

Information Law Newsletter April 2009

Welcome to our Newsletter

Next issue July 2009

Probably the most widely read newsletter on this subject with over 5,000 subscribers and published every quarter. Previous issues are archived on our website. This newsletter contains links to other websites. We cannot be responsible for content or availability of other sites. Please read the notice at the end of this newsletter.

Act Now accredited to deliver ISEB certificate in Freedom of Information.

In January the company was accredited and in March the first of the courses was accredited. You can now undertake the FOI certificate in late spring 2009 in London culminating in an exam in mid July. Please ring us on 01924 451054 as we are already receiving bookings and these courses have limited places.

The submission for the Data Protection course will be in April and we are planning to offer that in Manchester in Autumn. These courses can also be offered in in-house. Contact us for details.



Contact Point Training

Every Child Matters Change For Children

This new initiative is underway and Act Now is offering a full day briefing on this subject. Following on from the Laming report and early projects such as IRT this is now live.

We have a full day course in London on 7th July <http://www.actnow.org.uk/courses/324> and Manchester on 14th July. <http://www.actnow.org.uk/courses/325>

EIR & HIPS

Act Now are planning special briefing sessions to explore the implications of applying both FOI and EIR to requests for property information: **contact us now to express your interest** after you've read story 34.

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FREEDOM OF INFORMATION

1. NEW ISEB FOI Course

Act Now Training now offers courses leading to the ISEB Certificate in Freedom of Information.

This course is ideal for those who wish to have their knowledge and expertise recognised through a formal qualification. Whilst the most suitable candidates will be those already working in the field of FOI and information management, we have designed the course in such a way as to allow those with little or no knowledge of FOI to benefit and take the exam. We expect the following officers in public authorities to make up the attendance list:

Information officers
In house lawyers
Auditors
Complaints officers
Records Managers



We aim to achieve a 100% pass rate. With this in mind we have built into the programme a day for a mock exam and revision. Delegates will also be kept in touch with the course tutor to discuss preparation, revision, homework and exam technique. The course runs on six consecutive Tuesdays starting 26th May through to an exam in July.

Full Details: <http://www.actnow.org.uk/content/30>

This course is also available as an in-house option. Contact us for details.

2. Latest Commissioner and Tribunal Decisions

In January and February 2009 the Information Commissioner published twenty seven decisions whilst the Information Tribunal published eleven.

These include decisions on:

- Requests for information in electronic form
- The first ministerial veto of a Tribunal decision
- Section 35 and the public interest test
- When statistics about properties can be personal data
- Correspondence between Princess Diana and the government
- Information about job applicants
- Disclosure of major IT contracts
- AND the first FOI appeal to the House of Lords

If you would like a full explanation of all the latest FOI decisions then listen to the FOI podcast from Ibrahim Hasan. This is the first service of its kind in the UK and it's completely free. It's even been mentioned in The Times.

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. The first seventeen episodes are now on Ibrahim's personal website. You can also buy the scripts.

See: <http://www.informationlaw.org.uk/page10.htm>

Ibrahim also writes a regular FOI Update column for the Law Society Gazette You can read this at: <http://www.informationlaw.org.uk/page13.htm>

There is also a new FOI Blog from 11KBW which will be very useful for FOI practitioners:

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

3. Cabinet Minutes and the Section 53 Veto

Probably the most controversial decision under the Freedom of Information Act was published by the Information Tribunal on 27th January 2009 (Cabinet Office and Dr Christopher Lamb v Information Commissioner (EA/2008/0024 & 0029)) when it decided to uphold the earlier ruling by the Information Commissioner that minutes of cabinet meetings from 2003 should be released. These refer to meetings that discussed the Attorney General's legal advice about the Iraq war.

The government argued that releasing such minutes would impede proper recording of free and frank discussion within Cabinet. However the Tribunal ruled that the public interest in maintaining the exemption did not outweigh the public interest in disclosure. It gave weight to a number of factors including that the minutes recorded a momentous decision in British History (to go to war with Iraq), disclosure would allow better understanding and scrutiny of the decision making process and that some of the information had already been disclosed through other channels thereby reducing the detrimental impact of this disclosure.

The Tribunal was at pains to point out that it was by no means setting a precedent and future cases must be examined on their own facts. Despite this the Government moved quickly to override the decision. On 24th February 2009 the Lord Chancellor (Jack Straw) issued the first ever-ministerial veto under section 53 of the Act. In his Statement of Reasons he argued that disclosure would be contrary to the public interest, damaging to the doctrine of collective responsibility and detrimental to the effective operation of Cabinet government.

Use of the veto has caused controversy and many have questioned the government's commitment to true freedom of information. The Campaign for Freedom of Information has said that the decision was "an extremely retrograde step". The Information Commissioner was more diplomatic:

"Anything other than exceptional use of the veto would threaten to undermine much of the progress towards greater openness and transparency in government since the FOI Act came into force."

It will be interesting to see whether the government will make more use of the veto in the future in relation to unfavorable Tribunal decisions or whether it will follow the more normal course of appeal to the High Court.

4. First House of Lords FOI Decision

February 2009 saw the first decision by the House of Lords involving the English Freedom of Information Act. I say this because the Lords has already ruled on the Scottish Act (Freedom of Information (Scotland) Act 2002) in a appeal involving the Commons Services Agency v Scottish Information Commissioner (2008) UKHL 47. In the present case, the BBC lost an appeal about disclosure of an internal report about the BBC's Middle East coverage which was written in 2004 (the 'Balen Report').

The Law Lords decision was not about the merits of whether the report should be published. It was about the procedural legal matter of whether the Information Tribunal has the jurisdiction to rule on such cases, where the Information Commissioner has previously decided that the request was outside the realm of FOI in the first place because it involved information held by the BBC for the purposes of journalism. Material of this kind lies outside the Freedom of Information Act, and the BBC had argued that the Balen Report falls into this category.

The Lords ruled that the Tribunal does have the right to consider such cases, so its ruling in favour of publication is valid. Assuming the BBC maintains its line, the substantive arguments on whether the report should be made public will now be considered by the High Court. This is a long-running legal saga which will run and run.

Act Now Training is also running a workshop series where these decisions will be discussed in detail by Ibrahim Hasan and Tim Turner.

Click here: http://www.actnow.org.uk/courses/Freedom_of_Information

5. Section 43, Winning Bids and Scorecards

Public authorities often receive FOI requests for not only tenders and contract information, but also information about the procurement process. This is not just restricted to information about the winning bidder. Normally section 43 may be argued i.e. that disclosure would prejudice the commercial interests of the contractors and/or the public authority. If the bidders are individual's public authorities must also consider section 40 and ask is the requested information the bidders' personal data?

Case Ref: FS50088016, Date: 27/11/2008

Public Authority: Department for International Development

The complainant requested a copy of the winning tender proposal for a particular consultancy post along with details of the scores awarded to all of the tenders which the Department for International Development ('DFID') received. While DFID provided the complainant with the overall score awarded to the winning tender and the average score awarded to his tender (the complainant's tender was unsuccessful), but refused to disclose the winning tender proposal on the basis of sections 40(2) (personal data) and 43(2) (commercial interests) of the Act and also refused to disclose a detailed breakdown of the scores awarded to the tenders on the basis of section 43(2).

The Commissioner concluded that the winning tender was not exempt on the basis of section 43(2) of the Act and although some of the information contained in it was exempt on the basis of section 40(2) of the Act, a significant proportion of it was not. The Commissioner therefore ordered DFID to disclose this information to the complainant.

With regard to the detailed score sheets for each tender, the Commissioner concluded that the score sheets are the personal data of each individual who submitted a tender. He decided that the score sheets held by DFID in relation to the complainant's tender are exempt on the basis of section 40(1). The Commissioner also concluded that disclosure of the winning tenderer's scorecards would be unfair was therefore exempt from disclosure on the basis of section 40(2).

This and other decisions on FOI and contracts will be examined in Ibrahim Hasan's new contracts and commercial confidentiality workshop: <http://www.actnow.org.uk/courses/22>

6. FOI Helpline

Act Now training has also just launched an FOI Helpline service. This is designed to supplement your internal FOI expertise by acting as a "sounding board" or "signpost service" for you to discuss your FOI/EIR requests and possible responses. Through the helpline we will be available to guide you through the relevant area of law, discuss possible exemptions and how to deal with any complaints.

At a time of increasing pressure on public sector budgets, the Act Now FOI Helpline is the most cost effective solution for your FOI problems. More details on our website.

7. New Commissioner Announced

The MOJ has announced its preferred candidate for the post of new Information Commissioner: Christopher Graham, currently the Director General of the Advertising Standards Authority (ASA). Assuming that his appointment is confirmed, it is expected that he will take over as Commissioner at the end of June. Chris joined the ASA in 2000; before that, he was Secretary of the BBC for three years. Christopher started his career as a News trainee with the BBC, was Deputy Editor of The Money Programme and later became Managing Editor of news programmes for TV and radio. <http://www.justice.gov.uk/news/newsrelease130109a.htm>

8. New FOI Training DVD - 'Tick Tock'

The ICO has produced a new training DVD 'Tick tock', which gives practical advice to public authorities on dealing with requests made under the Freedom of Information Act and Environmental Information Regulations.

The short film follows the working life of Angus, a council officer, who is faced with numerous requests for information on public life in the village of Upham Downs. Many freedom of information officers have already requested a copy of the DVD, which can be seen on the ICO website.

9. New and Updated ICO Guidance

Since the last newsletter the ICO has issued the following guidance

Information provided in confidence	24/10/08	New
Commercial detriment of third parties	24/10/08	New
How to complete the guide to information for schools	24/10/08	New
The exemption for legal professional privilege	11/11/08	Updated
The exemption for personal information	11/11/08	Updated
The duty of confidence and the public interest	17/11/08	New
What you need to do (publication schemes)	19/11/08	New

Checklist for public authorities (publication schemes)	19/11/08	New
Vexatious or repeated requests	03/12/08	Updated
Vexatious requests - a short guide	03/12/08	New
EIR - A brief introduction to the exceptions	03/12/08	Updated
Good practice in providing advice and assistance	17/12/08	New
Valid request - name and address for correspondence	09/01/09	New

You can see all this on one page by clicking on

http://www.ico.gov.uk/what_we_cover/freedom_of_information/guidance.aspx

10. Caldicott Guardian Newsletter

The Caldicott Guardian - the newsletter for the Caldicott community' is a regular communication, detailing advice and guidance available to support Guardians in their role, and keeping them up-to-date with relevant issues. To enable you to more easily locate the information you are interested in, the content of each newsletter is detailed at the following link.

<http://www.connectingforhealth.nhs.uk/systemsandservices/infogov/caldicott/newsletter>

11. 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 1500 teachers and school staff. The feedback has been very positive. We have added new dates and venues and all our courses are now full day. This makes them extremely good value for money.

For more details see our website: <http://www.actnow.org.uk/courses/Schools>

If you would like to make a block booking or you want the event to be held in your area let us know. We also run course for schools on child protection law for schools. All our schools courses can be delivered in house as briefing sessions, conferences and inset days.

12. OSIC Newsletter



Read Kevin Dunion's latest FOIA newsletter here:

<http://www.itspublicknowledge.info/home/News/Newsletter/InformNewsletterJanFeb2009.asp>

He's also asking for comments on how to improve his website.

<https://www.surveymonkey.com/s.aspx?sm=2b9RgY9NOTVgFUmbY2bofxQw3d3d>

Act Now has a full program in Scotland on DPA, FOISA, RM and RIPSA

http://www.actnow.org.uk/courses/city_Edinburgh

13. MPs expenses?

This has turned into a feeding frenzy with stories of millions of receipts and expenses claims being touted for sale at £300,000 to the highest bidder. The Home Secretary has suffered embarrassing disclosures about claims for all sorts of items.

<http://www.guardian.co.uk/politics/blog/2009/jan/15/freedomofinformation-houseofcommons>

And if you think one MP's salary and expenses is a lot of money what about those who have 2 jobs. This was spotted in Belfast last week.

<http://www.belfasttelegraph.co.uk/news/politics/pound290000-average-payout-to-doublejobbing-politicians-14251249.html>

14. Primary care trusts refuse to divulge out-of-hours spending

Three PCTs have refused to divulge how much they spend on out-of-hours care, claiming the figure is commercially confidential. Using Freedom of Information requests a number of trusts were asked how much they spent on the service in 2007/8. Most provided a figure. But three refused, citing section 43 of the Freedom of Information Act, which allows public bodies to withhold commercial information.

Both Barnet and Blackpool PCTs declined to reveal their spending on the grounds that they use a single out-of-hours provider. Releasing the figure would reveal the full value of a confidential contract, they said. A spokeswoman for South Birmingham PCT, meanwhile, simply said the trust considered 'information relating to the value of the out-of-hours contract to be commercial in confidence'.

The Information Commissioner has in the past ruled against public bodies which tried to keep such figures secret. He argued that public spending decisions should be open to scrutiny, to ensure value for money.

An anonymous response was interesting...

Our PCT has recently handed the overnight part of out-of-hours to a large private provider. Prior to this it employed many of us directly to do the work and paid the 14% employer's pension contribution.

The work remains the same but the new private provider's pay rate is lower than what the PCT paid AND there is no pension at all. I was told by the PCT that the cost of the contract could not be divulged because of "commercial sensitivity". However a search on their website reveals the sum.

A little simple arithmetic shows that the private provider will clear profit of about £440,000 per year simply for providing four overnight GP's with NO need to provide any infrastructure, that's £110,000 per year per overnight GP post. If the PCT had decided to continue paying overnight GP's directly along with pension contributions their GP wage bill would still have been about £185,000 pa less than the amount they are now paying the private provider.

Does this make any sense at all?

DATA PROTECTION

15. More Data Security Breaches

http://news.bbc.co.uk/1/hi/uk_politics/7736794.stm

Serving and former police officers, teachers and soldiers are listed as members of the British National Party in a leaked document published online. The list, which dates from 2007, has the names, addresses, jobs and phone numbers of more than 10,000 people.

The question is who is liable? The party for having lax security. The individuals for misusing the information or both?

Could any journalist getting hold of the information and wanting to publish it claim the journalism exemption i.e. that it is in the substantial public interest?

An inquiry is also under way after highly sensitive personal information about two children in care was posted to a member of the public. Knowsley Council on Merseyside says it is trying to find out exactly how the mistake was made.

The confidential papers about two children in care were sent to the wrong person by the council's children's services department on Wednesday.

<http://news.bbc.co.uk/1/hi/england/merseyside/7930899.stm>

No matter how great information security policies and procedures are, in the end where humans are involved there will be errors!

16. Government Database Program Criticism

A quarter of all government databases are illegal and should be scrapped or redesigned, according to a report. The Joseph Rowntree Reform Trust says storing information leads to vulnerable people, such as young black men, single parents and children, being victimised. It says the UK's "database state" wastes billions from the public purse and often breaches human rights laws. See: <http://news.bbc.co.uk/1/hi/uk/7955205.stm>

You can read the full report at <http://www.jrrt.org.uk/uploads/database-state.pdf>

This is an interesting critique of the various Government's database programs. In the wake of numerous data loss scandals, the cross-party trust - which campaigns for civil liberties and social justice - examined 46 public sector systems. It said 11 were "almost certainly" illegal under human rights or data protection laws.

These included the national DNA database and Contact Point, an index of biographical and contact information on all children in England which notes their relationship with public services.

While researching this we came up with an interesting video from the NO2ID campaign

<http://www.youtube.com/watch?v=v1JqlvnZANA>

17. Contact Point Course

The first steps to activate the Government's online directory of children's services – Contact Point - began in January.

Two security vetted officials from local authorities all over England will begin the necessary training to start operating the system. In addition, training will start in 17 LA's in the North West and two national voluntary sector partners – Barnardo's & KIDS – where Contact Point will be more intensively piloted. Frontline practitioners will start training and operating the system in these areas in the spring and across the country from the summer.

See the official press release: http://www.dcsf.gov.uk/pns/DisplayPN.cgi?pn_id=2009_0015

Contact Point will include the names, ages and addresses of 11 million under-18s as well as information about their parents, GPs and schools.

The Conservatives and Liberal Democrats have pledged to scrap the £224million online system - which will be accessed by at least 330,000 workers in the education, health, social care, youth justice and voluntary sectors - because they believe there is a danger that sensitive information will be mislaid or lost.

<http://www.telegraph.co.uk/news/newstoppers/politics/4338712/Childrens-database-ContactPoint-launched-despite-security-fears.html>

For more information on Contact Point please see the Every Child Matters website:

<http://www.everychildmatters.gov.uk/deliveringservices/contactpoint/>

There's a very useful resource on information sharing with many downloads at

<http://www.everychildmatters.gov.uk/resources-and-practice/IG00340/>

Act Now Training is running three workshops which will assist those with Contact Point responsibilities as well as others who have an interest in multi agency information sharing.

Contact Point: http://www.actnow.org.uk/courses/Data_Protection

Drafting Information Sharing Protocols: <http://www.actnow.org.uk/courses/275>

The Law of Multi Agency Information Sharing: <http://www.actnow.org.uk/courses/224>

If you would like more information please ring us on 01924 451054.

18. Data Protection Helpline

The Act Now DP Helpline is designed to supplement your internal expertise by acting as a friendly advisor for you to discuss your Data Protection and Privacy issues and avoid attracting the attention of the Information Commissioner.

Our experts will guide you through the relevant sections of the Act and make recommendations about your response to difficult DP situations.

Public authorities are increasingly receiving complex and time consuming Data Protection requests. These involve consideration of a number of Data Protection exemptions as well as relevant Information Commissioner and Information Tribunal decisions.

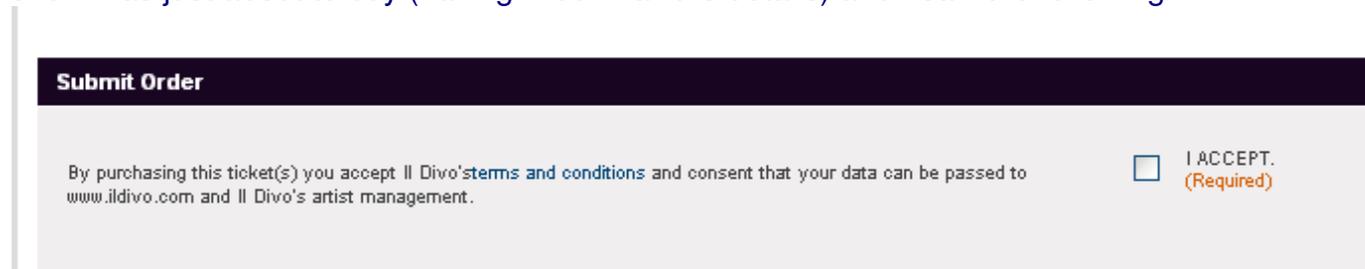
Internal legal departments are often over stretched and dedicated Data Protection practitioners are hard to recruit. External legal advice in this area is very expensive and there are very few experts in this field with real experience of advising the public sector.

Please click here for more information and subscription details:

<http://www.actnow.org.uk/content/25>

19. Il Divo, Manchester Arena and fair processing

Bought some tickets for this big event recently and like most people did it on line. All went well until I was just about to buy (having filled in all the details) and I saw the following.



Submit Order

By purchasing this ticket(s) you accept Il Divo's terms and conditions and consent that your data can be passed to www.ildivo.com and Il Divo's artist management.

I ACCEPT. (Required)

So that's fair processing is it?

Worse was to follow. We attended the concert and drove to Manchester. Parked, had a pizza and then climbed all the steps up to the Arena where we saw this sign (right) stuck on the doors.

Now having spent well over £150 by now I could have turned round and said I don't want to be filmed and maintained the high moral ground of a data protection anorak but did I?

Of course not. Next stage is to write to Il Divo management and ask them to delete my details from their system.

Mercifully I haven't had any spam yet.



20. Data Sharing dropped?

<http://tiny.cc/OINB6>

Government abandons data-sharing scheme (from Daily Telegraph).

The Government has been forced into an embarrassing U-turn over plans to share vast amounts of private data about individuals.

Jack Straw, the Justice Secretary, is to shelve proposals which critics said would have led to patients' confidential medical records being passed to third parties. A spokesman for Mr Straw said the "strength of feeling" against the plans had persuaded him to rethink. The proposals will

be dropped entirely from the Coroners and Justice Bill, and a new attempt will be made to reach a consensus on introducing a scaled-back version at an unspecified stage in the future.

"He has looked at it and he now wants to withdraw the clauses. We have asked Cabinet colleagues to agree to this," said Mr Straw's spokesman. "Jack recognised the strength of feeling and he recognised that the clause was drafted in a way that was too wide, and so needed to be looked at again. "He understood that this issue had touched a nerve for a lot of people, and he understood why."

The decision will delight a diverse range of organisations which mounted a high-profile campaign to stop the legislation. Last week more than 30 groups wrote to Mr Straw outlining their concerns that the proposals would allow the government to disclose "almost limitless" personal details about individuals, and even pass the records to private companies. Bodies including the Royal College of Psychiatrists and the Independent Schools Council said the measures were "among the most wide-ranging and potentially intrusive proposals ever laid before Parliament".

Other signatories to a joint letter of protest included Claire Rayner, the president of the Patients Association, Professor Dinesh Bhugra, president of the Royal College of Psychiatrists, and Bob Oddy, general secretary of the Licensed Taxi Drivers' Association. It was also backed by Neal Lawson of the left-wing pressure group Compass and Professor Richard Parish, chief executive of the Royal Society for Public Health.

Simon Davies, director of the pressure group Privacy International, said last night: "This is an extraordinary U-turn but we cannot be led into a false sense of security. We congratulate the Government on its decision, but it was inevitable given how badly the clause have been drafted and how morally corrupt its outcome would have been. Nobody should be under the illusion that the Government has changed its colours with regard to its zeal for surveillance. This could be merely a blip, so we all have to remain vigilant for the next assault of privacy."

Phil Booth, Director of the No2ID campaign, said: "This is a huge victory for the massive public backlash there has been over this. This one spot of rot has been scooped out, but we need a wholesale clearance of the Government's approach to personal data."

A previous protest letter sent by eight groups, including the British Medical Association, called for patients' medical records to be made exempt because their inclusion in the data-sharing scheme would "corrode trust in the doctor-patient relationship".

Mr Straw's spokesman added: "We will talk to interested groups to get the balance right so that we have the right policy issues reflected in any future legislation and at the same time avoid worrying people unnecessarily that their data is being abused."

Some other media views

<http://uk.news.yahoo.com/16/20090309/ttc-government-scrap-controversial-data-6315470.html>

http://www.theregister.co.uk/2009/03/09/coroners_and_justice_bill/

21. Sarah's law pilot scheme

Trials of a law allowing parents access to information about paedophiles are to be extended, the Home Office has said. Pilot schemes set up by the Home Office in response to calls for a "Sarah's Law" have been running since September.

In that time police have made 10 disclosures in response to inquiries from the public, the Home Office revealed.

<http://www.google.com/hostednews/ukpress/article/ALegM5hrBoZ1I4Yby2tjS-b6ZJHmqDMZTQ>

22. Declining an identifier

Can you turn down an identifier issued by a government agency?

This story is from America but is interesting nonetheless.

<http://tiny.cc/gaoWj>

23. Views on Google's Streetview views (from a bulletin board)

Someone asked how Google took a picture down the wrong way on a one way road, so here's how they do it with, with a 360 degree camera set-up

<http://www.guardian.co.uk/media/pda/2008/jul/21/thegooglestreetviewcarspo>

<http://www.flickr.com/photos/rothko1/sets/72157606166656901/detail/>

<http://tiny.cc/9Kvu1>

Another query was about frequency of images, well it costs money to drive those cars around the UK, and there is the whole world to street view too (well excluding those countries where street view is deemed an invasion of privacy, Google won't street view there, it is claimed). So for the moment I guess its a pretty infrequent (every couple of years perhaps?), but rest assured it will be more frequent in areas where there is a monetisation prospect for Google. In fact, by way of comparison, with the standard satellite images that appear on Google maps there is a picture of a large van I haven't owned for a few years (outside my flat), and those satellite images must be pretty easy to update, albeit expensive. London's West End will end up being updated more frequently than a remote area of the UK.

Will law enforcement and other agencies use the street view? Well sure if only to gain familiarity with a neighbourhood before doing a raid. I doubt they are interested in the guy in the somewhat hilarious image that was linked to in a previous e-mail. Perhaps more interesting / useful data will come in real time from street CCTV cameras which I believe are being linked to facial recognition technology. Let me google that.... :)

But this is an aside, something I remember from a while ago here's a chance find by police using google while using satellite images to find criminals' location.

<http://www.msnbc.msn.com/id/28913784/>

So Google will be a useful law enforcement tool in one way or another. But I doubt they are interested in you driving your car the wrong way up a one way street.

<http://www.guardian.co.uk/business/2009/mar/19/google-street-view-uk>

Into April and the situation is escalating <http://tinyurl.com/dd2w3n> & <http://tinyurl.com/c9bgfo>

24. Facebook, National Security and U turns

Social networking sites like Facebook could be monitored by the UK government under proposals to make them keep details of users' contacts. The Home Office said it was needed to tackle crime gangs and terrorists who might use the sites, but said it would not keep the content of conversations. Civil liberties campaigners have called the proposal a "snoopers' charter".

<http://news.bbc.co.uk/1/hi/uk/7962631.stm>

The founder of Facebook says the social network will return to its previous terms of service regarding user data.

<http://news.bbc.co.uk/1/hi/technology/7896309.stm>

In a blog post Mark Zuckerberg said the move was temporary "while we resolve the issues that people have raised". Users had complained after new terms of service seemed to suggest Facebook would retain personal data even if someone deleted their account.



Here's another view <http://news.bbc.co.uk/1/hi/technology/7899456.stm>

25. Privacy Incident Lessons Learned

At a recent ICO conference in Manchester (with an excellent lunch) Jonathan Bamford put forward a few ideas for the future. One was a reporting system for Data Protection 'Near misses' which has a working title of PILL. Based on the CAA where pilots can anonymously report incidents that affect air safety it allows individuals to contribute so lessons can be learned by the DP community. Obviously if it is implemented there will be a few issues to sort out but Jonathan is keen to hear from interested parties. He has a flyer with a series of questions on it which you can obtain from the ICO.

26. Another ICO initiative

Jonathan again was looking at developing a professional association of privacy practitioners (or Data Protection professionals). Think GMC...

Already in place is the International Association of Privacy Professionals but it's not that relevant to the UK <https://www.privacyassociation.org/> Maybe there is scope for such an association in the UK which might include FOI & RIPA. Act Now would be happy to be part of a discussion to develop this idea.

If you have any views please let Jonathan know at the ICO.

27. European Data Protection Supervisor

A fancy title but there is such a person Peter Hustinx who is a regular speaker at conferences. His website <http://www.edps.europa.eu/EDPSWEB/edps/pid/1?lang=en> has some high level stuff and a regular newsletter. This is the leading edge of DP but worth a scan.

SURVEILLANCE LAW and PRIVACY

28. Directed Surveillance and Local Authorities

We have just across this FAQ page on the Home Office website on RIPA and local authorities:

<http://security.homeoffice.gov.uk/ripa/communications-data/RIPA-and-local-authorities/>



The most interesting part is this: "Home Office Minister Vernon Coaker explained to the House of Lords Constitutional Committee on 19 November 2008 that the government was clear that the use of RIPA techniques for trivial matters such as dog fouling or putting refuse bins out a day early was not proportionate."

I am sure that most environmental health departments will disagree that such matters are trivial. Dog fouling (actually the owner not picking it up) is a criminal offence.

29. House of Lords Report

The House of Lords has now published its report into the Surveillance State.

"Electronic surveillance and collection of personal data are "pervasive" in British society and threaten to undermine democracy, peers have warned. The proliferation of CCTV cameras and the growth of the DNA database were two examples of threats to privacy, the Lords constitution committee said."

http://news.bbc.co.uk/1/hi/uk_politics/7872425.stm

30. RIPA & the Liberal party

Figures obtained by the Liberal Democrats show that Councils in England and Wales have used controversial spying laws 10,000 times in the past five years.

The Regulation of Investigatory Powers Act (Ripa) was designed to fight serious crime.

The figures, obtained under the Freedom of Information Act, reveal for the first time how widespread the use of Ripa is among council officials in England and Wales.

A survey of more than 180 local authorities found:

1,615 council staff have the power to authorise the use of Ripa.

21% (or 340) of these staff are below senior management grade.

Ripa powers have been used 10,333 times in the last five years.

Just 9% of these authorisations have led to a successful prosecution, caution or fixed-penalty notice Regards"

http://news.bbc.co.uk/1/hi/uk_politics/7964411.stm

The figures make interesting reading but will it spur the government to make sweeping changes in its forthcoming review of the RIPA codes? The Tories are suggesting judicial oversight of every use of RIPA but I am not sure if this is practical.

31. RIPA Guidance – Version 2

Poor form filling is a standard criticism made by the Office of Surveillance Commissioners (OSC) when doing inspections of local authorities. Up to now there has been no published guidance on how to complete the forms properly. This is essential if officers want to take advantage of the RIPA Shield (section 27 defence).

With this in mind, Ibrahim Hasan has developed detailed guidance on how to complete the standard Home Office RIPA forms for Directed Surveillance and CHIS. It consists of each form reproduced with detailed notes on how to complete each section. All the forms are included from application, through to review, renewal and cancellation. Version 2 is now revised with helpful flowcharts as well.

The guidance is available as a hard copy for £149 plus vat. You can also buy it in electronic form together (£499 plus vat) with a perpetual multi user license to upload onto your Intranet site (internal use only) or to make as many copies as you need for internal use. You can also amend and customise the guidance to suit your organisation's specific surveillance operations. If you would like to receive a hard copy for inspection, please email me with your name and address. We will then send you a hard copy which you may decide to buy or return within two weeks. If you are constantly having to answer routine queries about the RIPA forms from client departments, you may wish to let them know about this.

Act Now continues to be the market leader in training in all aspects of RIPA and surveillance law. Please click below to see our full range of courses:

http://www.actnow.org.uk/courses/RIPA/Surveillance_Law

Ibrahim Hasan can also provide legal advice in this area (ih@informationlaw.org.uk)

We are also the UK's leading providers of in house training on RIPA and surveillance law. If you would like to discuss your training needs please email us on info@actnow.org.uk

This is a difficult time for those who are doing surveillance governed by RIPA. Increasingly the media and consequently the public are scrutinising what is being done. If Act Now can assist in any way with your RIPA compliance program please do not hesitate to get in touch.

One Day Designated Person/ Investigator Workshop

<http://www.actnow.org.uk/courses/239>

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.

We are also running the two day SPoC accreditation workshop:

<http://www.actnow.org.uk/courses/241>

32. RIPA Helpline

Local authorities and other public sector organisations are increasingly doing complex and time consuming covert investigations to tackle benefit fraud, licensing issues and trading standards offences, anti social behaviour and environmental health problems.

The Act Now RIPA/RIPSA Helpline is designed to supplement your internal surveillance law expertise by acting as a “sounding board” or “signpost service” for you to discuss your covert surveillance operations. Our experts will guide you through the relevant area of law, discuss possible legal tactics and how to complete the relevant standard Home Office forms. The helpline will be managed by Ibrahim Hasan and Sharon Heels who are renowned throughout the UK as the leading surveillance law experts.

Please click here for more information <http://www.actnow.org.uk/content/25>

OTHER SUBJECTS

33. EIR guidance

The Regulations promote the release of as much environmental information as possible to enable increased public participation in environmental decision making. This links to a variety of guidance ranging from short summaries to full detailed guidance.

<http://www.defra.gov.uk/corporate/opengov/eir/guidance/index.htm>

34. EIR & HIPs

In anticipation of the new Local Authorities (England) (Charges for Property Searches) Regulations 2008 and changing to arrangements covering home information packs, personal search companies are sending large numbers of requests to local authorities. Many of them assume that elements of the CON29 land charges search can be obtained using this approach, free of charge and on demand. Life is not that simple. To handle such requests, there are a range of considerations:

- A land charges search is a service, involving some measurements and the exercise of professional judgement; an EIR / FOI request is for recorded information

- EIR and FOI requests have to be clear, and you are entitled to ask for clarification
- If information is held, some of the land charges data will be environmental – information about contaminated land or traffic schemes are likely to be covered by the EIRs
- Local searches involve a quick turnaround, whereas EIR and FOI requests have to be responded to in 20 working days
- EIR and FOI both involve provision for refusing requests which are unreasonable or burdensome, especially where such requests are part of a pattern
- EIR comes from an EU Directive specifically designed to assist the public

Act Now are planning special briefing sessions to explore the implications of applying both FOI and EIR to requests for property information: [contact us now to express your interest](#).

35. Islam and Muslims: Dispelling Myths and Misunderstandings

<http://www.actnow.org.uk/courses/174>

In the light of recent events and media stories it is more important than ever for the public and private sectors to understand the belief system of more than two million people in the UK i.e. Muslims. What makes them tick? Just how different are they? What is the difference between the Islamic belief and culture? Should we rely on the media for our knowledge of Islam?

If your organisation employs Muslims you may wish to understand their needs better. For example the obligation to pray, fast and for women to wear a hijab. Having an understanding of Islam will assist in the planning of services to all sections of the community. It will also assist in achieving diversity and community cohesion. This practical course, led by an expert in the field, will give delegates a basic understanding of Islam and Muslims to help them do their job better. The aim will be to help avoid stereotypes and allow constructive engagement with Muslims. The focus is not on theological debate but on sound practical information. No subject will be off limits; no question will be avoided.

36. Mnemonic for the Caldicott principles

- F ormal justification of purpose
- I nformation transferred only when absolutely necessary
- O nly the minimum required
- N eed to know access controls
- A ll to understand their responsibilities
- C omply with and understand the law

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