

# Data Protection

## “Starters for Ten”

**Prepared by:**

**Date: January 2004**

### **Purpose and Distribution**

Purpose: to provide introductory guidance on the operational implications of the Data Protection Act 1998 for SCRA. The paper covers

- ◆ The central statutory principles that establish our accountability for how we record and communicate personal data
- ◆ Key operational implications of these principles
- ◆ Key issues for sharing of data with other agencies.

Distribution: to be read by all staff.

### **Statutory Principles**

1. As an organisation we are accountable for the proper use and management of all the information we hold. The Data Protection Act 1998 requires that we process personal data fairly and lawfully and in accordance with our statutory responsibilities. “Processing” is a wide concept that covers receiving, holding, recording or communicating information.
2. “Personal data” in essence covers all information about a named individual. This includes factual information such as their name and other personal details, but it also includes statements of opinion about the individual (for instance, “her parenting skills appear inadequate”) and statements of intention in respect of the individual (for instance, “If he is re-referred I will consider arranging a Hearing”).
3. The 1998 Act covers all data held on computer or in files. Thus, this includes RAD records, e-mails, reports, correspondence, and notes of meetings or phone calls.
4. Every individual about whom we hold personal data has a right (subject to certain qualifications) to be informed promptly what that data is, to challenge any errors and to prevent misuse of data.

### **Key Operational Implications**

5. In recording any information about a named individual in casefiles or on the RAD, and in communicating about a case internally or with other agencies, we must always ensure that information is fair and appropriate. If the individual exercised their right of access to that information and challenged it, could it be defended as fair and reasonable?

6. Any written request for subject access to data must be passed immediately to the *[regional Service Development Manager]* who will ensure that the request is dealt with inside the statutory timescale of 40 days.

### **Data Sharing: Key Issues**

7. The Data Protection Act 1998 only affects the use of “personal data”. It does not affect the use of anonymised statistical data unless individuals can be readily recognised from it (for instance, because of an unusual combination of circumstances in a particular case).
8. We should be as open as possible in responding to communications from a child or relevant person or from someone contacting us on their behalf (for instance, an MSP or MP).
9. It is legitimate to share personal data with other agencies as long as
  - ◆ The data relates directly to the exercise of statutory functions (either by statutory bodies themselves or by voluntary sector bodies working in partnership with statutory bodies), and
  - ◆ There is a clear agreement or preferably a written protocol about the purposes for which the information will be used, who will use it, and how it will be stored.

For instance, on this approach it is legitimate to share data about named persistent offenders with a local youth justice strategy group where the data will be used for purposes related to police, local authority or SCRA functions and where there is a clear agreement in line with the 2<sup>nd</sup> bullet point above.

### **Future Development**

10. SCRA is continuing to develop its policies and practices in relation to the Data Protection Act 1998 and the forthcoming Freedom of Information (Scotland) Act 2002. Further guidance and materials will be issued as this work develops. In the meantime, it is essential that all staff are aware of the above principles and act in accordance with them.