

Small scale Privacy Impact Assessment

Privacy of personal data - screening criteria

- Consultation on the application of existing personal data to a new purpose.
- The consultation may also lead to the drafting of legislative amendments authorising the collection, use or disclosure of personal data.

Decision

- The definition of 'personal data' has a wide coverage. Someone is identifiable if their identity can be ascertained from the information held plus the results of reasonable inquiries, whether made by the controller or another. The Information Commissioner's guidance on this issue refers to the EU Directive and states that whether or not the individual is identifiable or not will depend on 'all the means likely or reasonably likely to be used either by the controller or by any other person to identify the person'. In our view, the combination of the address in the certificate and the availability of the electoral roll, which includes names and addresses, are sufficient to enable individuals to be identified.
- However it is worth pointing out that the issue of whether or not this data is personal data is not clear cut. The information of course relates to a building not a person and is limited to the energy rating of that building and to recommendations for improving its energy efficiency. It is because a cross-check with other public records against the address on the Energy Performance Certificate (EPC) could easily reveal the name of the occupant that the data becomes personal.
- The certificate itself concentrates very much on the house and talks in very general terms about its energy efficiency. On the other hand, we think it is significant that the sharing of EPCs will allow the recipient organisations to take certain action in relation to a particular individual i.e. they will put the EPC together with other information to decide that the house needs energy improvements and so the individual should be contacted. On balance by far the safest course of action is to treat the un-anonymised EPC as personal data.
- This level of protection would also need to be applied to DEC's which relate to sole traders as they could be working from home and the information in the DEC would therefore relate to their home address which together with their name would be classed as personal information.

Preliminary and preparatory phases

- The Energy Performance of Buildings Directive 2002/91/EC (EPBD) came into force in the UK on the 1st August 2007 and was initially implemented by the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007 (S.I. 2007/991).

- One outcome of the EPBD has been the collection of data on the energy performance of over 4.3 million domestic and non-domestic buildings in England and Wales which has been captured in EPCs, Display Energy Certificates (DECs) and Air Conditioning Reports (ACRs) since 2008. Details of EPCs and DECs for properties in England and Wales are stored in the England and Wales domestic and non-domestic EPC registers on behalf of the Secretary of State for Communities and Local Government (CLG).
- Access to this data is tightly controlled by Part 6 of the Energy Performance of Buildings ((Certificates and Inspections) England and Wales) Regulations 2007 as amended, restricting it to CLG, Local Weights and Measures Authorities and Trading Standards Officers (TSOs). In August 2009 we amended the regulations to give the Energy Saving Trust (EST) access to the EPCs of properties with poor energy ratings (F&G) to allow them to give tailored advice and support to households to improve their energy efficiency, fulfilling a previous Ministerial commitment, made by the Prime Minister on the 19th November 2007.
- Currently EST make contact with occupiers of dwellings that have received low energy-efficiency ratings to provide information on the measures to improve the energy performance of the dwellings and about financial assistance for such measures that may be available to them. EST only have access to those EPCs produced which contain a notice advising of the disclosure of such data to EST.
- There is a growing demand, from both other Government departments and external organisations, to gain access to this information as it is considered a useful tool in supporting efforts to tackle climate change, whether through research or programmes to support practical change. For example, it can be used to determine trends in the energy efficiency of different types of buildings and the most effective ways to improve energy efficiency. More specifically, EPC data can be used to provide tailored advice and support to building owners on how they can improve energy efficiency.
- Recent Government consultations, *The Next Steps: EPCs and the establishment of the Green Homes Service* consultation paper (June 2008) and *The Heat and Energy Savings Strategy* consultation (2009) have also indicated widespread support for increasing access to the information.
- We made a commitment in the Low Carbon Transition Plan July 2009 to 'consult on extending access to EPC information for all homes so government departments, local authorities (LAs) and relevant agencies are able to target offers of support' to improve energy efficiency.
- On the 2nd March a consultation paper 'Making better use of Energy Performance Certificates (EPC) data' was launched. The consultation period will run until the 25th May 2010.