



Overview of session

- Data Protection Act 1998 – a quick recap
- s32 – the ‘special purposes’ exemption
- s32 issues: overlap with developing law of privacy, take-down requests
- Indies guidelines





Data Protection Act 1998

- UK implementing legislation for European Directive 95/46
- No mention of 'privacy'
- Sets out how organisations must process personal information and establishes rights for individuals whose data is processed





DPA 98 – key terminology

- What is ‘personal data’? A complex and vexed question!
- Sensitive personal data
- Processing
- Data controller & data processor



DPA 98 – the 8 Principles

- 1 Data must be processed fairly & lawfully
- 2 Obtained only for specified lawful purposes
- 3 Adequate, relevant & not excessive
- 4 Accurate & kept up to date
- 5 Kept only for as long as necessary
- 6 Processed in accordance with individuals' DPA rights
- 7 Kept securely
- 8 Not transferred outside the EEA





BBC Content & Data Protection: s32

- Outline of the ‘special purposes’ exemption:
 - Applies to processing of ‘journalistic, literary or artistic material’
 - Where processing is *only* for the special purposes and three conditions are fulfilled:
 - Processing ‘with a view to publication’; and
 - Publication is in public interest; and
 - It would be incompatible with special purposes to comply with DPA



Section 32 - continued

- Processing with a view to publication:
 - What does 'with a view' mean?
 - *Campbell v MGN* – post-publication
 - BBC's position to date



Section 32 - continued

- Processing in the public interest:
 - Imports a balancing test – case by case basis
 - BBC's Editorial Guidelines & other relevant Codes of Practice
 - Overlap with privacy/confidence cases? Eg *Mosley*



Section 32 - continued

■ Incompatibility with DPA:

- A high standard?
- Note Principle 7 (data security) always applies
- Most relevant DPA provisions:
 - Subject access rights
 - Right to prevent/request ceasing of processing – take down requests





Section 55 DPA – illegal obtaining of data

- Knowing or reckless obtaining or disclosure of data without consent of data controller – blagging
- Public interest defence
- Changes to the law



Production Security Guidelines

- Data security is always the law
- PACT, C4, iTV and five *almost* agreed guidelines
- Guidelines for Senior staff and Crew
- ICO to sign off and publish
- Contractual requirement re: encryption



Further reading!

- Data Protection Handbook – see IPC pages of Gateway:

http://sites.gateway.bbc.co.uk/foi/dataprotection/dp_handbook/00contents.html

Thank you!

