



Privacy & Data Protection

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Headlines:

- £50,000 fine for text message spam, p.14
- Local Authorities—unlawful data sharing, p.15
- Robertson up to old tricks, p.16

Inside this issue:

| | |
|---------------------------------|----|
| Using the DPA 1998 as a weapon | 3 |
| Anti-Terrorism data transfers | 7 |
| Monitoring at Work—the new Code | 9 |
| Case Report—Ex parte NTL | 12 |
| Privacy in the US | 13 |
| News & Views | 14 |

Commissioner announces new enforcement strategy

A more aggressive strategy by the Information Commissioner's Office will result in many more enforcement actions being taken against companies and organisations that breach the provisions of the Data Protection Act.

The Information Commissioner, Elizabeth France, has announced various measures including the establishment of an Enforcement Board, an Enforcement Team and a more "pro-active stance" in relation to the investigation of Data Protection Act compliance issues.

In an official paper entitled, 'The Commissioner's Enforcement Strategy,' the Commissioner states that she has been "aware for some time that compliance casework has not resulted in a significant amount of enforcement activity."

Whereas the Commissioner has relied on complaints to her Office for the bringing of enforcement actions, future targeting will be undertaken in respect of breaches that come to the attention of the Commissioner's Office in a variety of other ways.

The Strategy paper states that, "Relying on such casework as the only means of identifying compliance issues is necessarily reactive and does not actually reflect the various different ways in which compliance issues are brought to the attention of the Commissioner."

Breaches of data protection law come to the attention of the Commissioner's office in a variety of ways including reports in the media, through questions posed of her office by members of the public

(Continued on page 14)

Data protection claim scuppered by prior proceedings

In a recent High Court action, a data subject was unable to gain access to, or rectification of, his personal data due to the existence of 'relevant' previous proceedings.

The claimant made an application to the court under section 7 and also section 14 of the Data Protection Act for access to, and rectification of, his data held by a consultant child psychiatrist (the defendant, Mr David Wozencroft).

In previous proceedings—an application for a residence or contact order in respect of his daughter—the claimant had chosen not to cross-examine the defendant.

Later, the claimant had requested the defendant child psychiatrist to furnish him with a copy of the reports the defendant had prepared for the Children Act 1989 proceedings. He also claimed rectification of the documents, as he

profoundly disagreed with their content.

The court seized on the failure of the claimant to cross-examine the psychiatrist as its reason for withholding from the claimant his right to subject access at the later date.

The court added that the claimant would be unable to persuade the court to exercise its discretion in respect of rectification as

(Continued on page 14)