



Welcome to the 26th issue of our quarterly Newsletter.

Next issue July 2007

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Act Now Bulletin Board

Over 150 members have signed up and there are many views and quite a few posts; It does have the first forum on RIPA, RIPSAs & SPOC issues and it also has a forum for Data Protection and another for the 3 interlinked subjects of FOI, RM and ROPSI.

Click on <http://www.actnowtraining.co.uk> to have a look and join in

Our Autumn programme is now on our website.

Draft programme only. More details added later. <http://www.actnow.org.uk/aut07.htm>

In house Training

Act Now trainers also deliver in-house training at your site. In the last three months we have done in house training on FOI, EIR, DPA, Data Sharing and RIPA for Countryside Council for Wales, Museum of London, North East Lincolnshire District Council, Doncaster Council, Birmingham City Council, Harrogate Council, Blackburn Council, North West Leicestershire District Council, Independent Police Complaints Commission, Cumbria Council, North Yorkshire Fire & Rescue service, DFPNI.

If you want us to deliver training at your site please contact us. Both Directors regularly do in house work and we have a number of associates who can also deliver in house training. At your site you control the numbers of delegates and can deliver training at £20 or £30 per delegate. You also provide the venue at little or no cost to your organisation and your staff don't incur travelling expenses. Obtain best value - bring the trainer to you!

Legal Advice, Training, Audit and Consultancy

Our public sector experts can now assist you to practically implement FOI, DPA and Records Management. We can also give you legal advice in these areas. Why pay expensive lawyers and consultants who have little public sector experience?

For Consultancy, Audit & Training see Paul Simpkins website : <http://www.paulsimpkins.com>

For Legal Advice and Training see Ibrahim Hasan's website : <http://www.informationlaw.org.uk>

Thank you for all your support

Paul & Ibrahim

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FREEDOM OF INFORMATION

1. FOI Practice Recommendation

Records management is continuing to climb up the corporate agenda as more Information Commissioner decisions are published. This follows the Information Tribunal's decision in *Browbrick. v Information Commissioner and Nottingham City Council* (28th September 2006). The Tribunal recommended that ICO should make Practice Recommendations (PR) to the Council. The PR has now been issued. This is the first of its kind and it requires Nottingham City Council to take various steps relating to aspects of the S.45 FOI Code of Practice including advice and assistance, transferring requests and the complaints procedure.

In addition, the Commissioner has asked the National Archives to conduct an assessment of the records management capabilities of the Council. This assessment will take place later this year and will form the basis of a separate PR under the S.46 FOI Code of Practice on the management of records.

Full details are on the Information Commissioner's website

<http://digbig.com/4behn>

2. DCA consultation on FOI Fees

At 10am on 29 March 2007, the Department for Constitutional Affairs published a supplementary paper to the consultation on the Draft Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2007.

This paper is on the DCA website at <http://www.dca.gov.uk/consult/dpr2007/cp2806.htm>

and contains full details of the scope of the supplementary paper and how to respond. Responses to the supplementary paper and any further comments on the draft regulations are invited by 21 June 2007. Also here's the link to the press notice:

<http://digbig.com/4shka>

The Campaign for Freedom of Information has welcomed the announcement which suggests that the government are no longer committed to introducing major restrictions to the Freedom of Information Act. Instead it has announced a further consultation, asking whether changes to the Act are needed at all.

The Campaign's director Maurice Frankel said: "This raises the strong possibility that the government will eventually decide to leave the current arrangements untouched. If it does decide to make any changes they are likely to be far more limited than the highly damaging restrictions which had been proposed."

3. FOI and Personal Data

As usual, access to personal data featured heavily in recent ICO decisions. Two are very interesting. They concern the disclosure of salaries and information about those who have been given ASBO's.

Case Ref: FS50092819 Date: 22/02/2007

Public Authority: University Hospital Birmingham NHS Foundation Trust

Summary: The complainant submitted a request to the public authority for the names, job titles, working patterns and various salary details of a number of doctors working on a specific hospital ward. The public authority initially considered all of the requested information to be exempt under section 40. However, during the course of the Commissioner's investigation the public authority released the doctors' names, job titles and salary bands. The Commissioner's decision is that the public authority is correct to continue to rely on section 40 as a basis to refuse to release details of the doctor's gross salaries, additional payments and average number of hours each doctor worked. With regard to the information about the additional payments and average number of hours worked, the public authority also explained to the Commissioner that to provide this information would exceed the appropriate cost limit and therefore was also refusing to provide this information on the basis of section 12. The Commissioner has investigated this claim and accepts that this information could not be provided within the cost limit. However, the Commissioner has decided that when originally refusing the request, the public authority provided the complainant with an inadequate refusal notice.

http://www.ico.gov.uk/upload/documents/decisionnotices/2007/fs_50092819.pdf

Case Ref: FS50123489 Date: 13/02/2007

Public Authority: London Borough of Camden

Summary: The complainant asked Camden Council to provide him with the identities of all residents who had been made the subject of Anti-Social Behaviour Orders (ASBOs). The council provided the complainant with an edited version of its ASBO database. Information that could identify individuals was withheld by the council under sections 31 and 40 of the Act. The Commissioner is not satisfied that section 31 was engaged. He decided that the council was wrong to rely on section 40 to redact the names of all the individual recipients of ASBOs but that redaction could be justified in some cases. The Commissioner requires the public authority to provide the complainant with a full version of its ASBO database but after redaction of names in those cases where: reporting restrictions were imposed by the court at the original ASBO hearing or at any hearing for breach; the ASBO did not proceed beyond interim status; the public authority is satisfied that the ASBO recipient is particularly vulnerable and would be put at real risk by disclosure; or the ASBO has now expired.

http://www.ico.gov.uk/upload/documents/decisionnotices/2007/fs_50123489.pdf

If you are interested in access to personal data under FOI, please see Ibrahim Hasan's article in the March issue of World Data Protection Report which is available on the articles page of his website www.informationlaw.org.uk

4. International right to know day 2006 and the 240th birthday of FOI

The man we have to thank for starting it all in 1766 was Anders Chydenius

<http://www.worldchanging.com/archives/005732.html>

and last year there was an International right to know day.

<http://www.foiadvocates.net/rkd06.php>

http://www.foiadvocates.net/map_2006/uk.php

This Press Release was issued by the Scottish Information Commissioner:

<http://www.itspublicknowledge.info/resources/media/pressreleases/pressrelease21.htm>

www.actnow.org.uk

Training for the information society

5. Latest ICO and Tribunal Decisions on podcast

The Freedom of Information Act 2000 continues to have a big impact on all aspects of the public sector. Lots of interesting appeal decisions have come out in the last few months, from both the Information Commissioner's Office and also the Information Tribunal. These have dealt with difficult issues such as :

- Release of ASBO information
- Vexatious requests
- Access to lists of empty properties
- Trading standards and the Enterprise Act
- Access to dead peoples' information
- Confidential commercial information
- Photographs and FOI

If you would like a full explanation of all these decisions then download the FOI podcast from Ibrahim Hasan. Every month Ibrahim discusses the latest legal cases and gives his personal views as to how they affect FOI practice. There are also interviews with experts and FOI stakeholders. Recent episodes have included interviews with Tim Turner of Wigan Council, Susan Healey of the National Archives and Martin Rossenbaum of the BBC

This is the first service of its kind in the UK and it's completely free. It's even been mentioned in the Times. The first five episodes are now on Ibrahim's personal website. You can also read the full transcripts. See : www.informationlaw.org.uk

6. Access to deceased person's records.

A colleague asked for guidance on this matter from the Scottish Information Commissioner and the following reply came which is rather useful.

This is a difficult enquiry and there is no simple answer, I have spoken with a colleague who dealt with a similar issue a while ago and pulled together the following background information. It looks like the request may fall outwith the Freedom of Information (Scotland) Act 2002. I understand that such records have been released in the past, but I cannot provide examples and I would advise you to speak to the Corporate Solicitor.

As way of background the following some provide some information. This is specifically in relation to cases where the disclosure of the information could affect the dead person's relatives.

The following is an extract taken from the Medical Research Council's booklet entitled "Personal Information in Medical Research" – para 3.2.8 (available in pdf format here

<http://www.mrc.ac.uk/pdf-pimr.pdf>):

"Information about dead people, and historical records

The Data Protection Act does not apply to information about a person who is dead before the information is disclosed. Common Law on confidentiality, similarly, is not normally held to apply to information about dead people, although this is a grey area of the law. However, if the use of information about a dead person intruded on the privacy of their relatives - for example, because it revealed information about hereditary conditions or transmissible diseases - then the relatives might be able to take action under Human Rights legislation."

The only case law appears to be relevant to this question concerns a parent's attempt to access to the social service records of a deceased child. In the case of *R (Addinell) v. Sheffield City Council* (QBD) 2001 [ACD] 331, it was argued that, under Article 8 of the European Convention on Human Rights (see below), it would be a breach of the obligation to respect family life for the council to decline to disclose the social service records of an applicant's son to the applicant. However, it was held by Mr Justice Sullivan that the father of the deceased child could not obtain access to his son's social service records on the grounds that the deceased child had a right to privacy: "considering questions of privacy and family life under article 8, the balance would come down firmly in favour of social service records remaining confidential to the deceased."

If Article 8(1) allows the disclosure of information about a deceased minor to be refused to a close relative then it could be argued that close relatives may have standing to enforce an obligation of confidentiality owed to the deceased during that person's lifetime, especially in a situation where the information could be disclosed by a public authority (unless Article 8(2) applied).

European Convention on Human Rights: ARTICLE 8

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

It should also be noted that the case mentioned here only considered access to a deceased person's social service records. Statutory rights of access to a deceased person's health records are contained within the Access to Health Records Act 1990, as amended (all manual and computerised health records about living people are accessible under the Data Protection Act 1998). In the Access to Health Records Act 1990, which allows (restricted) access to health records of a deceased person that were made after 1 November 1991, the term "health record" consists of "information relating to the physical or mental health of an individual who can be identified from that information, or from that and other information in the possession of the holder of the record; and (b) has been made by or on behalf of a health professional in connection with the care of that individual."

Relatives of someone who has died have no right to access the deceased person's records. Section 3(1)(f) of the Access to Health Records Act 1990 restricts the right of access to a deceased person's health record to "the patient's personal representative and any person who may have a claim arising out of the patient's death", subject to section 4 of that Act. In such instances, only the information that relates to the claim will be accessible.

Section 5 of the Access to Health Records Act 1990 sets out instances where access to the records may be partially excluded:

5.- Cases where right of access may be partially excluded.

- (1) Access shall not be given under section 3(2) above to any part of a health record—
 - (a) which, in the opinion of the holder of the record, would disclose—
 - (i) information likely to cause serious harm to the physical or mental health of any individual; or

(ii) information relating to or provided by an individual, other than the patient, who could be identified from that information; or
(b) which was made before the commencement of this Act.

There have been a number of recent ICO FOI decisions about access to dead peoples' information. Where the information is about medical records then the Access to Health Records Act 1990 will allow the PA to claim that the information is reasonably available elsewhere and so exempt under section 22.

Case Ref: FS50127442 Date: 19/02/2007

Public Authority: Liverpool Womens NHS Foundation Trust

http://www.ico.gov.uk/upload/documents/decisionnotices/2007/fs_50127442.pdf

See also

Case Ref: FS50128269 Date: 05/02/2007

Public Authority: The Royal Surrey County Hospital

http://www.ico.gov.uk/upload/documents/decisionnotices/2007/decision_notice_fs50128269.pdf

Furthermore recent ICO decisions state that when a public authority is considering giving access to a dead person's personal information, consideration must also be given to any duty of confidence owed to the deceased. Care must be taken especially to ascertain what the wishes of the deceased were before they died.

Case Ref: FS50111780 Date: 26/02/2007

Public Authority: County Durham NHS Primary Care Trust

http://www.ico.gov.uk/upload/documents/decisionnotices/2007/fs_50111780.pdf

7. Useful FOI Resources

Welcome to Secret Scotland

A nice article listing various successes and failures of FOISA but the interesting thing is the massive number of comments posted blog style after the article.

<http://news.scotsman.com/index.cfm?id=366552007>

The way to do FOI requests.

An MP3 on the subject. I don't believe it. You may have to save it and play it from your desktop.

<http://www.datasmart.co.uk/dl.asp?exemption.mp3>

The list of qualified persons

<http://www.foi.gov.uk/guidance/exguide/sec36/annex-d.htm>

Independent Review of the impact of the Freedom of Information Act

prepared by Frontier Economics. <http://www.foi.gov.uk/reference/foi-independent-review.pdf>

DATA PROTECTION

8. DWP and the Section 29 exemption.

http://www.rightsnet.org.uk/pdfs/DWP_Pers_Info_Policy_03.pdf

A 52 page document about how DWP can pass customer information to someone who is not the customer. Several ideas worth recycling.

[Department of Work & Pensions breaches DPA](#)

Ministers have apologised for a mix-up which led to bank and personal details of thousands of pensioners being sent to the wrong addresses.

<http://news.bbc.co.uk/1/hi/uk/6349041.stm>

Who says the government can't be trusted with our personal data?

9. Nationwide fine for losing customer data

First the press release

BEGINS

The UK Financial Services Authority has fined Nationwide Building Society £980,000 for failing to have effective systems and controls to manage its information security risks. According to the watchdog, these failings came to light when a laptop was stolen from a Nationwide employee's house in August 2006.

The Financial Services Authority (FSA) commented that, during its investigation, it found that Nationwide did not have adequate information security procedures and controls in place, potentially exposing its customers to an increased risk of financial crime. It added that it had taken swift enforcement action to send a clear message to all firms about the importance of information security.

According to the FSA, Nationwide worryingly did not realize that the laptop contained confidential customer information or start an investigation until three weeks after the theft. According to the BBC, the computer has still not been recovered.

Margaret Cole, FSA director of enforcement, said: "Nationwide is the UK's largest building society and holds confidential information for over 11 million customers. Nationwide's customers were entitled to rely upon it to take reasonable steps to make sure their personal information was secure.

ENDS

See <http://digbig.com/4shdm> & <http://news.bbc.co.uk/1/hi/programmes/moneybox/6371089.stm>

The BBC Moneybox site says:

"The Information Commissioner, the body which protects our data, let the FSA take the lead in the investigation of what was almost certainly a breach of the Data Protection rules.

www.actnow.org.uk

Training for the information society

Assistant Commissioner Phil Jones told Money Box: "It sends a very important wake-up call particularly to banks and others in the financial sector and to all organisations that hold personal information."

But he warned that customers could not use the Data Protection Act to find out what data of theirs was on the laptop.

"The obligation is to tell you what information they hold," he said, "but you and I don't have rights to require someone to tell us what data is held in what particular kit in what particular place."

"The Data Protection Act does not require them to go into that sort of details."

However, he confirmed the decision was up to Nationwide: "There is nothing in the Data Protection Act that would stop them passing that information on to customers who asked them."

Listeners contacted the programme because the company, and therefore the customers, were having to pay the fine rather than the Directors. Of course, as it is a building society and the customers are all shareholders they could presumably remove the shareholders or ask them what steps they have done to improve their information security at the next AGM.

Losing laptops is quite a common event. Check out these stories from the Halifax

<http://www.itweek.co.uk/vnunet/news/2186556/halifax-apologises-stolen>

and from Nottinghamshire PCT

<http://www.itweek.co.uk/vnunet/news/2186557/stolen-nhs-laptop-contains>

10. New Trial of Megan's Law

Pilot projects giving parents the right to know if paedophiles are living in their area will endanger the lives of children, a charity has warned.

Barnardo's said the trials would drive child sex offenders underground.

<http://news.bbc.co.uk/1/hi/england/somerset/6538371.stm>

<http://news.bbc.co.uk/1/hi/uk/6540749.stm>

11. Woman gets 75,000 bank statements

http://news.bbc.co.uk/1/hi/scotland/north_east/6310633.stm

12. Kate Middleton is marrying who?

<http://news.bbc.co.uk/1/hi/uk/6245879.stm> for the january story

<http://news.bbc.co.uk/1/hi/uk/6507759.stm> for the end of march story.

Only 1.250,000 hits on google for a search for her name. She doesn't like it.

13. Spam, spam, spam, spam

A spam case ruling - the first from a Scottish court we believe and the second time an individual has successfully used the small claims procedure to fight unsolicited email.

There's quite a bit on the web reporting the case

see <http://news.bbc.co.uk/1/hi/technology/6423113.stm>

Mr Dick has set up his own website giving chapter and verse - so if you're really interested see <http://www.scotchspam.org.uk/transcom.html>

14. Name & shame (taken from a bulletin board)

On Cardiff Railway station is a poster containing a list of names, partial addresses and fines of people who travelled without a ticket. The information is of the form name, road, town, county, fine. Fred Bloggs, Acacia Avenue, Egham, Surrey, £340

I have also seen this on Brighton railway station. This is a list of individuals with a criminal record? Interesting eh? This is referred to as an example of good practice in "March Update" "the monthly newsletter from the (railway) industry's Community Safety Support Unit"

Metro operator Nexus caught 311 people riding the system without a ticket in a four week period. The 311, from Tyneside and Wearside, were prosecuted through the courts and ordered to pay a total of £41,750 in fines and costs. Click on <http://www.trackoff.org/pdf/March2006.pdf>

Their names have now been added to prominently-displayed 'name and shame' posters across the network. Director of Metro, Ken Mackay, said: "There is a minority of people who think they can get away with riding the system without tickets but our success in gaining prosecutions proves they can't"

Centro also did this. A set of minutes from the Solihull Transport Users' Advisory Committee (on the web) says "Central Trains are also running a Name and Shame Campaign where the names of persistent offenders will be displayed on posters at rail stations and adverts within newspapers."

The ICO joined in. 4 people found guilty of operating as a bogus agency and requesting £135 for a notification service were identified in a press release with names, addresses, and dates of birth... See it here.

<http://digbig.com/4shdp>

Finally even the common or garden litter lout is now being named and shamed.

<http://digbig.com/4shdq>

15. New Guidance on Data Sharing

This new ICO guidance is useful on PVP markers is useful:

<http://digbig.com/4shdq>

For sharing of emergency planning information see :

<http://www.ukresilience.info/publications/dataprotection.pdf>

There is widespread ignorance of the extent to which these activities can be carried out lawfully by public sector organisations and other agencies. We offer a course on data sharing - The law and practice. This practical course will guide you through the maze of legislation in this area.

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We will examine the Data Protection Act, the Human Rights Act and the latest cases and guidance in this area. With the introduction of Entitlement/Identity Cards, One Stop Shops, the Childrens Index, Biometric Passports etc. information sharing will be even more of a hot topic. See <http://www.actnow.org.uk> for details

16. Choose and Book in the NHS

In the current Private Eye, MD (the medical column) was reporting on the problems as he saw it of patients using the NHS Choose and Book. He provides the example of a particular patient and gives the patient's name (who contacted Private Eye), the booking reference number and password.

According to <http://www.gloshealthservices.org.uk/chooseandbook/cab/about.htm>

"How does Choose and Book work?"

If your GP decides that you need to see a specialist, he/she will print out an 'Appointment Request' form, which includes your Unique Booking Reference Number and lists the hospitals or local services available to you.

You will be able to choose from this list and book an appointment by calling your chosen hospital or local service. You can call straight away after seeing your GP or at anytime up to two weeks later, if you want to think more about your choice or preferred appointment date and time.

Your password and reference number

A password will be printed out on a separate sheet of paper and given to you with your Appointment Request. This will be used to make sure your information is kept secure on the computer system. When you call your chosen hospital they will identify you by your password and the reference number on your Appointment Request form."

Well, the problem could clearly have been described without giving away this patient personal information.

MD is a GP and therefore should have known this. It seems that he is more concerned with making political points than respecting the person's confidentiality. Obviously the patient supplied him with the information, but he/the paper should have acted in the informant's interests by not publishing it. Nice one, Private Eye! You can imagine what they would say about another paper that did this - I think it would be in "Streets of Shame".

17. Scammers jailed

After years of the bogus agencies scam we finally get to know the huge amounts of money made from it and the good news that people are being jailed.

<http://management.silicon.com/government/0,39024677,39165539,00.htm>

18. Another policeman misuses the systems.

<http://digbig.com/4behn>

SURVEILLANCE LAW

19. RIPA Review

The Home Office is conducting a review of covert techniques (including surveillance and access to communications data) and the legislative framework used by the enforcement community. The Review undertaken in 2004 by and for the police made a number of recommendations proposing possible changes to RIPA, improving the guidance and advice available as well as reducing the bureaucratic burden and the associated costs. The Home Office has been working to develop and implement these recommendations and is holding a series of events for RIPA practitioners to discuss these issues and the development of a guide for RIPA practitioners.

The recommended audience for the event is your organisation's main RIPA practitioners and legal advisers. The event will be a mixture of interactive sessions and presentations. There is no charge for this event but delegates are encouraged to attend the event nearest to them:

- London 28th March – The Russell Hotel
- Bristol 4th April – Holland House
- Birmingham 12th April – The Burlington Hotel
- York 16th April – The Royal York
- Rochdale 24th April – Norton Grange
- Stirling 27th April – The Royal Hotel

Calder Event Management will be organising the event on behalf of the Home Office, supported by ACPO. Please contact Alan Smith or Nicola Hayton on 08703 828028 or email ripa@calders.org.uk

20. Surveillance of Employees – Latest Case

Colleagues who advise on RIPA and employee surveillance will be interested in a recent decision by the Investigatory Powers Tribunal.

In *C v The Police* – 14th November 2006, the Tribunal held that covert surveillance of employees suspected of non criminal activities did not fall into the definition of directed surveillance because it was not for a “specific investigation or operation.” The tribunal interpreted the latter words as requiring an investigation to be carried out for the specific regulatory functions of a public authority not the general functions such as staffing.

<http://www.ipt-uk.com/default.asp?sectionID=17>

Of course such surveillance will still be caught by part 3 of the DP Employment Code: Surveillance of Staff and so employers will still need to do an Impact Assessment.

Ibrahim is writing an article on this case for the Solicitors Journal and will be discussing it in more detail in the forthcoming surveillance law workshops. Details below:

<http://www.actnow.org.uk/2006/RIPA07.pdf>

21. New RIPA website and forms

There is a new RIPA website at <http://security.homeoffice.gov.uk/ripa/> and that since February the revised forms have been uploaded. The new website also contains links to the various Home Office Codes of Practice.

22. OSC Inspections

The Office of the Surveillance Commissioners (OSC) have now started doing much more rigorous inspections.

Some councils have been inspected twice in one year.

<http://www.surveillancecommissioners.gov.uk/>

Are all your officers and managers up-to-date with the latest developments on Directed Surveillance and use of a CHIS? Act Now has won a tender to do surveillance law training of the Health care Commission.

If you would like refresher training in this area please contact us at info@actnow.org.uk or 01924 451054

23. Accessing Communications Data – ICC Inspections

Many authorities have now started to be inspected by the Interception of Communications Commissioners (ICC). These have a similar role to the OSC in reviewing and scrutinizing the way public authorities access communications data from communications service providers under RIPA. Common criticisms include:

- Using old forms
- Not considering necessity and proportionality properly
- Using cut and paste techniques
- Lack of training

We have two courses in this area:

1. One Day Designated Person/ Investigator Workshop Birmingham - 22nd May

This is a practical workshop on how to access communications data under the Regulation of Investigatory Powers Act 2000 (RIPA). It is essential that those who are seeking to use these powers as well as those who are authorizing their use (Designated Persons), have a good understanding of the law and practice in this area. This workshop will examine the latest Code of Practice and Home Office forms/guidance in this complex area and help your organisation prepare for inspections by the Interception of Communications Commissioners. This is an interactive course with plenty of opportunity for questions, discussion and for working through case studies and exercises.

2. Two Day Home Office SPoC Accreditation Course London - 6th & 7th June

All organisations using RIPA powers to access communications data must have a named Single Point of Contact (SPoC) who should have attended a Home Office approved training course by 31st March 2005. Many have still not done this. This is one of the few courses still running. It is suitable for Scottish delegates too as the law is the same.

At the end of the two days delegates will sit a one hour multiple choice exam. So far we have trained almost 150 delegates. All have passed the exam with flying colours (Note: This course carries 8 CPD Hours.)

24. Email and internet Monitoring

The monitoring by a college of an employee's email, phone and internet use was a breach of her human rights, the European Court of Human Rights has ruled.

Lynette Copland took a case against the Government that the activity breached her right to privacy under Article 8 of the Convention. Her case was against the government because Carmarthen College is a publicly funded body. The UK Government must pay £3,000 damages and legal costs in the case.

The Government argued that monitoring, which it said was far more limited than Copland claimed, was justified in order to determine whether or not she had been excessively using college resources for personal communication.

"The Court is not convinced by the Government's submission that the College was authorised under its statutory powers to do 'anything necessary or expedient' for the purposes of providing higher and further education, and finds the argument unpersuasive," said the Court's ruling.

The events took place in the 18 months leading up to November 1999, when Copland claims that the deputy principal of the college not only monitored her use of phone, internet and email facilities but contacted some of the people she had communicated with to ask about the nature of the communications and enquired at another campus of the college about a visit she had made there with a male director while she was on holiday.

Crucially, the college had no policy in place at the time informing employees that their communications might be monitored.

"According to the Court's case-law, telephone calls from business premises are prima facie covered by the notions of 'private life' and 'correspondence' for the purposes of article eight," said the Court's ruling. "It follows logically that emails sent from work should be similarly protected under article eight, as should information derived from the monitoring of personal internet usage."

"The applicant in the present case had been given no warning that her calls would be liable to monitoring, therefore she had a reasonable expectation as to the privacy of calls made from her work telephone. The same expectation should apply in relation to the applicant's e-mail and internet usage," it said.

The Court said that the monitoring of Copland's activity was an interference with her rights, and that that interference was not "in accordance with the law" as the Government had claimed, and that therefore there had been a violation of Copland's rights. The Court noted that the Regulation of Investigatory Powers Act (RIPA), passed after these events in 2000, would have given a framework for the regulation of employer monitoring of communications.

The judgement is at <http://www.bailii.org/eu/cases/ECHR/2007/253.html>

25. The extent of the Surveillance Society

Last Year Richard Thomas, in a report commissioned by the Information Commissioner's Office, warned that we are waking up to a Surveillance Society. Now a new report warns that

technology is gradually eroding personal privacy as well as putting people's lives at risk. This was the stark warning from the Royal Academy of Engineering <http://www.raeng.org.uk/> with its report on privacy in the UK. It paints an alarming picture about how new technologies are gradually eroding personal privacy and the ways they could be abused.

http://www.raeng.org.uk/policy/reports/pdf/dilemmas_of_privacy_and_surveillance_report.pdf

Click below for the full story:

<http://www.computeractive.co.uk/computeractive/news/2186527/big-brother-britain>

The Home Affairs Select Committee has also announce an inquiry into the government's growing use of surveillance: <http://digbig.com/4shjy>

The deadline for written submissions is 23rd April 2007

Email and Internet Monitoring Workshop

Monitoring and recording of employees' e mail, internet and telephone usage, whether with or without consent, is a legal minefield. This is a thorough examination of the law and practice in this area. We will look at Part 1 of the Regulation of Investigatory Powers Act 2000 (RIPA) as well as the Lawful Business Practice Regulations, the Human Rights Act and the Data Protection Act and related codes.

This is an interactive workshop full of exercises and case studies. As well as the latest caselaw we will discuss the possibility of using written policies and procedures to guard against the legal problems. This course is a must for all employment lawyers and personnel advisers, whether in the public or the private sector, who are often called upon to advise on these issues.

See our website for full details

SCHOOLS SECTION

26. Fingerprinting children in schools

A report on the Register may cause a rise in blood pressure. Many schools are implementing these systems but some are not even seeking consent from parents. This is another element of your fair processing notice. Here's a link to the story that should be read and digested.

See http://www.theregister.co.uk/2007/01/17/fingerprinting_bolted/

On another page they describe how the Hong Kong Privacy commissioner had ordered a school to stop this practice.

http://www.theregister.co.uk/2006/11/09/hongkong_kiddyprinting/

Damian Green, a conservative MP is quoted in the Easter Monday Daily Telegraph as obtaining information under the FOI with such figures as 132 out of 171 LEAs now allow fingerprinting of pupils in school. His estimates are 17,000 schools do it and 5.9 million children have been done so far. Read a month old article on his website at

<http://www.damiangreen.org/record.jsp?type=article&ID=207> in which he makes an assertion that doing it to an under 12 year old is a breach of the Data Protection Act...

A feature in the York Press names schools doing fingerprinting and the volume of responses to the article online was so huge that the page takes minutes to load. <http://digbig.com/4shea>

Finally this is fast becoming a very big issue. This last link has a mass of information and will need a full day to read. It also has videos and links to many blogs.

<http://www.leavethemkidsalone.com/>

27. FOI and Schools

Act Now is repeating its very successful DP/FOI seminars for schools throughout the UK. These have now been revised and updated. So far we have trained over 400 teachers and school staff. The feedback has been very positive. Venues in the next few months are

<ul style="list-style-type: none"> • LEEDS, The Carriageworks, 1st May • WIGAN, PDC Centre, 3rd May • DERBY, Mackworth Enterprise Centre, 8th May • DONCASTER, Carr House Centre, 10th May • SALFORD, Broadwalk Centre, 15th May • OLDHAM, CPD Centre, 17th May • NORTHAMPTON, Britannia House, 13th June • STOKE, The Willfield Centre, 27th June 	<p>Autumn dates, venues to be advised</p> <ul style="list-style-type: none"> • Bradford • Newcastle • Manchester • York • Durham • Birmingham
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We also offer a Child Protection Course for teachers - Full day

<ul style="list-style-type: none"> • OLDHAM, CPD Centre, 25th April • COVENTRY, Corporate Training Centre, 2nd May • HULL, Education Centre, 9th May • NORTHAMPTON, Britannia House, 14th May • KIRKLEES, Deighton Centre, 16th May • BRISTOL, The Vassall Centre, 13th June • STOKE, The Willfield Centre, 19th June • MIDDLESBOROUGH, MTL Centre, 20th June • DERBY, Enterprise Park, 26th June 	<p>Autumn dates, venues to be advised</p> <ul style="list-style-type: none"> • York • Leeds • Bradford • London • Newcastle • Manchester • Birmingham • Chester
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See <http://www.actnowschoools.info> We can do block bookings or deliver the course in house at a pyramid level or at a workshop at a regional conference.

28. Stolen laptop holds 11000 children on it

<http://www.itweek.co.uk/vnunet/news/2186557/stolen-nhs-laptop-contains>

OTHER ITEMS

29. A Records management Blog

<http://www.storageswitch.com/blog/>

30. New rules to protect consumers from silent calls

From Ofcom's website

"Problems with your landline phone - Privacy issues - nuisance and sales calls and faxes"

<http://www.ofcom.org.uk/complain/landline/nuisance/silent/>

On 1 March 2006 Ofcom announced new measures to help protect people from silent calls. The new rules have been put in place to ensure companies who use automated calling systems use them responsibly. Ofcom's aim is to significantly reduce the total number of silent calls and to enable people to clearly identify the source of any silent call that they receive.

For more details on the new rules please visit:

http://www.ofcom.org.uk/media/news/2006/03/nr_20060301

31. Environmental Information Update.

Act Now is offering an Environmental Information Regulations Update with Tim Turner

London - 15th May Manchester - 5th June

After a slow start, there have now been a number of decisions of the Information Commissioner and the Information Tribunal on the Environmental Information Regulations (EIR). These have shed light on difficult issues such as fees, exemptions, time limits and the link between FOI and EIR. This workshop is essential for all those who are in charge of FOI/EIR compliance within an organisation and who wish to update their knowledge.

This workshop is led by Tim Turner, one of our most popular speakers and an authority on this topic. Tim will use case studies and exercises to tease out the latest issues and decisions of both the Information Commissioner and the Information Tribunal. Places are limited so delegates are advised to book early. Scottish delegates are requested to let us know if they would like to see this course in Edinburgh.

32. The statute law data base

With the ambitious target of containing every law in the UK going back as far as the 1313 statute forbidding the bearing of armour this is a link you need to save.

<http://news.bbc.co.uk/1/hi/technology/6255321.stm>

33. University of Edinburgh records retention schedule

<http://digbig.com/4sheb>

STOP PRESS

34. Article 8 tested in frozen embryo case.

Tuesday afternoon saw the decision in this case by the Grand Chamber of the European Court which has weighed the right to a family life against the consent of both partners to use frozen embryos. The story began over 5 years ago and more than one woman has been contesting this but the decision went in favour of the man being able to give consent or not. The BBC story has many links of interest.

<http://news.bbc.co.uk/1/hi/health/6530295.stm>

35. Johnson v MDU in the court of appeal April 10th 2007

The Court of Appeal stated, inter alia, in a reserved judgment dismissing by a majority the appeal of the claimant, David Paul Johnson, and allowing the cross-appeal of the defendant, the Medical Defence Union Ltd.

<http://business.timesonline.co.uk/tol/business/law/reports/article1632705.ece>

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