



House of Commons
Justice Committee

**Protection of Private
Data: Government
Response to the
Committee's First
Report of Session
2007–08**

**Third Special Report of Session
2007–08**

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The Justice Committee

The Justice Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Ministry of Justice and its associated public bodies (including the work of staff provided for the administrative work of courts and tribunals, but excluding consideration of individual cases and appointments, and excluding the work of the Scotland and Wales Offices and of the Advocate General for Scotland); and administration and expenditure of the Attorney General's Office, the Treasury Solicitor's Department, the Crown Prosecution Service and the Serious Fraud Office (but excluding individual cases and appointments and advice given within government by Law Officers).

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The Reports and evidence of the Committee are published by The Stationery Office by Order of the House.

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Committee staff

The current staff of the Committee are Roger Phillips (Clerk), Dr Rebecca Davies (Second Clerk), Ruth Friskney (Adviser (Sentencing Guidelines)), Ian Thomson (Committee Assistant), Jane Trew (SPIRE Pilot Manager), Chryssa Poupard (Secretary), Henry Ayi-Hyde (Senior Office Clerk), Gemma Buckland (Committee Specialist) and Jessica Bridges-Palmer (Committee Media Officer).

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Third Special Report

The Justice Committee published its First Report of Session 2007-08 on the Protection of Private Data on 3 January 2008, as HC 154. The Government response was received on 29 February 2008 in the form of a letter from Michael Wills MP, Minister of State, Ministry of Justice, to the Chairman of the Committee which is appended below.

Appendix: Government response

Thank you for the Justice Committee Report on the Protection of Private Data. It is an interesting Report that raises important issues about data security and associated issues.

The Government takes data protection seriously and we have considered the Report carefully. As you know, we have launched a number of measures to explore how we can improve data protection and still secure the benefits of data sharing so I am afraid this can only be an interim response. I will keep the Committee informed of developments as they occur.

I attach a copy of the response and I should be happy to answer any further queries that you have on this matter.

Government Response to the Conclusions and Recommendations of the Justice Committee Report on Protection of Private Data:

1. The Government thanks the Committee for its report on Protection of Private Data. We take data protection seriously.
2. Reconciling the benefits of data sharing with data protection present a challenge to Government. Personal data is a valuable resource and the proven benefits of data sharing in the public sector must be balanced against ensuring that an individual's right to the appropriate level of protection for their data is maintained. Information sharing delivers key benefits for the citizen, from protecting society as whole from harm, to more efficient and tailored public services. However, Government recognises that having appropriate security measures in place to protect personal data is central to securing the benefits of data sharing.
3. Given continuing legal and technological developments the Government recognises the need to review routinely the statutory framework for data protection to ensure that personal information is afforded the most robust protection. In October 2007 the Prime Minister set up an independent review chaired by Dr Mark Walport of the Wellcome Trust and the Information Commissioner, Richard Thomas, to look at how personal information is used and protected in both the public and private sector. The review is considering the operation of the Data Protection Act 1998 and the options for implementing any such changes; it will provide recommendations on the powers and sanctions available to the regulator and courts in the legislation governing data sharing and data protection; and provide recommendations on how data sharing policy should be

developed in a way that ensures proper transparency, scrutiny and accountability. The Review issued a consultation. The Review is due to report in the first half of 2008.

4. We note the conclusion of the Committee that there is evidence of a problem relating to data protection systems in the public sector. As a result of data loss incidents since November 2007, there has been a wide range of work across Government looking into data handling within Government. All work has been undertaken in parallel with the Thomas/Walport Review.

5. On 21 November the Prime Minister asked Keiran Poynter, the chair of PricewaterhouseCoopers, to lead a review on what led to the loss of confidential personal information, including national insurance numbers and bank account details, of Child Benefit recipients and the lessons to be learnt from the incident. An Interim Report was published in December 2007 which set out the work Kieran Poynter has already put in hand. It makes recommendations as to the immediate steps that Revenue and Customs must take to protect data security. It has already put in place a number of measures.

6. These measures include:

- the imposition of a complete ban on the transfer of bulk data without adequate security protection, such as encryption;
- measures to prevent the downloading of data without adequate security safeguards; and
- Revenue and Customs disabling all the personal and laptop computers it uses to prevent the downloading of data on to removable media. These will only be reactivated with approval of a senior manager, and for a specific business-critical purpose.

7. A full report is due in Spring 2008.

8. In addition to the Kieran Poynter Review, the Prime Minister commissioned a Cabinet Office Review led by Sir Gus O'Donnell, with the advice of security experts, to work with Departments to ensure that all Departments and all agencies check their procedures for the storage and use of data.

9. The terms of reference for the work are to examine the procedures in Departments and agencies for the protection of data; their consistency with Government-wide policies and standards; the arrangements for ensuring that procedures are being fully and properly implemented; and to make recommendations on improvements that should be made.

10. The first stage concluded on 10 December 2007 and involved Departments undertaking an analysis of their systems and procedures for complying with policies and standards on data protection, including making recommendations for practical improvements.

11. On 17 December 2007 the Sir Gus O'Donnell Review published *Data Handling Procedures in Government: Interim Progress Report* which set out the findings of the review so far, provided an update of the progress and detailed the next steps. In particular, the Review indicated that legislative steps should be taken to enhance the ability of the

Information Commissioner to provide external scrutiny of arrangements by considering the options to extend the spot checks of Government Departments to the entire public sector and introducing a new sanction under the Data Protection Act for the most serious breaches of its principles. Stage two of the Review will look collectively at improved standards and procedures across Whitehall which is due to be completed in early 2008.

12. The Committee also raised concerns over the level of funding for the Information Commissioner's Office. The Commissioner's Office receives a grant in aid to cover only the Commissioner's FOI responsibilities. His data protection work is currently funded by notification fees paid by data controllers under section 26 of the DPA, which his office retains with the agreement of HM Treasury. In 2006-07 this was £10,200,000. We are currently considering the Commissioner's case for increased resources.

13. In addition to the reviews, the Prime Minister asked the Information Commissioner to carry out spot checks on the compliance by Government Departments with the Data Protection Act. This does not entail any legislative change. The proposed spot checks will initially be focused on Whitehall Departments and will start in early 2008.

14. The outcome of the reviews will help the Government to understand how to move forward with data handling following recent security breaches. All of the reviews and actions outlined above were either in place or making progress whilst the Justice Committee were gathering evidence for the report on Protection of Private Data. We will continue with the actions that have been outlined and await the final recommendations so that we can take a considered view of the range of measures necessary to strengthen the protection of personal data.

*Michael Wills MP
Minister of State
Ministry of Justice
29 February 2008*