



# Privacy & Data Protection

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## Headlines:

- German Commissioner approves binding corporate rules, p.13
- Offshore outsourcing continues to grow, p.14
- Marketers ignorant of new privacy laws, p.16

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## Bad data protection publicity—Commissioner fights back

As reported in previous editions of this journal, the Data Protection Act 1998 has been blamed in the media for several high-profile 'errors' in recent months. Examples include the British Gas pensioner deaths and the failure of the police to retain and pass on data that may have prevented the Soham schoolgirl murders.

Now it seems that Information Commissioner, Richard Thomas, has had enough. He is fighting back with a raft of new measures designed to inform relevant public bodies and the general public about the

purpose and benefit of data protection law. Following the deaths of Jessica Chapman and Holly Wells, Humber-side Police blamed their poor law enforcement practices on the restrictions in the Data Protection Act. Chief Constable David Westwood ascribed his force's apparent incompetence (leading to a failure to apprehend Soham murderer, Ian Huntley) on their understanding of how data protection laws were meant to work.

And British Gas said it was prevented, by the Data Protection Act,

from passing on to social services details of an elderly couple whose gas supply was cut off by the company for non-payment of a £140 bill. George Bates, 89, and his 86-year old wife, Gertrude, were subsequently found dead from cold-related illnesses in October in the south London house they had shared for 64 years.

Mr Thomas has now decreed that officials must stop using the legislation as a smoke-screen. He has promised an improved service on the data protection helpline and will ensure

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## Durant causes rethink on DP law

In the aftermath of the *Durant v FSA* case (see case report in *Privacy & Data Protection*, Volume 4, Issue 3), data protection practitioners are rethinking their strategies and the advice they are giving to their clients and employers.

Jessica Hendrie-Liaño, partner and data protection expert at Beachcroft Wansbroughs, stated that, "the Durant judgment provides what will be welcome guidance

to businesses in their capacity as data controllers in that a narrow construction of the definitions of 'personal data' and 'relevant filing system' (in both cases as defined in Section 1(1) of the Act) was applied to the case.

"Such an interpretation by its very nature represents a reduction in what to-date were perceived to be the rights of individuals in their capacity as data

subjects under Section 7 of the Act particularly against those that process their personal data in the private sector. The good news for data subjects seeking to access their personal data from a public authority, however, is that what this case has taken away under the Act will be given back under the Freedom of Information Act 2000 when part of that act comes into force on 1st

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