
STATUTORY INSTRUMENTS

1987 No. 1904

DATA PROTECTION

**The Data Protection (Subject Access
Modification) (Social Work) Order 1987**

Made - - - - *9th November 1987*

Coming into force - - *11th November 1987*

Whereas a draft of this Order has been laid before and approved by a resolution of each House of Parliament:

Now, therefore, in exercise of the powers conferred upon me by section 29(1), (2) and (3) of the Data Protection Act 1984⁽¹⁾ and after consultation with the Data Protection Registrar in accordance with section 40(3) of that Act, I hereby make the following Order:

1. This Order may be cited as the Data Protection (Subject Access Modification) (Social Work) Order 1987 and shall come into force on 11th November 1987.

2.—(1) In this Order —

“the Act” means the Data Protection Act 1984;

“education welfare officer” has the same meaning as in section 50 of the Education (No.2) Act 1986⁽²⁾;

“health authority” has the same meaning as in the National Health Service Act 1977⁽³⁾; and

“the subject access provisions” has the meaning which it has for the purposes of Part IV of the Act.

(2) Any reference in this Order to a local authority in relation to data held or formerly held by it includes a reference to the Council of the Isles of Scilly in relation to data held or formerly held by the Council in connection with any functions mentioned in article 3(1)(a)(i) below which are or have been conferred upon the Council by or under any enactment.

3.—(1) Subject to paragraph (3) below, this Order applies to personal data falling within any of the following descriptions:—

(a) data held by a local authority —

(1) 1984 c. 35.

(2) 1986 c. 61.

(3) 1977 c. 49. This definition was amended by Schedule 3 to 1984 c. 48.

- (i) in connection with its social services functions within the meaning of the Local Authority Social Services Act 1970(4) or any functions which stand referred to a social work committee under the Social Work (Scotland) Act 1968(5), or
- (ii) in the exercise of other functions but obtained or consisting of information obtained in connection with any of those functions;
- (b) data held by a Health and Social Services Board established under Article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972(6) in connection with the provision of personal social services within the meaning of that Order or held by the Board in the exercise of other functions but obtained or consisting of information obtained in connection with the provision of those services;
- (c) data held by a district council in the exercise of its functions under Part II of Schedule 9 to the Health and Social Services and Social Security Adjudications Act 1983(7);
- (d) data held by a probation committee established by Schedule 3 to the Powers of Criminal Courts Act 1973(8) or the Probation Board for Northern Ireland;
- (e) data held by a local education authority or local authority for the purposes of any functions performed by education welfare officers;
- (f) data relating to persons detained in a special hospital provided by the Secretary of State under section 4 of the National Health Service Act 1977 and held by a health authority in the exercise of any functions similar to any social services functions of a local authority;
- (g) data held by the National Society for the Prevention of Cruelty to Children or the Royal Scottish Society for the Prevention of Cruelty to Children or by any other voluntary organization or other body designated under this sub-paragraph by the Secretary of State or the Department of Health and Social Services for Northern Ireland and appearing to the Secretary of State or the Department, as the case may be, to be held for the purposes of the provision of any service similar to a service provided in the exercise of any functions specified in sub-paragraphs (a)(i), (b) or (c) above;
- (h) data held by —
 - (i) a health authority or a Family Practitioner Committee established under section 10 of the National Health Service Act 1977, or
 - (ii) a Health Board established under section 2 of the National Health Service (Scotland) Act 1978(9),
 which were obtained or consisted of information which was obtained from any authority or body mentioned above or government department and which, whilst held by that authority or body or government department, fell within any sub-paragraph of this paragraph;
- (i) data held by a government department and obtained or consisting of information obtained from any authority or body mentioned above and which, whilst held by that authority or body, fell within any of the preceding sub-paragraphs of this paragraph;
- (j) data held for the purposes of the functions of the Secretary of State pursuant to section 80 of the Child Care Act 1980(10);

(4) 1970 c. 42.

(5) 1968 c. 49.

(6) S.I. 1972/1265(N.I.14).

(7) 1983 c. 41.

(8) 1973 c. 62. Schedule 3 was amended by 1982 c. 48, Schedule 11.

(9) 1978 c. 29.

(10) 1980 c. 5.

- (k) data held by any person appointed for any purpose mentioned in section 103 of the Children Act 1975⁽¹¹⁾ or by a reporter appointed under section 36 of the Social Work (Scotland) Act 1968.

(2) This Order applies to personal data held by a court and consisting of information supplied in a report or other evidence given to the court by a local authority, Health and Social Services Board, probation officer or other person in the course of any proceedings to which the Magistrates' Courts (Children and Young Persons) Rules 1970⁽¹²⁾, the Magistrates' Courts (Children and Young Persons) (Northern Ireland) Rules 1969⁽¹³⁾ or the Act of Sederunt (Social Work) Sheriff Court Procedure Rules 1971⁽¹⁴⁾ apply where, in accordance with a provision of any of those Rules, the information may be withheld by the court in whole or in part from the data subject.

(3) This Order, except so far as it relates to any data mentioned in paragraph (2) above, does not apply —

- (a) to any data consisting of information as to the physical or mental health of the data subject to which the Data Protection (Subject Access Modification) (Health) Order 1987⁽¹⁵⁾ applies; or
- (b) to any data which are exempted from the subject access provisions by an order made under section 34(2) of the Act, and this Order is without prejudice to any exemption from the subject access provisions contained in any provision of the Act.

4.—(1) The subject access provisions shall not have effect in relation to any personal data to which this Order applies by virtue of article 3(2) above.

(2) So much of the subject access provisions as concerns the obligation in section 21(1)(b) of the Act to supply the data subject with a copy of the information constituting the data and any power of the Registrar in Part II thereof which is exercisable by reference to paragraph (a)(ii) of the seventh data protection principle shall not have effect in relation to any personal data to which this Order applies by virtue of article 3(1) above in any case where either of the requirements specified in paragraph (3) below is satisfied.

(3) The requirements referred to in paragraph (2) above are that the application of the provisions mentioned in that paragraph would be likely to prejudice the carrying out of social work by reason of the fact that —

- (a) serious harm to the physical or mental health or emotional condition of the data subject or any other person would be likely to be caused; or
- (b) the identity of another individual (who has not consented to the disclosure of the information) either as a person to whom the information or part of it relates or as the source of the information would be likely to be disclosed to or deduced by the data subject or any other person who is likely to obtain access to it either from the information itself or from a combination of that information and other information which the data subject or such other person has or is likely to have.

(4) Paragraph (3) above shall not be construed as excusing a data user —

- (a) from supplying the information sought by the request for subject access where the only individual whose identity is likely to be disclosed or deduced as mentioned in sub-paragraph (b) thereof is a relevant person; or
- (b) from supplying so much of the information sought by the request as can be supplied without causing serious harm as mentioned in sub-paragraph (a) thereof or enabling the

⁽¹¹⁾ 1975 c. 72. Section 103 was amended by 1980 c. 5 and 1983 c. 41.

⁽¹²⁾ S.I. 1970/1792.

⁽¹³⁾ S.R. & O.(N.I.) 1969 No. 221.

⁽¹⁴⁾ S.I. 1971/92.

⁽¹⁵⁾ S.I. 1987/1903.

identity of another individual to be disclosed or deduced as mentioned in sub-paragraph (b) thereof, whether by the omission of names or other particulars or otherwise.

- (5) In paragraph (3) above “the carrying out of social work” shall be construed as including —
- (a) the exercise of any functions specified in article 3(1)(a)(i), (c), (e), (f) or (j) above;
 - (b) the provision of any service mentioned in article 3(1) (b) or (g) above; and
 - (c) the exercise of the functions of any body mentioned in article 3(1)(d) above or any person mentioned in article 3(1)(k) above.
- (6) A person is a relevant person for the purposes of paragraph (4)(a) above if he —
- (a) is a person referred to in article 3(1)(k) above; or
 - (b) is or has been employed by any person or body referred to in the said article 3(1) in connection with functions which are or have been exercised in relation to the data consisting of the information; or
 - (c) has provided for reward a service similar to a service provided in the exercise of any functions specified in sub-paragraph (a)(i), (b), or (c) thereof,

and the information relates to him or he supplied the information in his official capacity or, as the case may be, in connection with the provision of that service.

(7) In relation to data to which this Order applies, section 21 of the Act shall have effect as if subsections (4)(b) and (5) were omitted and as if the reference in subsection (6) to the consent referred to in the said section 21(4)(b) were a reference to the consent referred to in paragraph (3) (b) above.

(8) Section 21(8) of the Act shall have effect, in its application to data to which this Order applies by virtue of article 3(1) above, as if the reference therein to a contravention of the foregoing provisions of that section included a reference to a contravention of the provisions contained in paragraphs (2) to (7) above.

Home Office
9th November 1987

Douglas Hurd
One of Her Majesty’s Principal Secretaries of
State

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the partial exemption from the provisions of the Data Protection Act 1984 which confer rights on data subjects to gain access to data held about them (“the subject access provisions”) of certain data where the exercise of those rights would be likely to prejudice the carrying out of social work by causing serious harm to the health or emotional condition of the data subject or another person or lead to the identification of other individuals (except individuals employed or engaged for reward in social work). (The Order, except so far as it relates to information contained in certain court reports, does not apply to any data about a person’s physical or mental health to which the Data Protection (Subject Access Modification) (Health) Order 1987 (S.I.1987/1903) applies.)

Except in the case of court reports in certain proceedings where information in the report may be withheld by the court, for which there is complete exemption from the subject access provisions, the Order only disapplies so much of those provisions which requires the data subject to be supplied with a copy of the information constituting the data.

The Order principally applies to data held by local authorities, in relation to their social services and education welfare functions, and health authorities to whom such data are passed and by probation committees and the National Society for the Prevention of Cruelty to Children. The Order also applies to data held for similar purposes by the corresponding bodies in Scotland and Northern Ireland. Data held by government departments for certain purposes connected with social work and by officers such as guardians ad litem and (in Scotland) reporters appointed to safeguard the interests of children in certain court proceedings are also within the scope of the Order. Provision is made enabling other voluntary organisations or other bodies to be added to the list of bodies whose data are subject to the provisions of the Order where the data are held for purposes similar to the social services functions (or in Scotland social work functions) of local authorities.