered by the complainant when checking his credit file.

The credit reference agency is a data user and is governed by the terms of its register entry like any other data user. The credit reference agency was registered to disclose personal data, held for this purpose, to its clients. The client in this case was the company employing the individual. The individual was *not* a client of the credit reference agency, therefore, a disclosure to him, in his own right, was not a registered disclosure. As a result, the individual had unlawfully procured the disclosure of the information to himself.

Mr Ford pleaded guilty to the offence contrary to section 5(6) and was convicted. Whilst he was fined only £250 with costs of £250, this was not a light sentence in relation to his financial status.

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