



20th Annual Pension Lawyers Association
Conference 2015

Case study 1 – no consent + s37C PFA

- Definition of “personal information” in POPI (paras (a) and (b) in particular)
- Definition of “dependant” in PFA and requirements of s37C of PFA
- Beneficiary may not consent i.t.o. s11(1)(a) POPI (e.g. due to fear of other claimants)



- S11(c) POPI permits processing where responsible party obliged by law (e.g. s37C PFA)
- Fund = responsible person
- HR and service providers = operators (written contracts N.B.)

- Orphan child may not have competent person to give consent i.t.o s35(1)(a) of POPI
- S35(1)(b) permits processing re: children where *“necessary for the establishment, exercise or defence of a right or obligation in law”* (37C obliges fund to process)

Case study 2 – s37D PFA withholding

- S37D(1)(b)(ii) of PFA
- S26(b) of POPI prohibition re: criminal behaviour (alleged offence) unless...
- S27(1)(b) – processing necessary for exercise of a right (e.g. employer’s right of recovery) or obligation (fund obliged to consider request?)

Case study 3 – social media + unclaimed benefits

- S9 + 10 POPI = reasonable, not excessive
- S11(1)(d) POPI processing “*protects a legitimate interest of the data subject*”
- S11(1)(f) “*necessary for pursuing legitimate interests of the responsible party or a third party to whom the information is supplied*” (tracing agent contract N.B.)

A blurred cityscape at dusk or dawn. The sky is a mix of blue and purple, with some clouds. In the foreground, a multi-lane highway is visible, illuminated by streetlights, creating a warm orange glow. The city buildings in the background are out of focus, with some lights visible.

THANK YOU