

Report of the Town Clerk

Complaint regarding potential Data Protection breach

Summary

1. A member of staff of Northumberland County Council has made a complaint alleging that the publication of their desk phone number to members of the public amounted to a breach of the Data Protection Act, and further demanding that the Town Council investigate this.
2. The relevant ICO guidance for data controllers on dealing with complaints states *“Good information rights practice doesn’t just mean complying with the law. Organisations that hold and process personal information should also be clear and open about their practices – even when things go wrong. If a member of the public is concerned about your information rights practices, we believe that you, as the organisation responsible, should deal with it. We expect you to respond to any information rights concerns you receive, clarifying how you have processed the individual’s personal information in that case and explaining how you will put right anything that’s gone wrong.”*
3. The Town Clerk has investigated, and the outcome, and the recommendation of no further action, is detailed below.

Background

1. The Data Protection Act exists to protect personal data relating to individuals. The relevant Information Commissioners Office guidance defines personal data as: *data which relate to a living individual who can be identified –*
 - (a) *from those data, or*
 - (b) *from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller,**and includes any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual.*
2. In the case complained of, the individual member of NCC staff was approached by a member of BTC staff. Previously, BTC staff have given out to members of the public a Berwick phone number that was answered by staff in Berwick Customer Information Centre. BTC staff were made aware in March 2018 that that number was no longer in service, and inquired of the NCC staff member which number should be used for these inquiries in future. Some calls from members of the public requesting services from NCC were then put through to that number.

3. An email from the NCC staff member headed 'Breach of Data Protection' was then received by BTC on 19th March 2018. This claimed that the number in question had only been provided to BTC for use in connection with the individual staff members' personal activities; the relevant passage of the email is *"It would appear that your customers have contacted BTC as my works number is no longer in use. I confirmed my new direct line number with X on Friday, as you are aware I do most things by email and assumed this would be for quick enquiries only, eg to arrange a meeting I did not agree nor did he explain that my number would be randomly distributed to anyone who happened to contact your office as an alternative to the contact centre number.*

My colleagues and myself have today received three calls from members of the public today who have been given this contact via your staff

One customer stated that she had been told "here is the contact number for the contact centre and here is the local one"

You will appreciate that during my working day, I am doing that, working. If I contact you or any other person outwith my work remit I use flexi time, we do not receive calls directly from the public and would appreciate if this practice is stopped immediately and an explanation and investigation are forthcoming "

4. In summary, the complaint appears to be that calls have been misrouted to an individual unit of NCC, rather than via the NCC Contact centre, and that this is a Data Protection Breach that requires investigation. We would add a comment here that the number in question does not appear to be unique or personal to the individual involved, since they state that calls have been answered by themselves and their colleagues.
5. The version of events related by the member of BTC staff is subtly different to that laid out in the email, in as much as the member of staff believes they made clear to the NCC staff member that they wanted a contact number for customer services in Berwick, but we do not believe this to be germane for reasons we will lay out below.
6. We invited the NCC staff member to pass the complaint on to a suitably authorized member of NCC staff if NCC wished to make a complaint about this use of their data (since the phone number in question is the property of NCC, and is provided to any NCC employee who needs to use it.)

Issues

1. Does this complaint concern personal data?
The ICO guidance 'What Is Personal Data' provides a series of tests which are sequential; that is to say, each test must be answered in turn to reach a conclusion as to whether a particular item of data is personal. Question 1, Identifiability asks *"Can a living individual be identified from the data, or, from the data and other information in the possession of, or likely to come into the possession of, the data controller?"*. Returning to

the problem as laid out above, the data that was held by BTC, relevant to this issue, and which was provided to three members of the public, was 'the number for NCC customer service enquiries in Berwick' and a telephone number.

The fact that NCC do not want to answer customer service enquiries on this number does not make it personal data, and does not amount to a Data Protection breach. The fact that BTC holds the same phone number for another purpose (contacting the officer in question about their out of work activities) does not make the number uniquely personal data.

Our view is clear; if the complaint was that the phone number had been provided to third parties who had asked for the individual by name, it would be strongly arguable that the phone number was personal data. However, that is not the case, and the fact that there has either been a misunderstanding, or that the NCC officer in question no longer wishes to be the contact point for customer service inquiries, does not make it personal data, and no individual has been identified by the disclosure of data.

Recommendation

1. That council adopt the recommendation of the town Clerk, that no further action be taken, and that the individual be advised of their right to contact the Information Commissioners Office if they wish to proceed with their complaint.