

Data Protection & Freedom of Information Legislation



An Introduction

Paul Couldrey
Dudley NHS Trusts

Data Protection Act 1998

- Designed to protect the privacy of individual;
- In regard to the processing of their personal data;
- Came into force 01 March 2000;
- Gives individuals the right to see the information held about them;
- Right to compensation;
- Manual records also covered!.



Principles of Data Protection

Data Must :-

- Fairly and Lawfully Processed;
- Processed for limited purposes;
- Adequate, relevant and not excessive;
- Accurate;
- Not kept longer than necessary;
- Processed in accordance with the data subjects rights;
- Secure
- Not transferred to countries without adequate protection

Personal Data

- Data which relate to a **living** individual
- Who can be identified from those data
- Or from those data and other information which is in the possession, or likely to come into the possession of the data controller;
- Includes expression of opinion
- And indication of the intentions



Sensitive Personal Data

Data Consisting Of:-

- The racial or ethnic origin of the data subject;
- Political opinions;
- Religious beliefs or similar beliefs;
- Trade Union membership
- Physical/Mental Health
- Sexual life-style;
- Offences
- Legal proceedings



The Acts in Summary

The Individual

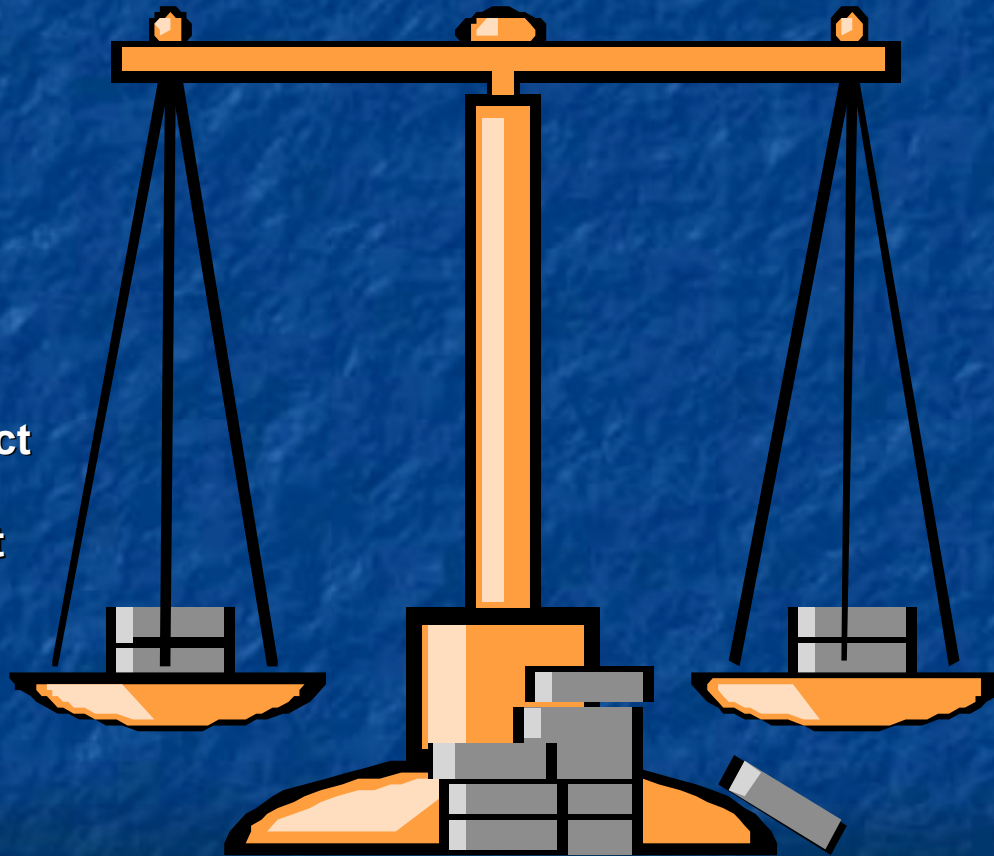
Data Protection Act

Human Rights Act

Society

Freedom of Inf. Act

RIP Act



Freedom Of Information Act 2000

•Background:

- The Act was passed in November 2000.
- The Act came fully in force on 1 January 2005.
- The Act:
 - gives a general right of access to all types of 'recorded' information held by public authorities
 - sets out exemptions from that right
 - places a number of obligations on public authorities
- All health bodies are covered by the Freedom of Information Act.

•Ground Work:

- .NHS Project Team created 2 years ago.
- Pilot schemes running at a number of trusts/surgeries etc – development of model publication schemes.
- Joint working with the OIC, royal colleges and DOH to ensure smooth introduction of the Act.
- Uniformity of schemes removes pressures of acceptance by the OIC.

Publication Scheme'

- By October 2003 all NHS bodies will have to have a 'publication scheme' in place (effectively a guide to the information they hold which is publicly available).
- This sets out:
 - the **type** of information the authority publishes or intends to publish
 - the **form** in which the information is published
 - details of any **charges**
- The Act creates a statutory right to know whether information is held and, if it is, to have it communicated (the right to receive the information).

What sort of information is being requested?

Role, function and management of the Trust

Infection Control

Development and implementation of policy

QOF Data

Procurement

Mast Locations

Car Parking Issues

Responding to requests:

- In general, public authorities will have to respond to requests promptly and in any event, within 20 working days.
- If a fee is required, the 20 working days will be extended by up to 3 months until the fee is paid.
- The body is not obliged to comply with vexatious requests or repeated or substantially similar requests from the same person other than at reasonable intervals.

What types of information need not be released?

- Some of the information held by a public authority may be regarded as exempt information i.e. it will not have to be provided in response to an individual request.
- There are 23 such exemptions and they relate to information held for a variety of functions, covering national security, law enforcement, commercial interests, personal data, international relations, formulation of Government policy.
- However, public bodies will be expected to show that they have considered the public interest in disclosure when arriving at a decision, even when the information requested may fall in one of the exemption areas.