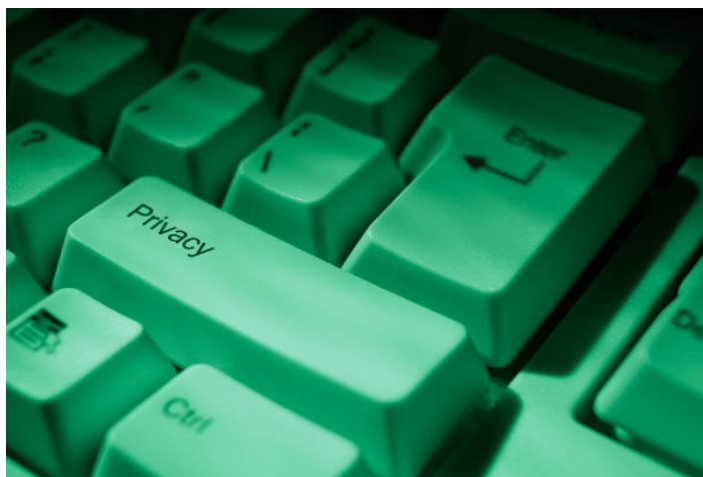


## The increasing price of privacy – custodial sentences for deliberate and willful misuse of personal data



**Last month (July) saw the commencement of a government consultation initiated due to increasing concern about the burgeoning illegal trade in personal data. The feeling is that current penalties available under the Data Protection Act (potentially unlimited fines) do not provide a sufficiently strong deterrent. These concerns were highlighted in the Information Commissioner's Office special report to Parliament, "What Price Privacy", in May this year. The main thrust of the consultation relates to amendments which would allow for custodial sentences of up to 2 years in addition to existing fines.**

In the consultation document the Government underlines its belief that greater data sharing and proper respect for individuals' privacy are compatible, stating that one of the essential ways of maintaining that compatibility is to ensure the security and integrity of personal data once it has been shared.

The Government is at pains to make it clear that this proposed regime will not be used to punish public sector staff who, while seeking to share data for legitimate reasons, make an error of judgment when dealing with a difficult case. Likewise someone who is deceived into giving out information will not be guilty of an offence.

What the proposals do mean is that those who abuse the trust placed in them by their employers by selling information, or those who knowingly wheedle information from public or private sector organisations will face penalties more commensurate with their offence.

Alarming, recent investigations have uncovered a widespread and well organised undercover market in confidential personal information. Among the purchasers of information are journalists, finance companies and local authorities wishing to trace debtors, estranged couples seeking details of their partner's location or finances and criminals planning fraud or intimidation of witnesses or jurors.

Suppliers use one of two main methods to obtain the information they want - corruption i.e. paying for it, or more usually by some form of deception, which has become known as 'blagging' and involves pretending (usually over the telephone) to be someone who is legitimately entitled to the information.

It seems that those concerned in this lucrative trade are not going to be deterred by fines only and as the Government proposes, more draconian penalties are not too high a price for personal privacy.

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