

Consultation on increasing the penalties for section 55 (Data Protection Act) offences

Paul Goggins MP, Minister of State at the Northern Ireland Office has on the 15th October published a consultation document containing proposals for increasing the penalties for offenses committed under section 55 of the Data Protection Act (DPA) 1998 in Northern Ireland. The consultation is based on and uses a paper produced on behalf of the United Kingdom by Michael Wills MP, Minister of State at the Ministry of Justice.

Overview of Proposals

The consultation exercise seeks views on proposals in two areas:

- To introduce increased maximum penalties available to the courts for those guilty of offences under section 55 of the DPA 1998. Section 55 makes it an offence to unlawfully obtain, disclose or procure personal data and selling or offering to sell personal data obtained in those circumstances. The proposal is that penalties be increased from the current maximum of an unlimited fine to up to two years' imprisonment for conviction upon indictment.
- To commence a new defence in relation to journalistic, artistic or literary use of personal data in the interest of the public. The defence already exists in law under the Criminal Justice and Immigration Act (2008) but has yet to be commenced. It would be available for anyone who can show that they acted for the purpose of journalism, art or literature with a view of publishing material in the reasonable belief that the obtaining, disclosing and procuring the information was in the public's interest.

The consultation is in response to the Information Commissioner's Office request following its monitoring of the illegal trade in personal data. The Information Commissioner called for the introduction of custodial sentences for those who seek to profit from the illegal trade in personal data and for those who knowingly or recklessly disclose personal data to those who have no right to it. In consulting on the commencement of the defence provisions the, consultation reflects the fact that Government does not wish to restrict legitimate data processing in the public interest, nor to curtail responsible investigative journalism.

Responses should be forwarded to

Post: Criminal Law Branch
Northern Ireland Office
Massey House
Stoney Road
Belfast
BT4 3SX

Email: CJD.Public@nio.x.gsi.gov.uk

Responses from Northern Ireland are being collated by the NIO, however if you wish to additionally copy your responses directly to the MoJ you can do at

By Post: Ollie Simpson
Ministry of Justice
102 Petty France
London
SW1H 9AJ

By Email: ollie.simpson@justice.gsi.gov.uk

The closing date for receipt of comments is **Thursday 7 January 2010**.

Criminal Law Branch