

DATA PROTECTION TRIBUNAL

**COMMUNITY CHARGE REGISTRATION OFFICER OF RHONDDA
BOROUGH COUNCIL**

v

DATA PROTECTION REGISTRAR

[Case DA/90 25/49/2]

APPEAL DECISION

By an appeal duly lodged on the 8th May 1990 the Community Charge Registration Officer of Rhondda Borough Council appeal against a notice of refusal of registration dated the 20th April 1990 served by the Registrar under Section 7 of the Data Protection Act 1984. The notice alleged that the Registrar was satisfied that the appellant was likely to contravene the 4th Data Protection Principle.

We heard the appeal on the 24th September 1990. The Appellant did not appear and was not represented.

The appeal raised the issue whether the holding of dates of birth information on the computer database of a Community Charge Registration Officer (herein called a "C.C.R.O.") in the particular circumstances of the Appellant was in contravention of the 4th Data Protection Principle which provides that personal data held for any purpose or purposes shall be adequate, relevant and not excessive in relation to that purpose or those purposes.

We heard evidence from Mr Jonathan Bamford called on behalf of the Registrar. There were documents, circulars and correspondence before us. Copies of these and a statement of the evidence to be given by Mr Bamford had been served upon the Appellant. We were referred to statutes and regulations relating to data protection and the community charge. We make the findings of fact and decisions as hereafter set out.

The background to the appeal is the Local Government Finance Act 1988. By Section 6 of the Act the C.C.R.O.s for each Charging Authority were required to compile and then maintain a Community Charges Register for the Authority and to take reasonable steps to obtain information for that purpose.

The Register was to contain in relation to each community charge, the nature of the charge, names and addresses (or a place) and material dates. There was no general provision in England and Wales that all persons were required to provide their dates of birth to the C.C.R.O. The legislation in general provided that persons were to become liable to the Community Charge when they reached the age of 18. Accordingly C.C.R.O.s would need to have information about those who were not yet, but were shortly to become, 18 years of age. It was to be expected that information of this type, not appearing on the Register itself, would be held on computer data base by the C.C.R.O. It was to be expected that all C.C.R.O.s would apply for registration under the Data Protection Act. The Appellant applied on the 30th June 1989.

A major source of information for the C.C.R.O.s were answers provided by members of the public who were required to complete Community Charge forms. The C.C.R.O.s received advice on the contents of the form from professional bodies and the Department of Environment. Community Charge Practice Note 8 issued by the Department of the Environment included a column headed "Date of birth if 18 between now and the 1st April 1991". A model form provide by one professional body included a date of birth column without reference to the age of 18.

The Data Protection Registrar received a number of enquiries and complaints relating to the questions asked on Community Charge canvas forms. The first complaint, received in June 1989, did not relate to a canvas form circulated by the Appellant. In June 1989, the Data Protection Registrar requested specimen canvas forms from each of the 403 C.C.R.Os. The canvas forms were received. There was no standard form and they differed in the questions they asked. The Appellant's form included a column "Date of birth year/month/day". Note 1 on the Appellant's canvas form stated "You need only give the date of birth of people now aged 16 or 17. But it will help me if you give everyone's date of birth".

The Data Protection Registrar was of the view that date of birth information held on a computer data base would be irrelevant and excessive and in contravention of the 4th Data Protection Principle unless it was limited to date of birth information about those who were not yet aged 18, but were shortly to become of that age. Later, because of student exemptions, he accepted it was also relevant to hold information about those under 20 years of age who were in further education. In addition the

Registrar accepted that it could be necessary to hold the dates of birth of individuals who lived at the same address and whose full names were identical. Following the receipt of the forms the Data Protection Registrar communicated with 163 C.C.R.Os whose form appeared to indicate that they might be intending to hold excessive information on their computer databases. Following correspondence and preliminary notices the Registrar served on 8 C.C.R.Os notices of refusal of registration on the ground that the date of birth information that they held was likely to contravene the 4th Data Protection Principle. In addition enforcement notices were served on 5 C.C.R.Os who were already registered under the Data Protection Act on the ground that they were contravening the 4th Data Protection Principle in relation to dates of birth information. Following the notices all C.C.R.Os apart from the Appellant have given sufficient undertakings to hold on computer data base only the dates of birth information referred to above which the Data Protection Registrar considered would be appropriate. There is thus no other pending appeal relating to dates of birth information.

We are satisfied on the evidence of Mr Bamford that the Registrar considered not only the general points raised by C.C.R.Os who had wished to hold dates of birth information, but also particular points raised by the Appellant, before issuing the notice of refusal dated the 20th April 1990. The Registrar refused the Appellant's application for registration as a data user on the grounds set out in the notice and in reliance on Section 7(2)(b) of the Data Protection Act namely that he was satisfied

the Appellant was likely to contravene a Data Protection Principle. By letter dated 4th May 1990 the Appellant appealed against the refusal on the following grounds:

- "1. On the canvas registrar form, I made it quite clear that the information did not have to be supplied, but I did state that it would help me to be provided with dates of birth.
- "2. The Rhondda is an area which has inhabitants with surnames and Christian names that are common to many and I feel that if I have to erase the dates of birth from my computer records there is the possibility that an individual may escape registration because he is confused with someone of the same name.
- "3. In circumstances where a person moves house within the Borough he may not declare his previous address. There may be problems of actually identifying him as an existing Community Charge payer on the Rhondda's Register without his actual age being held on file.
- "4. The date of birth is an important factor as to whether or not to arrange a visit where the registration form has been incorrectly completed, and although you have allowed me to indicate by way of a general marker persons of a pensionable age, it must be remembered that not everyone has volunteered the information so as much information regarding a positive statement of age remains an important factor when dealing with people's problems.

"5. I must add that the exercise of maintaining an up to date and complete Register is a difficult enough exercise without having to delete information of a non-controversial nature which has been freely given by the Charge Payer."

There was no evidence of any complaint against the C.C.R.O for Rhondda as to the holding of dates of birth information.

There was evidence before us that nationally less than 1% of households contained persons with the same surname and same first name. There was no evidence before us as to percentages applying within the area of Rhondda Borough Council, although it was probable that they were greater than the national figure. We approached the question of whether the information was irrelevant and excessive without taking too restrictive a view of the discretion that a particular C.C.R.O might exercise as to the amount of information he considered would assist him to carry out his statutory duties. We found that it was established that the Appellant held and wished to continue holding dates of birth information on as many as possible. The information was to be obtained from answers voluntarily given on canvas forms. We found that the Appellant did not seek to limit the information to be held on his database to those who would shortly attain the age to become charge payers or to identify persons living at the same address with identical names. The information as to dates of birth was personal data and was to cover persons generally at least insofar as the information had been voluntarily provided. We find that the information the Appellant wishes to hold on database concerning individuals exceeds substantially the minimum amount of information which is

required in order for him to fulfil the purposes for which he has sought registration namely to fulfil his duty to compile and maintain the Community Charges Register.

We find it established that the Registrar was satisfied that the Appellant was likely to contravene the 4th Data Protection Principle in relation to dates of birth information. We are satisfied by the evidence before us that the wide and general extent of the information about dates of birth is irrelevant and excessive.

Having reached the above conclusions we considered whether the Registrar had appropriately exercised his discretion to refuse registration. It may be said that there is unlikely to be prejudice unless the information is used for a purpose other than for preparing a Community Charge Register. However, the need to enforce the principle that data users shall not hold excessive information is of importance. In our view it is important that that principle should be seen to apply to data users who are fulfilling a public duty and whose powers include the right to require individuals to provide information, albeit generally not information as to date of birth. This is not a case where the excess of information relates to a trivial few items, but it relates to dates of birth information about many individuals. The Registrar has not sought to prevent the holding of dates of birth information in cases where it appears to be relevant. We are satisfied that the Registrar exercised his discretion to refuse registration correctly.

For the reasons given we are satisfied that the Registrar has established grounds for refusing the Appellant's registration. We find no error of law in the Registrar's

decision to refuse registration. We do not find that the Registrar ought to have exercised his discretion differently. Accordingly, we dismiss the Appeal. There will be no order as to costs.

J A C Spokes
CHAIRMAN

11th October 1990