



THE SCOTTISH OFFICE
Department of Health

COMMON SERVICES AGENCY	
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FILE No	
REFERRED TO	ACTIONS TAKEN

cc see
CS
All Divisional Personnel Offices + over 10
NHS
MEL(1996)67

NHS Management Executive
St. Andrew's House
Edinburgh EH1 3DG
15 August 1996

Dear Colleague

THE DATA PROTECTION ACT - USE OF PERSONNEL INFORMATION FOR STAFF SURVEYS

Summary

1. Complaints were made to the Data Protection Registrar (DPR) last year concerning the use of personnel records to provide details of names and addresses of NHS employees for the Framework for Action Surveys. The DPR's Office has given advice on the data protection implications for any future staff surveys making use of NHS personnel records.

Action

2. Chief Executives, NHS Trusts, General Managers, Health Boards and other addressees are asked to note and bring the following advice from DPR to the attention of all staff involved in the maintenance of personnel staff records to ensure that they are aware of the implications for any staff surveys you may wish to undertake in the future.

2.1 In general terms, employers must be open about their use of personal data by describing these uses on the Data Protection Register and to abide by the eight Data Protection Principles of good practice as set out in the Data Protection Act 1984.

2.2 Data users, who are separate legal entities, and who have not already registered the personnel data they hold for personnel administration purposes should ensure that they do so.

2.3 Disclosures to employees or agents of the data user for the purposes of performing their duties are exempt under the Act. However, if a disclosure were to be made to another legal entity in the NHS or to, for

Addressees

For action:
Chief Executives,
NHS Trusts

General Managers,
Health Boards

General Manager,
Common Services Agency

General Manager,
State Hospitals Board for Scotland

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example, an external contractor who was not an agent then the data user should consider whether such a disclosure has been registered and if not, should arrange for it to be included as an entry under the purpose for personnel/employee administration prior to any disclosure.

2.4 The First Data Protection Principle requires that information to be contained in personal data shall be obtained and processed fairly and lawfully. The DPR has taken the view that for information to be fairly obtained no one should have been deceived or misled about the purposes for which the information they have supplied is to be held, used or disclosed. In practical terms, this means that the DPR expects that before personal information is computerised an explanation should be given of any purpose or disclosure which is not obvious from the context of the situation. It could be argued that a survey of employee attitudes falls within the purpose for which the employee data have been obtained, that is for personnel administration. It may be less obvious to the individual, however, that his or her personnel details may be passed to a third party to carry out the survey.

2.5 In practical terms the DPR's office advise that if staff surveys, which could involve disclosure to a third party are contemplated, then the best practice would be for prospective employees to be informed about this at the time their information is obtained. It would also be advisable to notify existing staff of the possibility. Notification prior to a survey being undertaken may also help to reduce the number of potential complaints.

Yours sincerely

A handwritten signature in cursive script that reads "Paul Wilson".

PAUL WILSON