

Action RG0245, 0022b

Legal Advice on Data Protection act concerns regarding the collection, exchange and dissemination of information related to theft of energy.

“This advice considers the impacts of the Data Protection Act (DPA) on the British Gas proposals for the collection, collation and wider dissemination of theft of energy data, including market participant ID, Meter Point Reference Number (MPRN), postal address, type of theft, date of detection, assessed value of theft and details related to stolen meters.

Address or MPRN information in any data sharing scheme is likely to be considered as personal information under the DPA.

Where the use of personal information is strictly limited to the provision of statistical analysis and supporting strategy however (for example, informing resource allocation strategies), s.33 of the DPA provides an exemption allowing personal information to be processed or shared irrespective of the reason why the data was originally collected, provided the information is not used to support measures or decisions that cause substantial damage or distress to any individual. In this respect, using personal data to better understand the geographical spread of theft and / or allocate resource would be entirely acceptable, even if that meant an increase in the frequency of Revenue Protection visits to a particular property or area.

Furthermore, this exemption was extended by secondary legislation to cover the processing of sensitive personal information as well (alleged commission of an offence), as long as the research or analysis etc was in the substantial public interest. I believe that aiding the detection and prevention of energy theft would fall under this category.

Issues could arise if the recipients of this information went on to use it in a way that was incompatible with the exemption – i.e. to make decisions about the individuals identified by from the data. For example if a supplier started to supply a property which had a history of theft by previous tenants, and as a result requested a security deposit or offered an energy uplifted to include a risk premium, this would be problematic and the full DPA requirements would need to be met – i.e. fair processing requirements and schedule 3 etc. I don't believe that the substantial part of the public interest requirement would stack up when applying it in these circumstances

For the avoidance of doubt, the other data items considered in the proposal (i.e. type of theft, amount of energy stolen, supplier ID etc would not be considered personal information and the DPA would not therefore apply).

*Jacqueline Gazey
Data Protection Officer, British Gas Legal & Regulatory”.*