TRAINING ON DATA PROTECTION

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Today’s Overview

1. Familiarize yourself with the Data Protection Act
2. Understand some key definitions
3. Be aware of the Data Protection Principles
4. Case Study
5. Disclosure of information
6. Data Sharing
7. Data Security
8. Best Practices
DATA PROTECTION ACT (DPA)
THE ACT IN A NUTSHELL

PART I • PRELIMINARY - Definitions etc.

PART II • DATA PROTECTION OFFICE

PART III • POWERS OF COMMISSIONER

PART IV • OBLIGATION ON DATA CONTROLLERS: S22 – S32

PART V • THE DATA PROTECTION REGISTER: S33 – S40

PART VI • RIGHTS OF DATA SUBJECT: S41 – S44

PART VII • EXEMPTIONS: S45 – S54

PART VII • MISCELLANEOUS
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.

DATA PROTECTION ACT

AN ACT
DEFINITIONS
**DEFINITIONS**

**Data** means information in a form which –

a) (i) is capable of being processed by means of equipment operating automatically in response to instructions given for that purpose; and

(ii) is recorded with the intent of it being processed by such equipment; or

b) is recorded as part of a relevant filing system or intended to be part of a relevant filing system;
**DEFINITIONS (Cont.)**

**Personal Data** means –

a) data which relate to an individual who can be identified from those data;

a) data or other information, including an opinion forming part of a database, whether or not recorded in a material form, about an individual whose identity is apparent or can reasonably be ascertained from the data, information or opinion;
EXAMPLES OF PERSONAL DATA

- Name of individual
- Address
- Car Registration No.
- Telephone No.
- Bank Account No.
- Email
DEFINITIONS (Cont.)

Sensitive Personal Data

- Religious / Similar Belief
- Membership to Trade Union
- Physical / Mental Health
- Sexual Preferences / Practices
- Criminal Convictions
- Racial / Ethnic Origin
- Political Opinion / Adherence
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- Religious / Similar Belief
**Processing** means any operation or set of operations which is performed on the data wholly or partly by automatic means, or otherwise than by automatic means, and includes –

- collecting, organising or altering the data;
- retrieving, consulting, using, storing or adapting the data;
- disclosing the data by transmitting, disseminating or otherwise making it available; or
- aligning, combining, blocking, erasing or destroying the data;
8 Principles of Data Protection Act
**DATA PROTECTION PRINCIPLES**

**First Principle**

Personal data shall be processed fairly and lawfully.
**Practical Steps**

For example, if an organisation is collecting personal data using application forms, the organisation is advised to explain the purposes/uses etc. on such forms such as:

- This data will be used by the organisation for *xxxxx* purposes.

- All personal data will be processed in accordance with the Data Protection Act 2004.

- I agree/disagree that the organisation processes my personal data in the way described above.
Second Principle

Personal data shall be obtained only for any specified and lawful purpose, and shall not be further processed in any manner incompatible with that purpose.
**Practical Steps**

Prepare a statement of the purpose/purposes for which the organisation holds information about others.

**Remember:**

Any individual has the right to ask the organisation to state the purpose/s for which such information is kept.
Third Principle

Personal data shall be adequate, relevant and not excessive in relation to the purpose for which they are processed.
Practical Steps

Decide on specific criteria by which to decide what is adequate, relevant, and not excessive.

Apply those criteria to each information item and the purposes for which it is held.
Fourth Principle

Personal data shall be accurate and, where necessary, kept up to date.
**Data Protection Principles**

*Practical Steps*

Assign specific responsibility for data accuracy under the Data Protection Act and arrange periodic review and audit.
Fifth Principle

Personal data processed for any purpose shall not be kept longer than is necessary for that purpose or those purposes.
DATA PROTECTION PRINCIPLES

Practical Steps

Assign specific responsibility to someone for ensuring that files are regularly purged and that personal information is not retained any longer than necessary.
Sixth Principle

Personal data shall be processed in accordance with the rights of the data subjects under this Act.
Under section 41 of the Data Protection Act, on making a **written request** to a data controller, any individual about whom a data controller keeps personal information on computer or in a relevant filing system is entitled to:

- a copy of his/her data upon payment of the prescribed fee (Rs 75),
- whether the data kept by him include personal data relating to the data subject,
- a description of the purposes for which it is held;
Seventh Principle

Appropriate security and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.
**Practical Steps**

Compile a checklist of security measures for your own systems.

In addition, where an agent is being retained to process personal data on behalf of the organisation, there should be a sound contractual basis for this, with appropriate security safeguards in place.
Eighth Principle

Personal data shall not be transferred to another country, unless that country ensures an adequate level of protection for the rights of data subjects in relation to the processing of personal data.
Authorisation is required from the Data Protection Commissioner to transfer data abroad.

Organisation must fill and submit to this office the ‘Transfer of Personal Data Form’ available on 

http://dataprotection.govmu.org
CASE STUDY
Fingerprint for attendance purpose

- Decision of the DPC
  - Decision 17 & 19
- Determination of ICT Appeal Tribunal
  - 9 April 2015 & 5 August 2015
DISCLOSURE
An organisation must ensure that personal information in its possession is not disclosed in any manner incompatible with the purposes for which such data has been collected, which is an offence under section 29 of the Data Protection Act.
The principle is that the prior consent from the concerned data subject should be obtained before any disclosure is made, unless the exceptions under section 24(2) of the DPA are applicable in the circumstances as follows:

- For the performance of a contract to which the data subject is a party and/or;

- For compliance with any legal obligation to which the organisation is subject.
DATA SHARING
The organisation who owns the personal data, i.e. the data controller, is responsible for the personal data in his custody.

As per section 24(1) of the Data Protection Act, the express consent of the data subject is required before sharing can be done and the data subject should be informed of that at the time of collection of the personal data according to section 22 of DPA.
However, as per section 24(2) of the Data Protection Act, personal data may be processed without obtaining the express consent of the data subject where the processing is necessary:

- for the performance of a contract to which the data subject is a party;
- in order to take steps required by the data subject prior to entering into a contract;
- in order to protect the vital interests of the data subject;
- for compliance with any legal obligation to which the data controller is subject;
- for the administration of justice; or
- in the public interest.
In the absence of the application of sections 24(1) and 24(2) of the Data Protection Act and any legislation/act which authorises the data to be shared, amendment to existing legislation/act is required to allow the sharing to be done.
Whenever data sharing is taking place, the data controller (i.e., the organisation who owns the data) has to ensure that organisational and technical measures are in place to protect the data being shared.
Further information may be obtained in the guideline:
“Vol. 9 - Practical Notes on Data Sharing Good Practices for the Public and Private Sector”, which is available on our website at
DATA SECURITY
DON'T WORRY, EVERYTHING IN YOUR MEDICAL FILE IS STRICTLY CONFIDENTIAL!

Image Source: Office of Privacy Commissioner (OPC)
THREATS TO DATA PRIVACY

- Identity Theft
- Data Breach
Identity theft occurs when someone uses your personally identifying information, like your name, social security number, or credit card number, without your permission, to commit fraud or other crimes.
A data breach is an incident in which sensitive, protected or confidential data has potentially been viewed, stolen or used by an individual unauthorised to do so.
BEST PRACTICES
All relevant security policies must be clearly explained to staff.

A clear explanation of the consequences for violating these policies must also be explained.

The end user needs to sign a document acknowledging that they understand the policies and consequences for violating these policies.
Data Security is subject to several types of audit standards and verification. Example - ISO 27001/27002 : ISMS

Security Administrators are responsible for creating and enforcing a policy that meets the standards that apply to their organisation’s business.
DATA CLASSIFICATION

- Data needs to be classified in the security policy according to its sensitivity.

- Once this has taken place, the most sensitive data requires extra measures in place to safeguard and ensure its integrity and availability.

- All access to personal data must be logged using audit trail.
PHYSICAL / TECHNICAL CONTROLS

- Physical access must be controlled to the data center or area where the data is stored.

- Fine Grained Access control must be implemented to define which user needs what type of access / no access on which data.

- Encryption of data is recommended for transmission of data across networks.
SYSTEM AND NETWORK SECURITY

- The use of firewalls to protect against intrusions.
- Disconnect unused data points.
- If wireless is deployed, use authentication servers to verify and log the identity of those logging on.
- Anti-Virus and malicious software protection on all systems.
SUMMARY

Privacy
Security
Protection
Safety
RESOURCES

The Data Protection website

- Web Links
- Documents / Forms
  - [http://dataprotection.govmu.org/English/Pages/default.asp](http://dataprotection.govmu.org/English/Pages/default.asp)

The Law

- [http://dataprotection.govmu.org/English/Legislation/Pages/default.aspx](http://dataprotection.govmu.org/English/Legislation/Pages/default.aspx)

Guidelines

- [http://dataprotection.govmu.org/English/Pages/Guidelines/Publications---Guidelines.aspx](http://dataprotection.govmu.org/English/Pages/Guidelines/Publications---Guidelines.aspx)
THANK YOU
Useful Reference & Links

The National Computer Board

- Useful for any relevant documentation in ICT
  - Legislations (Computer Misuse & Cybercrime Act 2003, etc.)
  - Knowledge Bank (Guidelines, e-Security Bulletin, etc.)

- [http://www.ncb.mu/](http://www.ncb.mu/)

ICTA

- ICT Laws

- [https://www.icta.mu](https://www.icta.mu)