

The case of the northern school and their marketing tactics.

A story of how an individual complained to the ICO

I'm old, my children have left home, I have no interest in schools at all yet in April I received through the post a CD advertising a school in the north which is a long way from where I live with an anglo saxon name (the school has the strange name – not where I live). I rang up and said "Can I speak to the registrar" and the response was immediate.

"Is it about the mailing?"

Something was clearly rattling their cage. Before I could say anything else they offered to take me off their mailing list. I said I'd like to know where they obtained my details and was making a subject access request by email and would they please look out for it.

"Of course we will"

Thank you.

Thu 24/03/2011 10:58

Dear Sir

My address is xxxxxxxxxxxxxxxxxxxxxxxx.

Please supply me with any personal data you hold on me particularly about the mailing I have just received from you with the code W017378 in the corner of the label. Please tell me from where you obtained my address.

Regards

Strangely despite being forewarned there was no immediate reply

Sat 09/04/2011 11:11

Dear Sir

I made this request 16 days ago and have yet to receive an acknowledgement. Please let me know when you will be replying.

Regards

Tue 12/04/2011 10:52

Dear Mr xxxx,

Thank you for email and I apologise for not replying earlier. The only data we hold in your name is your address xxxxxxxxxxxxxxxx and this has been removed from the data base as requested by you. I trust that this will stop any inconvenience to you.

Tue 12/04/2011 12:35

Dear Sir

Thank you but this is not what I asked. I asked you to send me any personal data held by you about me. This is commonly known as a Subject Access Request and there are many things that you should consider in your response. This includes "any information available to the Data Controller as to the source of those data". (Section 7 (1) (c) (ii) of Data Protection Act 1998). This means you (as Data Controller) should tell me from where you obtained my name and address.

You may pick names and addresses out of thin air but I suspect you bought a list of names for your mailshot from a list broker. I'd like to know who you obtained my details from. I am certain that there was no prior relationship between you and me so you obtained my personal data from elsewhere.

You may worry at this stage that you would be infringing the privacy and disclosing the personal data of the company (or individual). Don't worry. There is ample case law to reassure you that the contact details of a company engaging in commerce are not personal but corporate data.

Regards

Thu 14/04/2011 10:28

Dear Mr xxxxxx

This last mailing was a compilation of different lists and electoral rolls over the last four years and therefore we cannot say specifically which broker we purchased this list from. We ask for a certain criteria to be met when we buy these list i.e. parent of school age children living in prestigious post codes and therefore with an earning that could support

school fees. I can assure you once again that we have removed all your details from our records now and I trust that this is satisfactory.

Regards

Trying to butter me up by saying I live in a prestigious post code and therefore with an earning that could support school fees. Also saying "we don't know where we got your details from". Also saying "We'll target rich people and hope they've got kids"

Thu 14/04/2011 14:47

Dear Sir

Thank you but this is not what I asked.

I explained what I wanted in my previous email. If you do not comply with my request I have the option of complaining to the regulator which I may well do. Why not send me the names of all the brokers you have used in the last four years?

Regards.

Thu 14/04/2011 15:21

Dear Mr xxxxxxxxxxxxxx,

We can confirm that we only held your name and address on our database and this has now been removed. We regret that we are unable to assist you further.

Regards

Thu 21/04/2011 13:36

Not being satisfied I contacted the regulator

Dear ICO

I attach your complaint form and copies of 7 emails.

Regards

Thu 21/04/2011 13:36

Dear Sir

Thank you for emailing the Information Commissioners Office (ICO). This is an automated acknowledgement; please do not reply to this email. If your email was a reply to an email we sent you it has now been attached to your case and will be read when your correspondence is allocated to a case officer. If your case has already been allocated, the case officer will be in contact when they have considered your email.

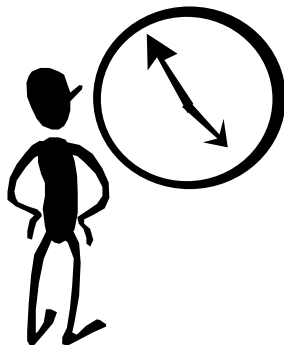
If your email was not a reply to an email from us it will be considered by our Customer Contact Department and we will respond to you as soon as possible.

If you need more help, please contact our Helpline on 08456 30 60 60 or 01625 545745 if you prefer to use a national rate number or visit the Contact us page of our website.

Yours sincerely

Customer Contact Department, The Information Commissioner's Office

Time passed...



in fact nearly 4 months passed.

Dear Mr xxxxxxxxx

Thank you for your data protection complaint of 21 April 2011 about the way xxxxxxxxx College has handled your request to access personal information.

I apologise for the delay in our response, which is due to the high number of cases that we have been receiving.

Complaints to the Information Commissioner's Office

Under the Data Protection Act 1998 (the DPA), those who collect and use personal information have to follow rules of good practice for handling information (called the data protection principles). The DPA also gives rights to individuals whose information is collected and used.

When we receive a data protection complaint, we will make an assessment. This is our view about whether an organisation has followed the rules of good practice properly. We do this by saying whether we think it is likely or unlikely that the organisation has complied with the DPA.

We will also give advice about handling personal information and will ask the organisation to review its actions if we think things have gone wrong. Our main concern is to ensure that organisations deal with personal information properly in the future.

Assessments can help us decide whether we should take action against a particular organisation. If an organisation refuses to take its responsibilities under the DPA seriously, then we may consider formal action to ensure it complies with the law. Please see the enclosed guidance note for more information. As you may be aware, we cannot award you compensation if an organisation has failed to comply with the DPA. However, we may ask it to change the way it works in the future. We encourage all organisations to take steps to solve problems and to demonstrate to us that they take their responsibilities under the DPA seriously.

Your complaint to us

In your case, the matters you have raised that are relevant to the DPA relate to the sixth data protection principle. This says that: "Personal data shall be processed in accordance with the rights of data subjects under this Act." This includes the right to access personal data.

You are concerned that the college has not complied fully with the request you made on 24 March 2011, in connection with your rights under section 7 of the DPA.

In this case we have decided that it is likely that the college has complied with the requirements of the DPA.

This is because the college has told you that it is unable to confirm the specific source of the personal data it held, and it has provided you with a copy of all the personal data it holds within 40 days. It is therefore unlikely that the college would need to provide you with any further information in relation to your request.

The DPA says that an organisation should provide "any information available to the data controller as to the source of those data". The college has responded to this aspect of your request, and said that it cannot confirm the specific source, but that it was from a compilation of different lists and electoral rolls obtained in the previous four years. From what the college has said, this is likely to be all the information the organisation holds in relation to the source of the personal data, so it is likely to have complied with the DPA.

You also asked the college to provide you with a list of all the brokers it has used over the past four years. This information is unlikely to be your personal data, and the college



is not a public authority for the purposes of the Freedom of Information Act 2000. We are therefore unable to say the organisation should provide this information to you. It will be a matter for the college to decide whether it is prepared to release this information to you as a gesture of goodwill.

In light of all of the above, we do not recommend that the college needs to take any action in relation to this matter.

This matter is now closed. Thank you for bringing it to our attention.

Postscript.

A school/college with no prior relationship with me buys my name from a list broker as I am apparently rich and with junior age children (wrong on both counts) and then sends me unsolicited marketing material through the post. When I exercise my right to subject access they ignore it for two and a half weeks then fail to give me what I ask for because they don't know from where they obtained my personal data.

The ICO when asked to look into the case decides the college did nothing wrong.

Moral - keep bad records, mail who you like even those with no relevance to your product, fail to respond to individuals exercising their right to access promptly and you'll be fine rather than fined.

Happy days.