

The Regulatory Action Division.

Michael Gorrill
Head of Regulatory Action.



Regulatory Action Division

- The RAD is comprised of four units:
- Audit,
- Enforcement,
- Investigations,
- Remedies.

Regulatory Action Division

- Remedies,
- The majority of cases forwarded to RAD pass through Remedies where a judgement is made on the type of regulatory action which may be needed.
- The majority of cases referred are dealt with by Remedies staff.

Regulatory Action Division

- During the period 1st April 2006 to 31st March 2007 1300 cases were referred to Remedies,
- Remedial action was taken in approximately 300 cases (25%),
- A further 25% no action was required
- 650 were referred for investigatory or enforcement action,

Examples of RAD action.

- Remedies;
- 7 preliminary enforcement notices leading to 6 full enforcement notices,
- 6 preliminary information notices leading to 2 full information notices.
- 1 prosecution criminal offence failing to conform to Information notice.

Examples of RAD action.

- Remedies.
- Example;
- Section 7 Subject Access Request to Liverpool City Council,
- A former employee of Liverpool City Council (LCC) made a subject access request to the council asking to be supplied with personal information about her which was held by the council.

Examples of RAD action.

- Following her request LCC provided some information but the data subject complained to the ICO that she had not been supplied with all the information which was held by the council.
- The ICO commenced an investigation.
- LCC failed to respond to written requests for information.
- As a result the ICO issued an information notice requiring the council to provide them with specified information.
- Failure to comply with an information notice is a criminal offence contrary to Section 47 of the Act.

Examples of RAD action.

- No response was received and a prosecution was brought against the council.
- LCC appeared at Liverpool City Magistrates Court on the 14th December 2006 where a plea of guilty was entered.

Examples of RAD action.

- In sentencing the Council the District Judge at Liverpool Magistrates' stated that the Council had shown an "appalling breakdown of communication" and "a clear lack of compliance with the Data Protection Act 1998". The Council were fined £300.
- The council agreed to allow the ICO to audit their data protection processes.

Examples of RAD action.

- Investigations
- In July 2006 a private investigator was found guilty and fined £1750 with £600 costs at Salisbury Magistrates Court for unlawfully obtaining personal data.
- The private investigator had been making telephone calls to British Telecom purporting to be a BT employee and attempted to obtain personal data of BT customers.

Investigations

- In November 2006 a married couple pleaded guilty to 25 offences of unlawfully obtaining personal data following an ICO investigation.
- The couple asked the court to take into consideration a further 65 offences.
- They had obtained personal information from a number of organisations by ‘blagging’ the information.

Investigations

- They had purported to be employees of various organisations to enable them to unlawfully obtain the personal information.
- They were fined a total of £7,500 and ordered to pay £3,694 costs.

Investigations

- In December 2006, a private investigator was sentenced to community service at Kingston upon Thames Magistrates Court after pleading guilty to the unlawful obtaining of personal data.
- He impersonated individuals to unlawfully obtain their personal data which he later sold to interested parties. He obtained bank account details and ex. Directory telephone numbers.

Investigations

- The investigations, have shown that there is a widespread demand for personal information.
- At the present time the investigations unit are investigating 23 different complaints relating to the unlawful obtaining of personal data. These current investigations involve many hundreds of offences.

Examples of RAD action.

- Enforcement;
- In July 2006, the ICO issued an Enforcement Notice against the website B4usearch.com ordering the directors of the company to stop using personal information from electoral registers published before 2002.
- This action was as a result of many hundreds of complaints received at the ICO about the website.

Enforcement

- Prior to 2002, individuals had no choice over whether their personal details from the electoral register were sold on to other organisations.
- After that date individuals could opt out of the public register.
- Complaints were received from individuals who had subsequently opted out of the public register but whose details were freely available on the website.

Enforcement

- B4usearch.com allowed individuals to search the pre 2002 electoral registers and obtain name and address details of some individuals who had subsequently opted out of the register.
- The ICO considered that this was unfair processing.

The Privacy and Electronic Communications Regulations 2003.

- The PECR prohibit the use of telecommunications services for the purpose of making unsolicited calls to individuals for direct marketing purposes where;
- (a) the individual has previously indicated to the caller that he/she does not wish to receive such communications or
- (b) where the individual is on a register of individuals who do not wish to receive unsolicited calls for direct marketing purposes.

The Privacy and Electronic Communications Regulations 2003.

- The TPS and the ICO receive many complaints from individuals concerning unsolicited marketing telephone calls where individuals have indicated that they do not wish to receive marketing calls or where they are registered with TPS.

The Privacy and Electronic Communications Regulations 2003.

- On the 6th December 2006, the ICO issued Enforcement Notices against five companies who had been making unsolicited marketing calls to individuals without their consent or to individuals who were registered with the Telephone Preference Service (TPS).

Enterprise Act 2002.

- Under the Enterprise Act 2002 proceedings for an Enforcement Order can be brought against an organisation which is breaching a 'Community Infringement' – that is an infringement which harms the collective interests of consumers.

Enterprise Act 2002.

- Before an Enforcement Order can be obtained the organisation has to be approached to seek an undertaking where they agree to cease the activity subject of the breach.
- The ICO is currently taking action under the Enterprise Act 2002 against five companies for breaches of PECR.

Proactive Investigations

- In August 2006 the ICO were contacted by a freelance journalist,
- Since February 2006 he had made visits to several Banks and a Post Office in and around the Southampton area and recovered various items of personal information from waste bins placed at the rear of each premises.
- In all cases the bins were insecure with open access to the public.

Proactive Investigations

- The journalist subsequently contacted the BBC TV programme *Watchdog*, and their researchers then visited High Street banks throughout a number of towns in England and Wales and recovered personal data in similar circumstances. The story was a feature on two of the *Watchdog* programmes.

Proactive Investigations

- In November 2006 a journalist in Scotland also recovered items in similar circumstances from outside a bank in Glasgow.
- After a lengthy ICO investigation 11 Banks, the Post Office and the Immigration Advisory Service were required to sign formal undertakings to comply with the Data Protection Act and warned that failure so to do could lead to future prosecution.

Proactive Investigations

- All the organisations subject to the undertakings agreed to allow the ICO to conduct a themed audit of their policies and procedures relative to the disposal of personal information.

Proactive Investigations

- In October 2006, Channel 4 TV broadcast a 'Despatches' program which aimed to highlight the apparent ease at which the personal data of people living in the UK was available for sale in India.
- This personal data, which included names, addresses, and bank account details, was alleged to have been held on databases in certain call centres in Delhi, Calcutta and Hyderabad.

Proactive Investigations

- During the program the only connection to any UK company was an allegation that some of the data related to persons who had been contacted on behalf of a company trading as 'Telemobile' offering the sale of mobile telephones.

Proactive Investigations

- Enquiries established that 'Telemobile' was a trading name of SRS Communications Ltd which operated from 93 – 99 Upper Richmond Road, London SW15 2TG

Proactive Investigations

- On 23 November 2006, a meeting took place between representatives of the Regulatory Action Division and Rhodri Davies, one of the Directors of the company.
- Mr Davies stated that SRS did not provide personal data to call centres in India.

Proactive Investigations

- Further enquiries into the activities of SRS Communications Ltd were continued, however the company ceased trading on 24 November 2006, the day after the visit, and were liquidated on 19 December 2006.

Examples of RAD action.

- Audit;
- During the period 06/ 07 effectively 8 audits were conducted. The audits were conducted at three NHS Trust organisations, two local authorities, a police force a higher education college and a government department.

Audit

- The team has also undertaken a survey of Medical Health Insurance Companies as a joint piece of work under the auspices of the Article 29 Working Party.
- Audit is an area which is seen as an increasingly important function of the ICO. The ICO is currently seeking to expand the audit unit in anticipation of an increase in the numbers of future audits.

Audit

- Audit are also preparing to complete themed audits of the organisations investigated for their following the finding of personal information in waste bins.

Powers

- The ICO consider on occasions that our powers to change the behaviour of some data controllers are not sufficient,
- Ideally a means to fast track some data controllers to court to stop /prevent such behaviour quickly and impose a realistic punishment is considered necessary.

Regulatory Action

- Any Questions?