



THE DATA PROTECTION REGISTRAR

FIRST REPORT

of the
Data Protection Registrar
June 1985

LONDON

HER MAJESTY'S STATIONERY OFFICE



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of the
Data Protection Registrar

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1. INTRODUCTION

I welcome the opportunity to make my first report to Parliament. At first sight its timing is a little odd—it is nine months since I took office and the report is not specifically related to a calendar or financial year. It is, however, almost one year since the Act passed on to the Statute Book (12 July 1984), and close to the time when a firm decision on the start of registration is becoming possible. Given the assumption in this report of a start in November 1985 then a future report one year from now should conveniently allow a review of the initial six months registration period.

The report looks to the future as much as it reviews the past and shows developing priorities and underlying policies as well as progress to date. It is structured first to indicate main activities and the priorities planned for them and then deals with each activity in its turn.

Setting out with an Act and a blank piece of paper raises a question as to how to start. Resources must be conjured up and I have begged, borrowed and bought help where I could. Acknowledgements of the contributions made appear throughout the report. None of the contributors has in any way tried to intrude on the independence of the Registrar's position—an independence which I will guard jealously—and the responsibility for actions taken and decisions made remains mine.

It has been a very busy, exciting and satisfying nine months during which I have been heartened by the positive, helpful response from many concerned organisations. This and the enthusiasm already shown by a staff mainly in post for only two months augurs well for the future.

A start has been made. Judgement on that start must rest with others. Much remains to be done as we move through the various stages to full implementation of the Data Protection Act 1984.

2. OVERALL OBJECTIVE

A brief description of the Data Protection Act 1984 is set out in Appendix 1. The purposes of the Act are essentially to:

- make the nature and use of personal data in computing systems open to public scrutiny (through a public register and by enabling individuals to obtain details of information about themselves)
- ensure good practice in the use, processing and protection of personal data in computing systems (through promoting and enforcing the data protection principles)
- allow individuals to claim compensation for damage and any associated distress arising from lack of security surrounding personal data which concern them or from inaccuracies in such data

The Act should be positive in action both for the public at large and for those using computing systems. It should raise public confidence in the use of computing equipment and encourage good practice in computer using organisations.

The Act does not ban computing activities—it does not prevent the use of personal data in computing systems for legitimate purposes—providing that the user is properly registered and conforms with the data protection principles.

The Registrar's activities must be such as to support the intentions of the Act and achieve its implementation. But, in addition, objectives must be set to ensure that the implementation is effective.

A primary further objective must be to establish a significant measure of public awareness of the rights of the individual under the Act and an understanding of the way in which those rights may be exercised. At the same time it is important that data users are aware of their responsibilities and have easy access to practical guidance about the measures they should implement in order to achieve proper conformance with the Act.

But these public measures of effectiveness cannot be sufficient on their own. There is advantage to all in achieving effectiveness with the least complexity and cost. Within the limits of the requirements of the Act, ease of implementation and compliance for data users must also be an objective, as must simple procedures for individuals who wish to exercise their rights.

Finally, both individuals and data users must have confidence in the way in which the Act is working. The procedures and actions of the Registrar's office must make their contribution to this by their own effectiveness and by demonstrating a responsive, open and even-handed approach.

3. PRIORITIES

Priorities have been set in broad terms to cover the period to December 1987 by which time the Act will be fully in operation. They relate also to the various intermediate phases in the implementation of the Act. For example, the commencement of registration late in 1985, or the right for individuals to claim compensation for damage caused by inaccurate personal data and various enforcement procedures which will come into effect towards the middle of 1986.

The priorities will be subject to review and cannot be as rigid as a bald statement of them suggests. Nevertheless they give a fair indication of the main thrusts of activity currently planned. Many of the activities are of a continuing nature but they are only referred to from year to year if there is some change of emphasis.

Activities to December 1985

- *Consultation*—establish contact and consultation with representative bodies (trade associations, professional bodies, interest groups). Seek discussions particularly on the registration process and the meaning of the Act in practice.
- *Organisation*—determine organisational size, budget and structure; recruit and train staff; set up and equip the office; establish internal procedures.

- *Registration*—determine and design the registration detail and process; establish and test procedures; arrange the contracting of register processing to a computer bureau.
- *The Act in Practice*—determine the main problems concerning the application of the Act and develop appropriate solutions.
- *Education and Awareness*—plan and mount an education and awareness campaign for data users and computer bureaux. Establish a background campaign for general public awareness.
- *Codes of Practice*—give first consideration to the desired objectives and structure of codes of practice to support the Act.

Activities to December 1986

- *Consultation*—continue consultative contacts, extending these where appropriate. Seek discussions particularly on codes of practice.
- *Organisation*—Consider representation in other locations in the United Kingdom.
- *Registration*—determine arrangements for making Register information available throughout the United Kingdom.
- *Education and Awareness*—continue to direct efforts towards data users and computer bureaux but begin to swing emphasis towards the general public based on the additional compensation rights related to inaccurate personal data.
- *Codes of Practice*—encourage interested trade associations and other bodies wishing to develop codes of practice which support the Act.
- *Complaint and Enforcement Procedures*—develop and implement complaint, investigation, appeal and enforcement procedures.
- *Monitoring*—develop and implement procedures for monitoring the effectiveness of the legislation and its implementation.
- *International*—establish firmer international contacts and the position of the United Kingdom in the world data protection scene.

Activities to December 1987

- *Consultation*—continue contacts, seeking discussions on preparation for the full implementation of the Act.
- *Registration*—review renewal procedures.
- *Education and Awareness*—plan and mount a comprehensive education and awareness campaign for the general public in the run up to the full implementation of the Act and the start of the right to subject access.
- *Complaint and Enforcement Procedures*—review in the light of the start of subject access.
- *Research*—consider the need for research programmes into data protection which might support the effective operation of the Act. Research might, for example, be needed to investigate the effects of changes in technology. Plan and mount research if appropriate.

4. CONSULTATION

The Data Protection Act 1984 touches virtually every aspect of the economy and society. No organisation as small as that of the Registrar can hope within itself to have detailed knowledge and understanding of such a breadth of activity. It is essential, therefore, to establish a continuing dialogue with organisations which can express the needs, problems and practicalities of the different economic sectors and interest groups. These groups must be representative of individuals as well as data users.

A great deal of time has been spent in establishing this dialogue and a list of groups (trade associations, professional bodies and interest groups) with whom on-going contact has been established is given in Appendix 2. I have personally met nearly all of these organisations, generally attending a committee or working group meeting.

There is a growing demand from other organisations to be added to this list but for practical reasons I have tried to restrain this, asking those making the request to work through others already on the list if possible. I intend to extend the list where appropriate later and give senior staff responsibility for maintaining contact with the various groups. However, for the present, I have preferred to commit staff, as they have become available, to such matters as the detailed development of the registration process.

Discussions with the groups have primarily been about the major requirements for guidance on the one hand and the registration process on the other. Many questions have been raised on the meaning of the Act and of its application to particular organisational circumstances or computing techniques. For example:

- what is processing by reference to the data subject?
- what is the scope of the exclusion concerning processing 'only for the purpose of preparing the text of documents'?
- who is the data user where personal data are processed by groups of organisations?
- how does the Act apply to electronic mail, telephone monitoring systems, time-recording equipment?
- what is the scope of the exemptions concerning data used solely for payroll or keeping accounts?

As far as registration is concerned, there have been three phases of consultation. First draft ideas on registration were circulated in December 1984. Following consideration of the response to these, a pilot registration form with guidance notes was circulated in February 1985. To test this form it was completed by about one hundred organisations nominated by the groups and reviewed also by the groups themselves.

A final draft registration form, notes and standard descriptions for entries were circulated in May. These drafts, amended for comments received by 21 June, will form the basis of the final registration procedures and forms.

I should like to express my appreciation of the assistance provided by all the groups engaged in consultations on the Act. Much work has been done by the many individuals involved, including a senior member of staff generously made available to the groups by Legal and General Group PLC. I am also grateful for the forbearance which has been shown regarding the answering of particular queries. It has been felt worthwhile to try to analyse and combine queries where possible so as to give the most generally useful response, but inevitably this has resulted in delay.

Many individual organisations, each important in its own right, have been kind enough to invite me to meetings. Demands on time have prevented me from accepting these invitations but I hope as senior staff become a little more free that it may be possible to extend contacts in this way. For the foreseeable future though I have to ask that approaches be directed through the groups listed and it is my intention that this continues to remain the primary channel for discussions.

5. ORGANISATION

Setting up a wholly new organisation brings with it many tasks. The majority, leaving aside the critical one of further recruitment, are now mainly completed, but uncertainty still exists about the required size of the organisation and this could affect the situation.

(a) Size

Final conclusions on the size of the organisation remain open. They depend, amongst other things, on the actual volume of registrations received and estimates are very sensitive to relatively minor changes in assumption, for example, of the number of registrations per computer user. The total of registrations is only likely to become finally clear in practice.

Home Office estimates (essentially a 'best guess' based on the limited information available) set the volume of registrations at 200,000 during the initial six month registration period and 50,000 a year after that. Calculations based on fairly simple assumptions regarding the registration process set a staff figure of about fifty with a switch of work content after the peak of registrations.

Since senior staff arrived in post during March, I have been able to devote some effort to reviewing these figures. Current estimates suggest that registrations might even reach two to three times the initial estimated volume during the six month period. If this sort of figure is reached then staff numbers are likely to peak at about one hundred and drop back after about a year of operation. Ways of coping with a peak such as this, including the use of sub-contractors, are being examined.

Based on the initial estimate of 200,000 registrations and about fifty staff, a first financial budget for the year to 31 March 1986 was set at £1.2 million. Expenditure from 20 September 1984 to 31 March 1985 was £308,000 as against a budget of £312,000. Revised budgets for higher registration levels are now under consideration.

(b) **Staffing**

Advertisements for the first senior staff were placed in the national press in Autumn 1984. Over two hundred applications were received for three vacancies—one Deputy Registrar and two Assistant Registrars. I placed a small contract with the National Computing Centre (NCC) for assistance in recruitment and assessed the applications and interviewed applicants together with the NCC Personnel Manager.

Thirty-two candidates were interviewed in total. A shortlist of four was drawn up for Deputy Registrar and each of these candidates was seen again. The successful applicant was Mr F G B Aldhouse, an Assistant County Clerk with Surrey County Council.

A shortlist of seven was drawn up for the two posts of Assistant Registrar. Mr Aldhouse joined me in interviewing the shortlist, the successful applicants being Dr J N Woulds of the Natural Environmental Research Council and Mr N S Waters of PA Management Consultants.

The Treasury Solicitor kindly offered to try to find a secondee as Legal Adviser and Mr J V Timothy joined me in this capacity in January 1985 from the Land Registry.

Early in the New Year, advertisements were placed for an Administration Manager and a Registration Manager. These two posts completed the senior management team. About one hundred applications were received and fifteen candidates were interviewed. Mr B D Jagger from Tootal Textiles Limited was appointed as Administration Manager and Mr J B M Duffy, one of the civilian staff of the Greater Manchester Police, as Registration Manager.

Aside from Mr Timothy and because of their various periods of notice, senior staff were not able to begin work until March and April 1985. Details of the members of senior staff together with an organisation structure are given in Appendix 3.

The first phase of recruitment of more junior staff is now completed and a second phase is under way. I have twenty staff at present.

It is desirable to get a spread of background and experience within senior staff in particular and I have had this in mind whilst recruiting. It is important also in a new organisation to establish the balance of experience and skills found in a well established body and I shall monitor the progress of recruitment in achieving this objective.

An organisation is only as strong as its people and I have been pleased by the start made by all of the staff recruited at all levels. I would make a special mention of the exceptional contribution of my secretary, Mrs P Toothill, who has been with me since my appointment.

I have also been grateful for help readily given by the Home Office and for assistance from the Central Computer and Telecommunications Agency in

selecting a computer consultant. The consultant has undertaken extensive work on registration development and bureau selection.

(c) Conditions of Employment

Conditions of Employment have been adopted which are closely similar to those in the Civil Service. All the various staff procedures are now being put into place—grades and salary scales, contracts and conditions of service, pension scheme, procedures for leave, expenses, health and safety.

(d) Office Accommodation

The Registrar has to serve the whole of the United Kingdom and some flexibility therefore exists in where his office should be sited. A location offering good travel facilities within the United Kingdom is obviously essential and it is attractive if this can be combined with economically priced accommodation. To these requirements must be added good facilities for the recruitment and retention of staff.

The North West of England met the requirements and I examined eleven properties in this area—four in Central Manchester, one in Stockport, one close to Manchester International Airport, four in Wilmslow on the southern outskirts of Manchester and one in Macclesfield.

I concluded that a building in Wilmslow offered the best solution to the requirements for travel facilities to all parts of the United Kingdom and attractiveness for staff whilst being close to major parts of the Manchester staff catchment area. The decision was swayed also by the uncertainty in staffing estimates and hence accommodation requirements. The space taken offered room for some expansion but could easily be partly re-let if original accommodation estimates were too high. In practice this consideration may be overtaken by events if volumes of registrations reach the higher levels.

I contracted with the North West Region of the Property Services Agency (PSA) to negotiate heads of agreement for the property selected and then finalised the lease with a Manchester firm of solicitors. The PSA also assisted with drawing up partition plans and electrical and heating layouts.

The offices have been equipped for a staff complement of fifty. The premises were occupied at the end of March. The NCC provided support from its Purchasing Manager and also kindly allowed the use of its offices until the permanent headquarters were available.

6. REGISTRATION

A high proportion of the effort available has been devoted to this. I have seen three objectives to be achieved:

- the Register should be readily understandable by individuals who refer to it. It should also offer the opportunity for an individual to make a broad comparison of the activities of one data user against another
- the registration process should be simple for data users to complete

- registration applications should be in a form which allows them to be checked for acceptability easily and quickly.

Each of these objectives points to standard descriptions for Register entries which can be widely usable, 'pre digestible' by the Registrar and capable of being used in a 'tick off' type of application form. In effect this demands a descriptive analysis of the use of personal data in computing systems throughout the United Kingdom.

Obviously such an analysis cannot be entirely comprehensive, particularly given the very limited time and resources available to carry it out and procedures will allow for this. Nevertheless the efforts of the groups consulted, the pilot organisations, the computer consultant and my own staff have led to a very wide ranging set of standard descriptions being available. Brief details of the approach adopted are given in Appendix 4.

In developing standard descriptions a level of generality has been allowed which should be helpful to both individuals and data users. More specific descriptions of example items within general terms will be available for those applying to register and also with the Register itself for individual enquirers. The use of the standard descriptions will be subject to some statistical monitoring to see that the system is working satisfactorily.

The Register will contain a large amount of information—even at the level of 200,000 registrations it could be as many as 600 million characters of information—say the equivalent of 500,000 register pages on paper or 1,000 microfiche cards. Clearly the processing and maintenance of this is a job for a computer.

Ultimately the Register computing may be carried out in-house but to develop a computing organisation for this at this stage would have severely delayed the start of registration. I therefore concluded that the work should be contracted out to a computer bureau, but on terms which allowed later transfer to in-house equipment.

The Central Computer and Telecommunications Agency (CCTA) has kindly guided our procedures for selecting a computer bureau which have followed those agreed for use by Government.

A specification of the outline requirement went to thirty one computer bureaux in January. From the thirteen responses received, a short list was selected and following further discussions three organisations were asked to sign a memorandum of agreement, which refined the specifications, in May. Tenders are being evaluated in June and the successful tenderer will be announced in July. The detailed design and programming of the first phase of the system and associated staff training are now planned to allow for the start of registration in November. A timetable for implementation of the Act based on this date is given in Appendix 5. The actual timetable will of course depend on the 'appointed day' order to be made by the Home Secretary.

Efforts have been directed to being prepared for the start of registration in September, but it is now considered that a November start would be more

satisfactory. Increasingly data users have pointed out that a start immediately after the summer holiday period could in effect lose them one to two months of the six months registration period. When added to the very tight development schedules for procedures design, printing and computer system development I believe these arguments are compelling.

Arrangements are being made for final design work for the registration forms and printing to be carried out by Her Majesty's Stationery Office (HMSO). With final drafts available to go to HMSO in July, the registration forms and guidance notes should be available in late September. Discussions are taking place with the Post Office about distribution through its main offices. In advance of this, information on the definitive approach to registration is planned to be made available for data users late in July.

Registration is expected to be for a period of three years or for one or two years if a lesser period is required. A standard charge is expected to be made for each registration. The period of registration and the standard charge will be prescribed in regulations to be made by the Home Secretary. It is hoped to process amendments to Register entries within the standard charge. A simple procedure for renewal will be established where no change in the entry is needed.

It is hoped to make the Register available in main public libraries throughout the United Kingdom, possibly in microfiche form, and discussions about this are under way. However, because of the volume of data, it may be necessary to give access via terminals linked to a computer system and consideration has yet to be given as to the feasibility of this.

7. THE ACT IN PRACTICE

Interest in the Act is high. Since my appointment in September my office has dealt with over 10,000 letters and telephone calls. Since the end of April and the issue of Guideline 1 the incoming rate has regularly been over 1,000 per week divided roughly equally between letters and telephone calls. Inevitably there is some delay in answering the more complex enquiries and it is hoped to alleviate this situation by providing many answers through the Newsletter mentioned below.

Conferences and seminars on the Act are being run almost daily and our press clippings service shows an increasing number of articles, letters and general press comment.

The Act establishes a framework in which case law can develop. The full legal interpretation of the Act must, therefore, await Court decisions. However, data users need guidance now as to what the Act might mean and how it might apply in their particular circumstances. To try to meet this need 'rules of thumb' and illustrative examples are being prepared to meet major common concerns.

The first 'rules of thumb' and a description of the Act itself were included in Guideline No. 1 'An Introduction and Guide to the Act'. Further questions and answers will be circulated in a newsletter in July. This will deal with the types of questions shown in section 4.

The exemptions in the Act raise many questions as to how they might apply in particular circumstances and discussions are taking place with the accountancy bodies on the scope of those concerned with payroll and accounts.

It is clear that some sectors are likely to get greater public attention than others, or face particular problems under the Act, for example, health, police, direct mail, the media. Special attention will be given to these. I am in discussion with the Department of Health and Social Security on possible Secretary of State's Orders concerning health and social work data. I am also indebted to the Independent Television Companies Association and the BBC for having the opportunity to see television news and programme making at first hand.

So far I have received eleven complaints from individuals about the use of personal data in computing systems. It is too early and examples are too few to draw any conclusions. For the present and until the relevant parts of the Act are in operation the response which can be made is limited, but I shall try to be as helpful as I can to both the individuals and the data users concerned in resolving any problems.

8. EDUCATION AND AWARENESS

The early priority is to raise the level of understanding and awareness amongst computer users and this requires a well directed campaign. For such a campaign to succeed it must not only be planned and sustained in order to reach its chosen audience but must present an attractive and recognisable image. To this end use has been made of a public relations consultant and a design and production agency.

The education and awareness campaign will include the distribution of guidelines and newsletters on the Act, background briefing for the news media, news releases, press advertising (subject to budgetary consideration), radio and television interviews and articles.

Guideline No. 1 (An Introduction and Guide to the Act) has been available since April and about 300,000 copies have now been circulated. This guideline set the design format and structure for future guidelines.

I have been delighted by the offers to circulate guidelines—not only have the groups being consulted held or distributed copies but they have been stocked and made available to callers in many parts of the United Kingdom through:

Chambers of Commerce (throughout the United Kingdom)

The National Computing Centre (Manchester, London, Belfast, Birmingham, Bristol, Glasgow)

Members of the Federation of Microsystems Centres
(Birmingham, Coventry, Bournemouth, Nottingham, Edinburgh, Borehamwood, Hull, Milton Keynes, Sheffield, London, Salford, Liverpool, Pontypridd, Paisley, Newcastle upon Tyne, Newtownabbey—Co. Antrim, Washington, Leeds)

British Computer Society (London)

Institute of Data Processing Management (London)

The Industrial Society (London)

Copies are also obtainable, of course, from my own office:

Office of the Data Protection Registrar
Springfield House
Water Lane
Wilmslow, Cheshire
SK9 5AX

where a telephone enquiry service—Wilmslow (0625) 535777 has also been established.

As indicated earlier in this report a newsletter containing questions and answers on the Act will be published in July. It is intended that this shall be given the same wide circulation as Guideline 1. Also, as indicated earlier, advance information on the definitive registration process is planned to be available late in July.

Several news releases have already been issued and these will continue when significant items are available. A number of press interviews have been given. In addition I have given two television interviews, three interviews on national radio and five for local radio stations.

I now have about forty conference presentations completed or planned. I had to turn down over thirty invitations for last Autumn and am already having to turn down many for later this year. I have tried to appear in most parts of the United Kingdom (details are in appendix 6) and for a range of different organisations. The Deputy Registrar is now taking on speaking engagements and as the Assistant Registrars become a little freer, they too will be involved in this activity.

Discussions are under way with the Central Office of Information regarding the use of its regional services, the provision of information through Prestel, and the production of sound and video tapes on the Act.

9. CODES OF PRACTICE

I have become increasingly convinced that codes of practice will be a valuable assistance to compliance with the data protection principles. Such codes should be positive and practical. They must support and propagate good practice and not simply consist of well intentioned but vague statements.

A number of the organisations consulted have expressed interest in developing codes of practice, but there has been no time yet to come to grips with the

problem of how best to encourage these developments. Essentially the proposals and work must take place in the trade or professional associations sponsoring them, but I hope to give proper consideration later this year to desirable structures, contents and objectives for such codes.

10. INTERNATIONAL

There has been little time yet to develop international contacts, but I was privileged to attend a meeting of Data Commissioners from other countries last Autumn and look forward to a similar meeting this September.

The United Kingdom can learn from the experience of others and must ensure that its voice and views are heard where international opinions and decisions on data protection are formed. This will be important not only for the development of data protection activities in the United Kingdom but to ensure that the world with which we trade and exchange information understands the positive attitude expressed through the Act towards the protection of personal information.

I am now beginning to link senior staff into activities in the Council of Europe and will extend these links as time and opportunity make this possible.

11. CONCLUSION

With the very limited effort inevitably available at this early stage I have sought to establish a firm foundation for the future whilst trying to meet aspirations for an early start to the main provisions of the Act. Time spent on consultation and on developing a registration process to meet objectives valuable for both individuals and data users is, I believe, a good investment.

Given all the practical tasks necessary, not only concerned with registration but with building a new organisation, a start to registration before Autumn 1985 was never a possibility.

A start in November 1985 would give a sensible opportunity for data users to prepare for the Act and practical though still severe timescales for all the development tasks—registration design, staff recruitment and training, computer system design, programming and testing—which must be completed. Such a start date would also bring full implementation of the Act in 1987. Implementation in 1988, whilst only involving a small delay, could cause a more than proportionate public concern.

There are many challenges ahead. The Data Protection Act 1984 opens up new territory which must be charted. The Registrar and his staff must play their full and proper role in making the ways clear for those who journey—be they individuals or computer users.

E. J. HOWE
Data Protection Registrar

JUNE 1985

APPENDIX 1

THE DATA PROTECTION ACT 1984

A BRIEF DESCRIPTION

1. INTRODUCTION

On 12th July 1984 the Data Protection Act received Royal Assent and passed on to the Statute Book. It is the first piece of legislation in the United Kingdom to address the use of computers and its purpose is to create openness in the use of personal data in computing systems, encourage good practice in such systems and establish certain new rights for individuals.

The Data Protection Act 1984 meets two concerns:

- that arising from the threat which mis-use of the power of computing equipment might pose to individuals. This concern derives from the ability of computing systems to store vast amounts of data, to manipulate data at high speed and, with associated communications systems, to give access to data from locations far from the site where the data are stored;
- that arising from the possibility of damage to our international trade which might occur if the United Kingdom were not to ratify the 'Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data'. Countries ratifying this Convention might place restrictions on the transfer of personal data to countries which have not ratified it.

The Act lays down a framework of law within which its purpose can be achieved. This approach has two consequences:

- there will inevitably be uncertainty about the application of the Act in particular circumstances;
- some uncertainties may only be definitely resolved following decisions by the Data Protection Registrar, the Data Protection Tribunal or the Courts.

2. SCOPE

The Act is 'To regulate the use of automatically processed information relating to individuals and the provision of services in respect of such information.' The Act does not therefore cover the processing of personal data by manual methods. Nor does it cover information relating to corporate bodies.

The Act does not define the types of equipment which might be considered to 'automatically process', nor, aside from certain detailed exemptions, does it refer to the type of application for which personal data are used. The Act does set out a number of definitions which interact with each other to determine whether data and their use are covered by the Act or not. It is useful to note the following broad descriptions:

Personal Data consist of information about a living individual, including expressions of opinion about him or her, but excluding any indication of the intentions of the Data User in respect of that individual.

Data Users are organisations or individuals who control the contents and use of a collection of personal data processed, or intended to be processed, automatically.

A Computer Bureau is an organisation or individual who processes personal data for Data Users, or allows Data Users to process personal data on his equipment. An organisation or individual may thus rank as a Computer Bureau (eg by providing back-up facilities for another Data User) without actually being in business as a Computer Bureau as such.

A Data Subject is an individual to whom personal data relate.

For the purpose of this description the term 'automatically processed' is taken to refer to processing by use of computing equipment (including such as mainframe, mini and micro computers and word processors).

The scope of the Act is limited by certain exemptions. These may concern the whole of the Act or a part of it.

Most of the exemptions are accompanied by provisos or limitations and they must be examined carefully before a Data User concludes that any of them apply to him. Exemptions from the Act as a whole include data required for the purpose of safeguarding national security, data which a Data User is required by law to make public and a 'home user' exemption, (where data are concerned only with an individual's, personal, family, household or recreational affairs).

Some other examples of data which may gain some form of exemption from the whole or part of the Act, but which have specific conditions attached to them are: data held only for pay, pensions or accounts-keeping purposes; data held by unincorporated clubs about their members; data used solely for statistical or research purposes; data held for the prevention or detection of crime.

The Act applies to all Data Users who control the contents and use of data from within the United Kingdom irrespective of where the processing of their data is carried out. Where a person who is not resident in the United Kingdom exercises the control through a servant or agent in the United Kingdom, then that servant or agent is treated as the Data User.

The Act applies to Computer Bureaux providing services in the United Kingdom even if the processing itself is carried on outside the United Kingdom. Where such services are provided in the United Kingdom by the servant or agent of any person resident outside the United Kingdom, that servant or agent is treated as a Computer Bureau.

Where data are processed wholly outside the United Kingdom and are not used or intended to be used in the United Kingdom, then the Act does not apply.

3. MAIN FEATURES

The Act is phased into operation so as to give Data Users time to prepare for the new requirements they will have to meet. Most of the provisions are timed to come into effect at set intervals after a day to be appointed for the start of the Data User/Computer Bureau registration process laid down by the Act. One new right for individuals is in existence now.

The 'appointed day' will be announced by the Home Secretary when the development of the registration process allows this to be determined. It is expected that about three months notice will be given. A timetable based on an appointed day in November 1985 is given in Appendix 5. In this description reference is only made to the relationship of the operative dates to the 'appointed day'.

The Act establishes new legal rights for individuals with regard to personal data processed by the use of computing equipment. A Data Subject may:

- seek compensation, through the Courts, for damage and any associated distress caused by the loss, destruction or unauthorised disclosure of data (as from 12 September 1984) or by inaccurate data (as from 6 months after the 'appointed day');
- apply to the Courts for the rectification or erasure of inaccurate data (as from 6 months after the 'appointed day'). An application may also be made to the Data Protection Registrar but there are restrictions on his powers in this respect until two years after the 'appointed day';
- obtain access to data of which he or she is the subject (as from 2 years after the 'appointed day').

The Act imposes certain obligations on Data Users and Computer Bureaux. It causes Data Users to be open about their use of personal data (through registration) and to maintain good practice (defined in certain principles) in relation to personal data they hold. The Act does not seek to prevent Data Users using personal data for legitimate purposes providing that they are appropriately registered and they operate in accordance with the principles.

Data Users must register the personal data they hold, the purposes for which they use them, the sources from which they may get them, those to whom they may disclose them and the countries or territories outside the United Kingdom to which they may transfer them.

A Computer Bureau must register its name and address.

Data Users must adhere to certain principles in connection with the personal data they hold. Broadly these state that personal data shall:

- be collected and processed fairly and lawfully;
- only be held for specified, lawful, registered purposes;
- only be used for registered purposes or disclosed to registered recipients;
- be adequate and relevant to the purpose for which they are held;

- be accurate and, where necessary, kept up to date;
- be held no longer than is necessary for the stated purpose;
- have appropriate security surrounding them.

The principles also embody the entitlement for individuals to have access to data held about themselves (subject access).

The Act establishes a number of offences which may flow from non-compliance with the registration process or the principles. Some of these offences may lead, on conviction, to unlimited fines. The servants and agents of Data Users and Computer Bureaux are bound in many cases by the same provisions as apply to their employers or contractors and may also be liable, in respect of their own actions, to proceedings for certain offences.

The Act creates the office of the Data Protection Registrar, whose responsibility is to implement its provisions. Thus his duties are to:

- establish the register of Data Users and Computer Bureaux and make this publicly available;
- disseminate information on the Act and its operation;
- promote the observance of the data protection principles;
- encourage, where appropriate, the development of codes of practice to assist Data Users in complying with the principles;
- consider complaints about contraventions of the principles or the provisions of the Act.

The Registrar may issue notices to enforce compliance with the data protection principles and may ultimately remove an entry from the Register. Removal from the Register would make it an offence for a Data User to continue automatic processing of the data concerned.

The Registrar may prosecute for non-compliance with notices issued or for other offences concerning, for example, infringement of the registration requirements. In Scotland prosecutions would be undertaken by the Procurator Fiscal.

Data Users and Computer Bureaux may appeal against the Registrar's decisions to a Data Protection Tribunal established under the Act.

APPENDIX 2

LIST OF ORGANISATIONS CONSULTED

Consultations on the operation of the Act and the development of the registration process have been taking place with the following group organisations:

The Advertising Association, Abford House, 15 Wilton Road, London, SW1V 1NJ.

The Advertising Association is co-ordinating discussions with the Mail Order Traders Association; Direct Mail Producers Association; Association of Mail Order Publishers; Incorporated Society of British Advertisers; Institute of Practitioners in Advertising; British Direct Marketing Association; Association of Media Independents; British List Brokers Association; Periodical Publishers Association Limited.

Aslib, The Association for Information Management, Information House, 26-27 Boswell Street, London, WC1N 3JZ.

The Association of British Chambers of Commerce, Sovereign House, 212a Shaftsbury Avenue, London, WC2H 8EW.

The Association of British Travel Agents Limited, 55-57 Newman Street, London, W1P 4AH.

Association of Certified Accountants, 29 Lincolns Inn Fields, London, WC2A 3EE.

The Association of Corporate Trustees, c/o The Secretary, 2 Withdean Rise, Brighton, BN1 6YN.

Association of Chief Police Officers, England, Wales and Northern Ireland, New Scotland Yard, Broadway, London, SW1H 0BG.

Association of Chief Police Officers, Scotland, c/o Fife Constabulary, Police Headquarters, Wemyss Road, Dysart, KY1 2YA.

Association of Market Survey Organisations, c/o TNG, 457 Kingston Road, Ewell, Epsom, Surrey, KT19 0DH.

British Bankers' Association, 10 Lombard Street, London, EC3V 9EL.

British Computer Society, 13 Mansfield Street, London, W1M 0BP, and through the BCS twenty-eight professional and other bodies.

The British Insurance Brokers' Association, BIBA House, 14 Brevis Marks, London, EC3A 7NT.

British Retailers Association, Commonwealth House, 1-19 New Oxford Street, London, WC1A 1PA.

The Building Societies Association, 3 Saville Row, London, W1X 1AF.

Business Equipment Trade Association, 8 Southampton Place, London, WC1A 2EF.

Central Computer and Telecommunications Agency, 157/161 Millbank, London, SW1P 4RT. Home Office; Department of Health and Social Security; Ministry of Defence; HM Customs & Excise.

Committee of Vice Chancellors and Principals of the Universities of the United Kingdom, 29 Tavistock Square, London, WC1H 9EZ/Registrars of Northern Universities.

Computing Services Association, Hanover House, 73/74 High Holborn, London, WC1V 6LE.

Confederation of British Industry, Centre Point, 103 New Oxford Street, London, WC1A 1DU.

Consumers' Association, 14 Buckingham Street, London, WC2.

The Chartered Institute of Public Finance and Accountancy, 3 Robert Street, London, WC2N 6BH.

The Churches Main Committee, Fielden House, Little College Street, Westminster, London, SW1P 3JZ.

Engineering Employers Federation, Broadway House, Tothill Street, London, SW1H 9NQ.

Finance Houses Association, 18 Upper Grosvenor Street, London, W1X 9PB.

Independent Television Companies Association, Knighton House, 56 Mortimer Street, London, W1N 8AN.

The Industrial Society, Peter Runge House, 3 Carlton House Terrace, London, SW1Y 5DG.

The Institute of Chartered Accountants in England and Wales, PO Box 433, Chartered Accountants' Hall, Moorgate Place, London, EC2P 2BJ.

The Institute of Chartered Accountants of Scotland, 27 Queen Street, Edinburgh, EH2 1LA.

The Institute of Chartered Secretaries and Administrators, 16 Park Crescent, London, W1N 4AH.

The Institute of Cost and Management Accountants, 63 Portland Place, London, W1N 4AB.

Institute of Data Processing Management, Henrietta House, 18 Henrietta Street, London, WC2E 8NU.

Institute of Personnel Management, IPM House, Camp Road, Wimbledon, London, SW19 4UW.

Insurance-Joint Working Party of British Insurance Association/Life Offices' Association/Industrial Life Offices' Association, Aldermary House, Queen Street, London, EC4N 1TP.

Interprofessional Working Group, c/o British Medical Association, Tavistock Square, London, WC1.

LAMSAC, Vincent House, Vincent Square, London, SW1P 2NB.

The Law Society, The Law Society's Hall, 113 Chancery Lane, London, WC2A 1PL.

The Law Society of Scotland, 26 Drumsheugh Gardens, Edinburgh, EH3 7YR.

The Library Association, 7 Ridgmount Street, London, WC1E 7AE.

The Market Research Society, 15 Belgrave Square, London, SW1.

Media Law Group, 4th Floor, Brook House, 2-16 Torrington Place, London, WC1E 7HN.

National Association of Pension Funds, Sunley House, Bedford Park, Croydon, CR0 0XF.

National Computer Users Forum, c/o Secretary General, The National Computing Centre Limited, Oxford Road, Manchester, M1 7ED.

The National Computing Centre Limited, Oxford Road, Manchester, M1 7ED.

National Consumer Council, 18 Queen Anne's Gate, London, SW1H 9AA.

National Council for Civil Liberties, 21 Tabard Street, London, SE1 4LA.

National Council for Voluntary Organisations, 26 Bedford Square, London, WC1.

Nationalised Industries Computer Committee, c/o Compower Limited, Cannock, Staffordshire, WS11 3HZ.

The Newspaper Society, Whitefriars House, Carmelite Street, London, EC4Y 0BL.

Retail Consortium, Commonwealth House, 1-19 New Oxford Street, London, WC1A 1PA.

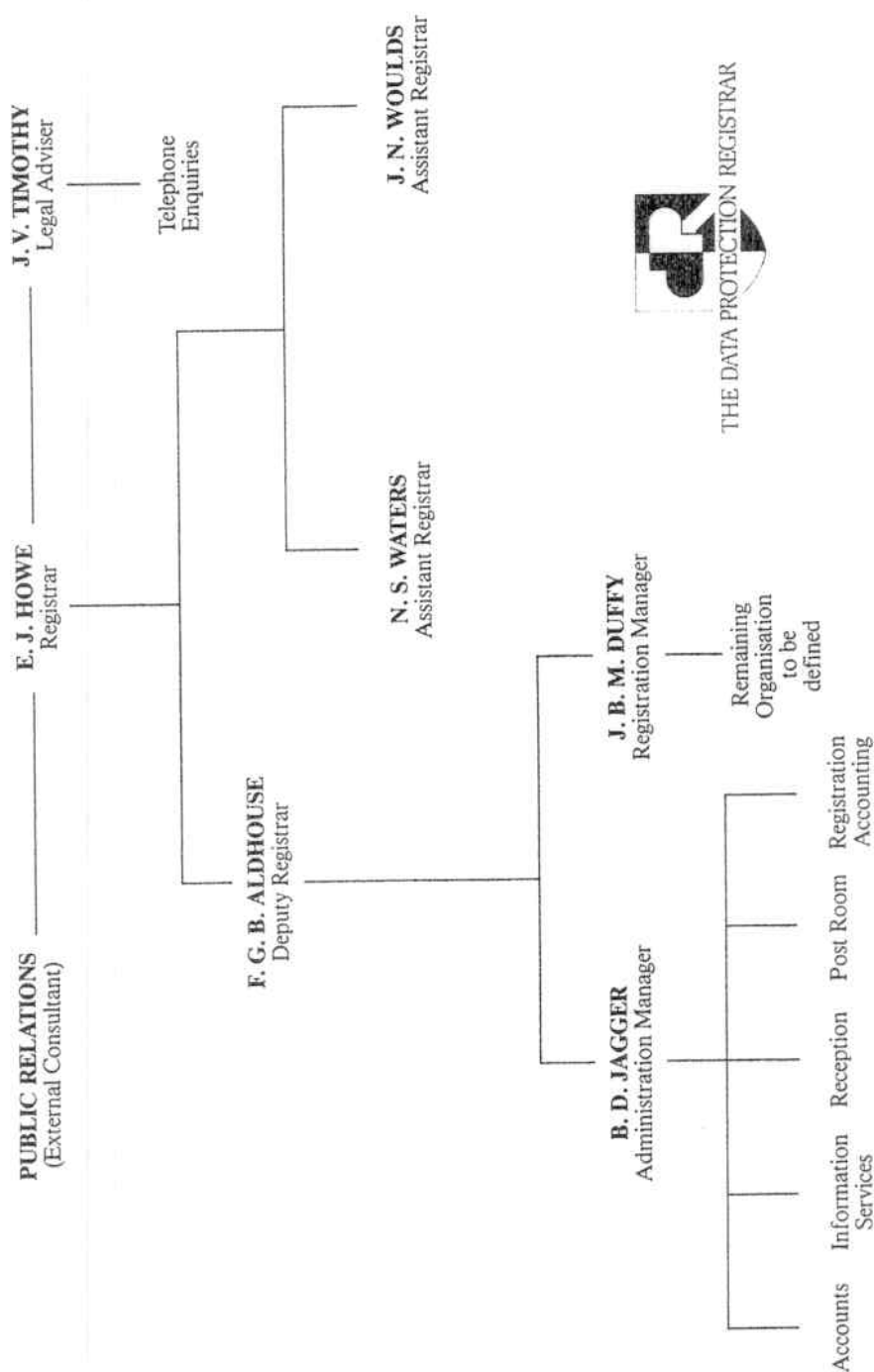
Trades Union Congress, Congress House, Great Russell Street, London, WC1B 3LS.

United Association for the Protection of Trade Ltd, Zodiac House, 163 London Road, Croydon, Surrey, CR9 2RP.

Other group organisations are expected to be added to this list as implementation of the Act gathers pace and the staffing of the Registrar's Office is established. In addition to the above groups, about a hundred organisations have assisted with the pilot registration form and guidance notes.

APPENDIX 3 ORGANISATION AND SENIOR STAFF

(a) Organisation Structure



THE DATA PROTECTION REGISTRAR

APPENDIX 3

ORGANISATION AND SENIOR STAFF

(b) Backgrounds of Senior Staff

Deputy Registrar—F G B ALDHOUSE

Francis Aldhouse joined the Registrar's Office in mid-March 1985 from Surrey County Council where he was an Assistant County Clerk. His responsibilities related to the social services sector and he had particular concern with establishing gipsy sites in the county. Earlier in his career he worked with a major assurance organisation.

Mr Aldhouse graduated in Philosophy, Politics and Economics from Oxford University and in addition to being a qualified solicitor has recently completed an MSc in Business Studies.

Legal Adviser—J V TIMOTHY

Joe Timothy has been seconded from HM Land registry and joined the staff in January. As an Assistant Land Registrar he was responsible for all aspects of the Registry's legal practice including the updating made necessary by new legislation and case law.

After graduating in Law from Manchester University, Mr Timothy was admitted as a Solicitor in 1976.

Assistant Registrar—DR J N WOULDs

John Woulds joined the Registrar's Office on 1st March from the Natural Environmental Research Council where he was responsible for computing services on eleven sites in the North of England, Scotland and Wales. Prior to this, following work in the nuclear field, he had eight years experience in computer operations and support management.

Dr Woulds graduated from Cambridge University and was awarded a PhD following research work at the University of Liverpool. He is a Justice of the Peace.

Assistant Registrar—N S WATERS

Nigel Waters began his appointment in April. He joined from PA Management Consultants where, as a member of the Business Consulting and Government Services division, he carried out assignments for a variety of clients in the private and public sectors. He was previously responsible for developing a range of information services on job creation and industrial development matters while employed by the Glasgow based Planning Exchange.

Mr Waters is a graduate of Cambridge University and holds a Masters Degree in City and Regional Planning from the University of Pennsylvania.

Administration Manager—B D JAGGER

Brian Jagger took up his position early in March. He was previously with Tootal Textiles Limited where he was controller of Finance and Business Administration. He has been employed in the private sector throughout virtually

the whole of his career but was also involved in the establishment phases of the Wool Industry Training Board.

Mr Jagger is a Fellow of both the Chartered Association of Certified Accountants and the Institute of Cost and Management Accountants.

Registration Manager—J B M DUFFY

Mike Duffy took up his position in April. He joined from Greater Manchester Police where, as Head of the Statistics Department and a civilian member of staff, he was responsible for the production and analysis of reports on the whole spectrum of Force operations.

Earlier, he worked for Greater Manchester Transport where he fulfilled a number of roles starting as a member of the Traffic Department and ultimately running the Data Collection and Statistical Services Section.

Mr Duffy is a graduate in Sociology from Manchester University.

APPENDIX 4

THE REGISTRATION PROCEDURE

The full registration package, which is expected to be available late in September 1985, will include a two part application form and guidance notes. Part A of the Form, to be used by all applicants, will require details of the data user or computer bureau, together with one or more subject access addresses.

Part B, to be completed only by data users (not computer bureaux), will be for details of the personal data held for a single purpose. Applicants will be required to complete a separate Part B for each purpose they wish to register. They may register purposes separately or in groups as they wish.

In addition to details of the purpose, Part B will include a description of the personal data to be held; a description of the sources from which the data may be obtained and the person or persons it may be disclosed to; and a description of any overseas countries or territories to which the data user may wish to transfer the data.

Standard descriptions have been devised for all sections of Part B. At present there are over fifty intended descriptions of purpose, one hundred of personal data, seventy-eight of sources and disclosures and fifty-three of overseas transfers. The purpose section will require a code to be entered but all other sections will be in a 'tick-off' format.

The standard 'Purpose' descriptions include general ones such as customer administration, work management and personnel administration; and a number of 'industry specific' purposes such as personal banking, property management, and legal services. There will be some overlap between the standard purposes, but applicants may choose the description(s) which best fit their circumstances and intentions.

Standard descriptions for the data itself cover both the 'Data Subject Type', for example, employees, agents, licence holders; and the 'Data Type', for example, personal and health characteristics, opinions and beliefs, financial details.

'Sources and Disclosures' include standard descriptions, such as family of the data subject, Inland Revenue, Probation Service, Trade Association. The 'Overseas Transfers' section will have tick boxes for each of the United Kingdom's main trading partners.

In all sections of the Form, it will be possible for applicants to write in additional or alternative descriptions, but those applications containing free text will be subject to special scrutiny by the Registrar. Data users will be encouraged to make use of the standard descriptions wherever possible.

To allow registration to be as flexible as possible, data users will be allowed to declare relevant parts of their organisation or particular aspects of their business if they wish.

Full details of the registration process, including lists of all the standard descriptions, are expected to be available on request from the Office of the Data Protection Registrar from late July.

APPENDIX 5

DRAFT TIMETABLE

Some provisions of the Act are already in force, others will be implemented on the day to be appointed by the Home Secretary for the start of registration and the remainder will take effect over the following two year period.

For the purposes of this appendix an appointed day in November 1985 is assumed.

The items marked with an asterisk are provisional only and may be subject to revision.

- | | |
|-------------------|--|
| 12 July 1984 | Royal Assent. |
| 12 September 1984 | A Data Subject may seek compensation through the Courts for any damage or associated distress suffered on or after this date by reason of:— (a) the loss of personal data relating to him or (b) access being obtained to the data or its destruction or disclosure without the authority of the Data User or Computer Bureau. |
| * November 1985 | Registration commences. Data Users and Computer Bureaux may now submit applications to the Registrar. |
| * May 1986 | Existing Data Users and Computer Bureaux must apply for registration before this date. Holding of personal data by an unregistered person becomes a criminal offence. Any person who knowingly or recklessly provides Bureau services without being registered as a Computer Bureau commits a criminal offence. Registered Data Users become bound to operate within the terms of their register entries. Data Users become liable to pay compensation in respect of damage or associated distress suffered on or after this date by reason of inaccuracy of personal data. The Court may order rectification/erasure of inaccurate personal data. |
| * November 1987 | The 'subject access' provisions come into force. The registrar's powers of supervision are fully in operation. Any notices which he has served before this date may now take effect. |

APPENDIX 6

LOCATION OF TALKS GIVEN, ARRANGED OR UNDER DISCUSSION

| | |
|---------------|------|
| LONDON | (21) |
| BRISTOL | (2) |
| LIVERPOOL | (2) |
| MANCHESTER | (2) |
| BELFAST | † |
| BLACKPOOL | |
| BOURNEMOUTH | |
| BRIGHTON | |
| CARDIFF | † |
| EDINBURGH | |
| GLASGOW | † |
| HARROGATE | |
| LEEDS | |
| LEICESTER | |
| MILTON KEYNES | |
| NORTH EAST | † |
| SCARBOROUGH | |
| WARWICK | |

† under discussion.

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