

HIPSSA PROJECT

Support for Harmonization of the ICT Policies in Sub-Saharan Africa

Training: Data Protection Law
Zimbabwe, July 2013

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HIPSSA PROJECT

Support for Harmonization of the ICT Policies in Sub-Saharan Africa

Protecting your personal data - a fundamental right!

The free flow of personal data - a common good!

ec.europa.eu/justice/data-protection/



DATA PROTECTION

- ❖ Whenever you open a bank account, buy an item on hire purchase, join a social networking website or book a flight online, you hand over vital personal information such as your name, address, and credit card number?
- ❖ What happens to this data? Could it fall into the wrong hands?
- ❖ What rights do you have regarding your personal information?



DATA PROTECTION AUTHORITY:

Why?

- ✧ The demands of public security, efficient administration, economic development and the ever rapid growth of new communications devices which integrate information and communications technologies must not jeopardize our privacy rights.
- ✧ Data Protection strikes the right balance between the concerns of Government and businesses, whilst respecting the fundamental rights of people (*privacy of information*), and this ought to be the guiding principle of the Data Protection Authority/Office.



<http://dataprotection.gov.mu>
Mauritian Data Protection Office

DATA PROTECTION AUTHORITY:

Why?

- ✧ The key principle underpinning data protection is to ensure that people know to control how personal information about them is used or, at the very least, to know how others use that information
- ✧ Object of the DPA is to provide for the protection of the privacy rights of individuals in view of the developments in the techniques used to capture, transmit, manipulate, record or store data relating to individuals.

<http://dataprotection.gov.mu>
Mauritian Data Protection Office



DATA PROTECTION AUTHORITY



- ✧ MAURITIUS: A Data Protection Office was established for the purposes of the Act, which is considered as a public office
 - ✧ The head of the office is known as the Data Protection Commissioner.
-
- ✧ UNITED KINGDOM formed in 1984: the Information Commissioner's Office is UK's independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals



DATA PROTECTION AUTHORITY

✧ The Commissioner must be a barrister with at least 5 years standing at the Bar who is assisted by such public officers as may be necessary

✧ The Commissioner who holds a term of not more than 5 years and his officers and staff are not regarded as servants or agents of the Crown.



DATA PROTECTION AUTHORITY



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A privacy complaint



The Office of the Privacy Commissioner of Canada

Psst!...A Word in Private?



Information for individuals regarding the loss of the HRSDC hard drive

The Commissioner has [launched an investigation](#) into this incident.

For more information, please see our:

- [Frequently Asked Questions](#) about this incident
- [Identity theft resources](#)



OPC on Twitter

@ShawnHooper We should have it online shortly - we'll tweet the link once it's up.
2013-03-01 • reply • retweet • favourite

March is Fraud Prevention Month #fpm2013. Watch as OPC tweets a tip-per-day to reduce ID theft risk.
2013-03-01 • reply • retweet • favourite



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DATA PROTECTION AUTHORITY



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The Information Commissioner's Office is the UK's independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals.

We can help you










→ Find out what personal information is held about you	→ Get official information from a public body
→ Prevent unwanted nuisance telephone calls	→ Stop spam texts and unwanted SMS messages

Find out how to Go

> Latest news

-  **15 February - Nursing and Midwifery Council receives £150,000 penalty**
The ICO has urged organisations to review their policies on how personal data is handled, after the Nursing and Midwifery Council was...
-  **25 January - ICO blog: EU data protection reforms**
Europe has been at the top of the news agenda this week, with talk of reforms and a referendum, but for the ICO developments in...

> Information for organisations

-  **Data Protection Act**
-  **Electronic marketing**
-  **Freedom of Information Act**
-  **Environmental information**
-  **Cookies guidance**
-  **Decision notices**
-  **Guidance index**
-  **Register of data controllers**
-  **Register (notify) under the Data Protection Act**



DATA PROTECTION AUTHORITY:

Fines and Enforcement.

- ❖ Enforcement mechanisms include criminal prosecution, non-criminal enforcement and audit. The Commissioner also has the power to serve a monetary penalty notice on a data controller.
- ❖ For ICO, Prior to 2010 enforcement powers were limited to issuing enforcement notices and to pursuing those alleged to have broken the Data Protection Act through the courts.
- ❖ Now the ICO has started to issue fines, known as monetary penalties, by its own authority, granted in April 2010.
- ❖ The ICO can impose fines of up to £500,000 for breaches of the Privacy and Electronic Communications Regulations introduced in 2003, while the Ofcom watchdog can impose fines of up to £2m for breaches of the rules which regulate companies using automated systems that make silent and abandoned calls.



DATA PROTECTION AUTHORITY: Fines & Enforcement.

- ❖ *ICO fined Sony £250,000 over security failings that exposed 'millions' of UK customers' personal data*
- ❖ *The UK's data protection watchdog fined Sony Computer Entertainment Europe Limited £250,000 after finding the company had not taken sufficient steps to prevent the loss of "vast" amounts of personal data belonging to millions of UK consumers.- Out-Law.com 24 January 2013*

ICO has been labeled the
watchdog of UK



DATA PROTECTION AUTHORITY: Fines & Enforcement.

❖ *13 June 2013: A monetary penalty notice was served to North Staffordshire Combined Healthcare NHS Trust, after several faxes containing sensitive personal data were sent to a member of the public in error.*

❖ *An enforcement notice was served on Google Inc following a serious breach of the Data Protection Act relating to the collection of payload data by Google's Street View cars in the UK.*



DATA PROTECTION AUTHORITY:

Fines and Enforcement.

- ❖ In practice, enforcement notices are most likely to be used where there is systemic or repeated non-compliance.
- ❖ The notice will explain what the public authority has failed to do and set out the Commissioner's reasons for reaching that conclusion. The notice will specify what steps the public authority needs to take in order to comply with the Act and a timescale for doing so.



DATA PROTECTION AUTHORITY: Fines & Enforcement.

In Ireland the Act imposes Criminal and Civil Sanctions:

Summary proceedings for an offence under the Data Protection Act may be brought and prosecuted by the Data Protection Commissioner. Under section 31 of the Act, the maximum fine on summary conviction of such an offence is set at €3,000. On convictions on indictment, the maximum penalty is a fine of €100,000.



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LIMITATIONS

- ✧ For the processing of personal data carried out for the sole purpose of literary and artistic expression, sections dealing with sensitive data, data collected for litigation, transborder flow, right of access of the data subject will not apply.
- ✧ The Act does not apply to information collected, processed or held by the intelligence or security services and also Information whose disclosure would be detrimental to the Public Order, interest of Defence and/ or National Security.



DATA PROTECTION AUTHORITY:

Limitations

Mauritius: National Security

Crime & Taxation

Health & Social work



Questions to Ponder

- Organizational Impact;
- Industry Impact;
- Is there an Impact in legislating rights of data subjects;
- Market and industry practicalities.



Where will the DPA housed?



THANK YOU

