

Data Protection Podbriefing Audio Transcript

00:04

The Data Protection regime seeks to balance the individual's reasonable expectation of privacy, with the University's legitimate business and educational need to use personal data.

00:20

So there are two basic concepts: personal data and processing. Personal data is essentially any information from which an individual can be identified. It includes opinions with regard to an individual, or any statement of the intentions of the University with regard to an individual. Now every reference to an individual does not necessarily amount to personal data. It has to convey some biographical information about the person concerned.

00:58

Processing means anything you can do to information from its creation to its destruction, and essentially captures most day to day activities University staff engage in, in relation to personal data. So it means storing personal data, sending an email which contains information from which an individual can be identified or disclosing personal details over the telephone.

01:30

An individual has a right to a copy of their personal data on written request. This is not a right of access to documents per se, but only to their personal information which is contained in a document. It is a criminal offence to conceal or destroy information with the intention of preventing a person getting access to it.

02:05

Oh yes, good afternoon I wonder if you can help me? ... Yes, I have had an email from the governance team, there has been a subject access request that has come in from a member of staff and I've been asked to provide some correspondence. Looking at my emails though, there's some information that I really don't want to disclose. There's some personal opinions in there and I'm thinking well they're my emails so, I think I could probably just take that bit out, but I wonder if you could tell me what the rules are.

02:43

Alteration of data with the intention of avoiding or giving the right of access is a criminal offence. Staff should be mindful to adopt a professional approach to drafting documentation in the course of their employment duties. They should also remember that personal opinions amount to personal data and can be scrutinised by the individual subject of that information.

03:15

There are various ways of justifying the use of personal data, for example, its use is justified if you've got the individual's consent. Alternatively, use of personal data will be justified if it's necessary to pursue the legitimate interests of the University, provided it doesn't amount to an unwarranted breach of the individual's privacy.

03:39

I need some advice on a Data Protection issue.

03:48

Well one of our students isn't happy. His mother rang yesterday and was asking a lot of questions about his performance. She was...well shall we say persistent... She was asking about her son's essay marks and whether he was showing up to lectures.

04:07

Well, the tutor that spoke to her didn't think anything about it at the time and he told her everything. And now, well the student's really not happy. He said we had no right to tell his mother anything... It's all a bit of a nightmare really. I'm not sure where we stand.

04:26

The information should not have been disclosed to the parent without the student's consent. Consent is not always necessary, but in these circumstances disclosing the information to the parent without the student's consent would be unfair, unjustified and a breach of the student's privacy. In future you should tell parents that you cannot disclose information about their child's performance without consent, and that they should obtain the information direct from their own son, or daughter.

05:02

Personal data which is processed must not be excessive and must be relevant. It is unwise to collect irrelevant personal data. Conversely, data must be adequate so that proper decisions are made.

05:20

Basically one of the senior academics, he was asked to provide a job reference for a researcher that used to work here, but he didn't know her that well so he checked her personnel file to take a view on her performance. The file stated that she'd been charged with gross misconduct shortly before she resigned, and this was then stated on the reference... Well, the issue is it turns out it was the completely wrong personnel file. So this researcher, she hadn't had anything to do with gross misconduct. I think it was a mix up with the spelling of her name.

05:58

The University should ensure that personal data is accurate and complete to avoid errors being made which can cause damage or distress to individuals. The mistake should be rectified immediately and procedures should be put in place to check periodically the accuracy of information.

06:22

Personal data can only be transferred to a country outside of the European Economic Area if you can ensure an adequate level of protection in that country. Protection can be deemed adequate in a number of ways. If the individuals consent to the transfer has been obtained, if the destination is included in a list of countries issued by the European Commission, or if the transfer is made subject to standard clauses issued by the Information Commissioner. This list is not exhaustive, but these are the main ways of ensuring adequacy.

07:08

Hi, is this the right place to get some advice on data? I'm calling from the School of Applied Sciences.

07:15

Great, so one of our sponsors has asked if we can share some research data with them. The data they want has been collected from lots of different people taking part in a study we're doing. The thing is, they're a very successful drug company and they're offering very favourable terms, but they want to get their hands on this information asap. Can we just go ahead and share it with them? It would be better if we could avoid any red tape, but...

07:44

The University should only use personal data for specified and lawful purposes. The University should also generally make individuals aware of the purposes for which their data will be used, in particular, in the

unforeseen or secondary uses. This underscores the principles of transparency and fairness in the Data Protection regime.

08:09

Sharing the personal data with the drug company is likely to be incompatible with the purposes for which the data was originally obtained. Staff should be mindful of the purposes for which they've either generated the data, or obtained the data. And their use should be confined to those purposes.

08:33

Sensitive personal data relates to a person's physical or mental health; their sexual life; their political opinions; Trade Union membership; racial origin; or the commission or alleged commission of criminal offences. Stricter conditions apply to justify the use of sensitive personal data as compared with our use of non-sensitive personal data. In general terms the consent of an individual should be obtained in order to use their sensitive data, and by that I mean their informed and their written consent.

09:18

The University has an obligation to keep all personal data, particularly sensitive personal data, secure. The measures taken by the University to protect the data must be commensurate with the risk of harm suffered by an individual as a result of any breach of security.

09:49

Hello, yes, I need some help. Something's just happened; there's been a break in. Are you the ones that deal with Data Protection?

10:01

Yes, yes, I've spoken to the Police already and they said I need to contact someone at the University and let them know what's happened as soon as possible.

10:19

Well they've stolen a data stick with my work on it. I brought my work home just to have a look at this evening. The stick was connected to the laptop and they've taken the whole lot. I was only out for a quick run, 20 minutes tops!

10:35

What was on there? Good question. Lots of things mainly HR data and that's what's got me really worried. Let me think... there were contact details for a lot of the staff members there, Union membership, performance records, and there were some occupational health records as well, and there was some details of payrolls... I can't believe this; I don't know what I am going to do!

11:08

Encrypted? No, no it wasn't encrypted!... I don't even know how I'd start with that.

11:17

The Information Commissioner now has the power to impose fines on the University of up to a half a million pounds, for any reckless or deliberate serious breach of the Data Protection Act that causes substantial damage or distress to an individual. Many of the fines imposed on organisations to date, have been for breaches of security in relation to sensitive personal data. The memory stick containing the sensitive personal data should have been encrypted. The University is now vulnerable to a fine imposed by the Information Commissioner for the loss of that sensitive data.