

## Guest books and the Data Protection Act

As a general rule, when it comes to interpreting legislation it is better to err on the side of caution rather than to risk causing harm or be deemed to have broken the law. While the precautionary approach can be a very good way to mitigate risks, there are instances where this can unnecessarily affect your business operation.

Kurt Janson, Director of the Tourism Alliance recently had contact with a self-catering property owner whose agent had advised them to remove their guest book from the property, on the basis that having one would contravene the Data Protection Act (DPA). The rationale for this was that other guests, visitors, contractors or staff could access the book and gain the personal data of the people who had left comments. It is correct that a guest book does indeed contain data, so the DPA does apply. However, that in itself is not a problem.

There is only the potential for a problem under the Act if the data is "personal data". To be personal data, the data must enable a person to identify the individual. So, if you had just first names or even if guests wrote 'Bob and Sue Smith' with no address, then it would be difficult to say that it is personal data. It would only potentially be problematic if guests leave information that would make them identifiable, such as an address or email.



And even then, this would only be a problem if Bob and Sue were requested by the owner to provide this information. Now, it could be argued that having a column in the guest book called "Address" could constitute a request for information by which the guest could be identified and contacted. However, there are two issues. The first is that "Address", by itself, does not mean that the guest is being required to provide information by which they could be identified – i.e., the guest is perfectly able to leave that column blank or just write their country or town. There is no compulsion or requirement on them to give their full postal address.

It also has to be remembered that the purpose of the DPA is to ensure personal data is used only for the purpose for which it was supplied and to protect against unconsented access and use of personal information.

As such, because the guest is not required to write in the guest book, but does so voluntarily knowing that other guests will read it (this being the purpose of a guest book), then this could be deemed to be implied consent. Therefore it would be very hard for a guest to argue that, having put personal data in a guest book, they didn't expect other visitors to read it.

Although this particular example demonstrates the issues with taking a very literal approach to the interpretation of legislation, business owners are advised to seek professional legal advice if they have any queries regarding how regulations affect their business.

Source: [www.visitbritain.org](http://www.visitbritain.org)



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