

Press Release

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Mobile phone customers' records are sold illegally

The Information Commissioner, Christopher Graham, is highlighting new evidence which shows that a deterrent custodial sentence is required to stop the trade in unlawful personal information. Christopher Graham is responding to the government's proposal to introduce a custodial sentence for breaches of Section 55 of the Data Protection Act from 1 April 2010.

Investigators at the Information Commissioner's Office (ICO) have been working with a mobile telephone company after the firm suggested employees allegedly sold details relating to customers' mobile phone contracts, including their contract expiry dates. It is alleged that the information was being sold on to the service provider's competitors whose agents were using the material to cold call customers prior to contract expiry dates to offer them an alternative contract. The service provider has alleged that many thousands of customer account details have been unlawfully obtained.

The ICO has investigated and it appears that the information has been sold on to several brokers and that substantial amounts of money have changed hands. The ICO has obtained several search warrants and attended a number of premises, and is now preparing a prosecution file.

Christopher Graham said: "Many people will have wondered why and how they are being contacted by someone they do not know just before their existing phone contract is about to expire. We are considering the evidence with a view to prosecuting those responsible and I am keen to go much further and close down the entire unlawful industry in personal data. But, we will only be able to do this if

blaggers and others who trade in personal data face the threat of a prison sentence. The existing paltry fines for Section 55 offences are simply not enough to deter people from engaging in this lucrative criminal activity. The threat of jail, not fines, will prove a stronger deterrent.

Christopher Graham continued: “More and more personal information is being collected and held by government, public authorities and businesses. In the future, as new systems are developed and there is more and more interconnection of these systems, the risks of unlawful obtaining and disclosure become even greater. If public trust and confidence in the proper handling of personal information, whether by government or by others, is to be maintained effective sanctions are essential. This will not only underline the serious nature of the offence but will ensure that those convicted carry a meaningful criminal record. A custodial sentence will also have the added benefit of making the section 55 offence a recordable one and open up the possibility of extradition in appropriate cases.”

In another case, blaggers used forged identity documents to gain unlawful access to 41 people’s credit files held by a credit reference agency. The ICO is continuing its investigation.

Under the law as it stands, there is a public interest defence for section 55 offences. The Information Commissioner notes that the defence available to journalists would be strengthened under the proposal for a custodial sentence.

Further details about the ongoing and previous cases are contained in the [ICO's submission to the Ministry of Justice's consultation on the introduction of custodial penalties for offences committed under Section 55 of the Data Protection Act](#).

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If you would like more information, please contact the ICO press office on 020 7025 7580 or visit the website at: www.ico.gov.uk

Notes to Editors

1. Previous cases, investigated by the ICO, also highlight the need for tougher sanctions to deter the trade in personal data:
 - A private investigator working for Pearmac Limited was fined £6,250 after trying to obtain a rape victim's address from her GP and utility company. The rape victim believed that the attempts to obtain her details could be part of an act of revenge directed at her for reporting and giving evidence against her attacker.
 - Two former members of the BNP posted the BNP membership list on the internet in November 2008. When the case was brought to court by Dyfed Powys Police, the District Judge at Nottingham Magistrates Court said: "It came as a surprise to me, as it will to many members of the party, that to do something as foolish and criminally dangerous as you did will only incur a financial penalty." One man was fined £200.
 - The owner of Infofind Limited was convicted for Section 55 offences after blagging personal details from the Department of Work and Pensions. He was fined £3,200 and ordered to pay £5,000 costs.

The police have also investigated a number of incidents where their own staff have unlawfully accessed people's personal details from the Police National Computer. In 2007 a 79 year old man died shortly after a brick was thrown through his lounge window. The man had been involved in a dispute with a woman over a parking space. The woman's husband subsequently asked a serving police officer to identify the pensioner's address. He and his brother then went to the pensioner's house. They were both convicted of manslaughter and the police officer was fined £1200 and resigned from the force.

2. In 2006 the ICO brought the issue to the attention of Parliament by publishing two reports, What Price Privacy? and What Price Privacy Now?

http://www.ico.gov.uk/upload/documents/library/corporate/research_and_reports/what_price_privacy.pdf

http://www.ico.gov.uk/upload/documents/library/corporate/research_and_reports/ico-wppnow-0602.pdf

3. The Information Commissioner's Office upholds information rights in the public interest, promoting openness by public bodies and data privacy for individuals.
2. The ICO has specific responsibilities set out in the Data Protection Act 1998, the Freedom of Information Act 2000, Environmental Information Regulations 2004 and Privacy and Electronic Communications Regulations 2003.
3. Organisations can now sign the Personal Information Promise to demonstrate their commitment to protecting people's personal information by visiting the website at www.ico.gov.uk
4. For more information about the Information Commissioner's Office subscribe to our e-newsletter at www.ico.gov.uk
5. Anyone who processes personal information must comply with eight principles, which make sure that personal information is:
 - Fairly and lawfully processed
 - Processed for limited purposes
 - Adequate, relevant and not excessive
 - Accurate and up to date
 - Not kept for longer than is necessary
 - Processed in line with your rights
 - Secure
 - Not transferred to other countries without adequate protection