

The Departmental Data Protection Unit concluded that, although evidence resulting from Mr Merrick's investigation was circumstantial (ie. Wragge and Co had alleged disclosure of details pertaining to yourself but this was denied by staff) we should accept that an accidental disclosure had taken place. Also, without conclusive evidence to identify the officer responsible for the accidental disclosure to support the instigation of formal action, it was recommended that all staff within the team should be reminded of their responsibilities under the Data Protection Act. SEE LETTER 3rd April 2002

EVIDENCE  
IN LETTER  
3rd  
April  
2002

You have also noted the letter that computer records will show the names of the person who made the phone call. However, audit trails obtained to detail all access to both your records and those of your wife, through either the Incapacity Benefit computer payment system or the Departmental Central Index, have not provided evidence to support your allegations. This is also in confirmation of Ronald Powell's comments in his letter to you of 14 March 2003 in which he explains that "when the computer records are accessed by any individual a record of that access is kept on the system. There is no record of anybody actually accessing the records relating to your client at any time relevant to this issue ..."

CONCERNS ARE OF AUTHORISED ENTRIES AND NOT UNAUTHORISED

You have also enclosed a copy of letter to you from Wragge & Co of 29 March 2004 enclosing "a copy of an attendance note of the conversation between our Jackie Mills and an individual at the DSS. Unfortunately we have had to blank out the name of that individual as we do not have his consent to release that information." Your attached note indicates that you have interpreted this to say that the officer refuses to give his name. However, this is more likely to be because the Data Protection Act prohibits the disclosure in specifying that:

"Where a data controller cannot comply with the request without disclosing information relating to another individual who can be identified from that information, he is not obliged to comply with the request unless:

- (a) the other individual has consented to the disclosure of the information to the person making the request, or
- (b) it is reasonable in all the circumstances to comply with the request without the consent of the other individual."

PROFESSIONAL PRIVILEGE  
being used to withhold  
information

The Wragge & Co attendance note refers to a call from an officer at the Benefits Agency in Dudley who had received their form of authority via The Office of The Solicitor. As Ronald Powell also works within the Department for Work and Pensions, Office of the Solicitor, you have, perhaps understandably, made an assumption that he would have been aware of this communication and request for information by Wragge and Co. To clear up this misunderstanding, please permit me to clarify that The Office of the Solicitor, in this instance, is an umbrella term used to encompass the various legal departments serving the Department for Work and Pensions. Ronald Powell is unconnected with the department covering the area of work described by Wragge and Co and therefore would have had no knowledge of their communication in December 2001.