



Welcome to the 25th issue of our quarterly Newsletter.

Next issue April 2007

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Act Now Bulletin Board

Over 150 members have signed up and there's 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 Spring and Summer programme is now on our website.

We continue to add new courses, as well as revise existing ones :

Environmental Information Law Update
Email and Internet Monitoring – New Course
Surveillance Law and RIPA - Revised course
Information/Data Sharing: the Law and Practice – Revised course
Advanced Records Management - Revised course
Freedom of Information Update - New course

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. Where's the CAP money going?

Not a government site but a collaboration between journalist and activists throughout the EU who are using FOI laws to extract this information. They have a searchable database and you can find exactly who is getting what from the Common Agricultural Policy pot. Type Windsor into the search engine...

<http://www.farmsubsidy.org/>

2. Public praises Fol

The Information Commissioner's Office (ICO) has said the Freedom of Information (Fol) Act is increasing people's confidence in public authorities. It has published the results of research that 72% of people have more confidence in public authorities because of Fol. This compares with only 55% in spring 2005, when the act had only just come into force."

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

3. Speed cameras again

The Daily Mail exposes the speed camera racket <http://digbig.com/4qnkt>

but with the Northamptonshire Police case going to the Information Tribunal last year it seems the last word on disclosure of stats about revenue and speeders is that they are not disclosable.

http://www.informationtribunal.gov.uk/Files/ourDecisions/hemsley_judgment.pdf

4. Salford puts food hygiene inspections on the Web

One of the growth areas is the publication of food premises inspections. Decision notices have come out in favour and many organisations are now doing it. This article is a plug for a software package but still is good background.

<http://www.newswiretoday.com/news/9735/>

5. DCA refuses FOI request regarding rule changes for FOI

The Department for Constitutional Affairs (DCA) has refused a request for it to make public the background data on its recent review of the Freedom of Information Act

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

Some elements that worry people include a) The time spent on the request will include the time spent by senior officials considering whether to answer it. Opinion says that this is particularly likely to be the case where the answer is likely to be potentially embarrassing and they have to consider the Public Interest and b) Limiting the number of requests that an organisation can make in a 3-month period. It is unclear to me whether this is to a single department or to the Government (ie Civil Service as a whole). See this related article. <http://digbig.com/4qnky>

6. Been asked for a list of all Hackney & Private Hire vehicles?

A national network of Licensing officers has circulated an advisory response as follows:

(1)The Statutory Register in respect of Hackney Carriage Vehicles and their proprietors is covered by the Town Police Clauses Act 1847. That Act requires only that certain specified information [not including addresses, which are considered personal data] is available for inspection at the relevant office of the Council. An up to date register can be inspected, and if you so wish notes taken, at the above address during normal office hours. This Council is not obliged to provide either a hard copy or electronically formatted copy to any person.

(2)The Statutory Register for Private Hire Drivers is covered by the provisions of Part II of the Local Government (Misc. Provisions) Act 1976. That Act only requires that the licence number, driver's name and issue/ expiry dates are shown, [No address is required on the register]. That Register is available for inspection at the relevant office of the Council. An up to date register can be inspected, and if you so wish notes taken, at the above address during normal office hours."

7. DCA consultation on FOI fees

The Government's recently announced proposals to change the FOI charging regime. Under the new proposals, public authorities would be able to include reading time, consideration time and consultation time when calculating the cost of retrieving information. This could mean that the cost limit is reached much more quickly, than at present, thereby allowing authorities to refuse more requests on costs grounds.

On 14th December 2006, the Department for Constitutional Affairs published the consultation document 'Draft Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2007' This consultation document is published on the DCA website at <http://www.dca.gov.uk/consult/dpr2007/cp2806.htm> and contains full details of the scope of the consultation exercise and details of how to be involved in the project and this consultation will end on 08/03/2007.

More details of this story are on <http://www.holdthefrontpage.co.uk/day/foi/061128tony.shtml>
The CFI has written to Baroness Ashton of Upholland with their views about the proposed changes. See http://www.cfoi.org.uk/pdf/ashton_letter.pdf More details can be found on their website at www.cfoi.org.uk

Maurice Frankel gave us his thoughts to Ibrahim Hasan on his podcast:

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

8. Latest ICO and Tribunal Decisions

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

Access to dead peoples' information
Calculating fees
Confidential commercial information
The difference/link between EIR and FOI
When is information held?

The Information Tribunal recently upheld ICO's decision in relation to the disclosure of information about Derry City Council's contract with Ryan Air. This is an interesting decision to read and provides useful guidance on FOI and contract clauses:

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

Ibrahim Hasan has done a couple of articles on this topic :

<http://www.actnow.org.uk/foiandcominfo.pdf>

<http://www.actnow.org.uk/FOIandProcurement.pdf>

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 Maurice Frankel of the Campaign for Freedom of Information and Ilyas Bulbulia of IBA solicitors. 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 three episodes are now on Ibrahim's personal website. You can also read the full transcripts. See : www.informationlaw.org.uk

Act Now Training is also running a workshop series where these decisions will be discussed in detail. Full details at <http://www.actnow.org.uk>

9. ICO Publication Scheme Consultation

This has now been closed. Written comments are requested by 4 December, but you can still volunteer for the workshops in 2007. Initial details at: <http://digbig.com/4qnmb>

With the annexes at: <http://digbig.com/4qnmc>

You can also contact Ms Jo Stomes directly at ICO on 01625 545 344.

10. 3rd Annual FOI Conference - Manchester

We ran our third annual conference on Freedom of Information in the public sector on 13th December 2006 in Manchester. This year's event took place in association with the North West Information Managers' Group and the Yorkshire and Humber Data Protection Group and over 55 delegates attended. The theme this year was "Examining the impact of FOI and the decisions of the Information Commissioner and the Information Tribunal."

The speakers included Gerrard Tracey (Assistant Information Commissioner), Maurice Frankel (Campaign for Freedom of Information) Kelvin Smith (National Archives) as well as experts from local government, the NHS and journalism.

We have a few spare delegate manuals for sale at just £49 plus vat. To order please ring 01924 451054 or e mail: info@actnow.org.uk

11. FOI and Schools

Suffolk Evening News reports a huge rise in children with drugs -

"Figures released under the Freedom of Information Act show that 125 under 18s were caught with drugs in 2005, compared with just 12 in 2002." <http://digbig.com/4krmc>

The Kentish Gazette in Canterbury has used the Freedom of Information Act to find out the 11-plus exam pass rates for schools in its circulation area.

<http://www.holdthefrontpage.co.uk/day/foi/060503gaz.shtml>

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 300 teachers and school staff. The feedback has been very positive.

See <http://www.actnowschoools.info/index.htm> 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

12. FOISA and the Enterprise Act

Trading Standards professionals have often claimed that this provides a legal prohibition on disclosure of certain information. The Scottish Information Commissioner has released a decision (210/2006), involving Dumfries and Galloway Council, indicating that he does not consider Part 9 of the Enterprise Act to be a bar on disclosure under FOISA.

<http://www.itspublicknowledge.info/appealsdecisions/decisions/Documents/decision6210.htm>

Depending on what happens next, this will have some implications for FOI practitioners in England, Wales and Northern Ireland.

Many thanks to Donald Henderson, Information Compliance Manager at Perth & Kinross Council.

13. Advanced FOISA workshop

We have successfully delivered this workshop in the last six months in Edinburgh. Our experts consider the latest FOISA decisions from the Scottish Commissioner as well as the latest guidance from the Scottish Executive. We also consider the mechanics of a Refusal Notice and delegates receive valuable checklists to take away.

The next course is in Edinburgh on 9th May 2007. See our website for details.

DATA PROTECTION

14. European Data Protection Day 28th January 2007.

To aid promotion and awareness of Data Protection the EC with the Council of Europe has announced a Data Protection Day in 2007. The UK doesn't seem to have any events planned but Albania Croatia and Greece are all trying hard. <http://digbig.com/4qnmd>

15. Release of another vehicle's keeper details

Did you know you can obtain the name and address of the registered keeper of a vehicle if you can show reasonable cause for needing the information?

Members of the public will need to complete form V888. Companies can either complete form VQ3 or apply in writing giving full details of the reason for the enquiry and the vehicle registration mark. Both forms are available from DVLA. The fee for information at a specific date of event is £2.50 per vehicle. If further information is required, for instance, a copy of a document or additional keeper information, a fee of £5 is required per vehicle. Send your application to: Vehicle Record Enquiries, Vehicle Customer Services, DVLA, Swansea SA99 1AJ.

It is an offence to unlawfully obtain personal data which is contrary to Section 55 of the Data Protection Act 1998. Unlimited fines in the Crown Court (or to a maximum of £5,000 in the Magistrates Court) exist as penalties in respect of these offences.

The small piece of law that permits this is Regulation 27 Road Vehicles (Registration and Licensing) Regulations, 2002 also known as S.I. 2742 of 2002.

<http://www.dvla.gov.uk/foi/reinfo.aspx>

16. Data sharing lawful if it is in the public interest?

A recent article in the guardian suggests that datasharing will be 'turned on its head' with consent being assumed rather than sought

<http://www.guardian.co.uk/idcards/story/0,,1856394,00.html>

The ICO seems to be changing its stance on information sharing. A recent pronouncement states: We are currently revising our approach to the sharing of personal information in the public sector. This is partly in response to the increased emphasis that government is currently placing on the sharing of information, particularly in the public sector. We will be engaging more positively with those involved in information-sharing, helping them to find solutions to their data protection problems and adopting a more enabling approach.

Data protection will be enforced in a way that allows public bodies to use personal information to improve the delivery of services and to enhance the protection of the public. Public bodies must be able to process the information they hold in more sophisticated ways, for example to counter the increasingly sophisticated methods that are being used to defraud the public purse. The Information Commissioner has created the new post of Head of Information Sharing to bring together the new approach. He can be contacted at iain.bourne@ico.gsi.gov.uk. Iain would be very pleased hear your thoughts about the new approach. In particular, he'd like to know what services, products or events information practitioners want from the ICO.

More on the new approach can be seen at <http://digbig.com/4qpjy>

This seems to come off the back of increasing government enthusiasm for more information sharing in the public sector. The Varney review has advocated the setting up of a new identity management system for government: <http://digbig.com/4qnme>

The Government intends publishing the names of fathers who do not pay support to their children, on the Internet, <http://politics.guardian.co.uk/homeaffairs/story/0,,1969145,00.html>

Single mothers could be allowed to check up on new partners to see if they are sex offenders, under proposals being considered by the Home Office:

<http://news.bbc.co.uk/1/hi/uk/6159298.stm>

Thanks to Rob, Institutional Compliance Officer, University of Chester

17. Information/Data Sharing Workshop – London and York

There is widespread ignorance of the extent to which these activities can be carried out lawfully by public sector organisations and other agencies. This practical course will guide you through the maze of legislation in this area.

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 www.actnow.org.uk for details

18. Bugs in bins

Not much more you can say about this. Is it a data protection issue? Where's the personal data? Is it a privacy issue? Where's the breach of your rights. Still a very funny story.

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

19. Government hires legal experts to fight publication of ID card review

<http://tinyurl.com/ybcp96>

20. National Identity Fraud prevention week.

Happened in October but the site has many useful links and downloads.

See <http://www.stop-idfraud.co.uk/>

The BBC ran a feature on it

<http://news.bbc.co.uk/1/hi/technology/6102694.stm>

and their quoted expert runs a company about it

<https://www.garlik.com/index.php>

21. Section 75 of the Northern Ireland Act

Public authorities in Northern Ireland have been told the Data Protection Act is not a barrier to monitoring for equal opportunities. Short and sweet but it clarifies the issue.

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

22. America gets more pushy over transfers of personal data

Not sure what information is sent to the USA when you take a trip? You'd be surprised. There are rumblings about the legality of this practice. <http://digbig.com/4qnmh>

23. My right to be Private surfaces again.

This time it's call It's my post. Readers of the newsletter may recall that MRTBP started some time ago but was bought out by the Read Group and disappeared from the web (unless you searched deeper). This is the new version. A commercial version of MPS.

<http://www.itsmypost.com> before.

24. Check my file

Does exactly what it says on the tin. Offers a free 5 minute Identity Theft check. I did it and was found to be an average risk. Might be worth downloading and trying out on a training course.

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

25 Profiling the newborn

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

26. The Department of Health GP & patient survey.

The DoH has commissioned polling giants Ipsos MORI to conduct the GP patient survey, which aims to question 5 million patients on their experience of visiting the doctor."

<http://www.hsj.co.uk/healthservicejournal> (you have to register to read the document but I think that anyone can register)

For details of the survey see: <http://digbig.com/4qnmk>

The website of the LMC <http://www.lmc.org.uk/news/general.html> (the Local Medical Committee (LMC) is recognised by successive NHS Acts as the statutory professional organisation elected to represent all GPs to Primary Care Trusts (PCTs).) contains the following message from the GPC (General Practitioner Committee):

"Patient Experience Survey - urgent message for all practices from the GPC

Details of the Patient Experience Survey (PES), now named "The GP patient survey - your doctor, your experience, your say", will be sent to practices and PCTs by the Department of Health on Monday 16th October.

The patient survey is designed to assess achievement by practices in the improved access Directed Enhanced Service by asking random samples of patients about their recent access experiences in each participating practice.

Participating practices that use Apollo Medical Systems software to send data to their PCT for QOF purposes will be required to download software from the Apollo website enabling extraction of some patient demographic details.

However, the questionnaire has not yet been finalised and is still the subject of some controversy. The GPC will send a 'Focus On PES' to LMCs at the end of next week. Until then we advise practices not to download the software, or if they do download it, not to either agree or disagree to the patient consent prompt that will appear. Once the survey is finalised, the GPC guidance will clarify any outstanding issues and problems.

For the moment, do not press "Yes" or "No" when Apollo software invites anyone in the practice to do so."

See this FAQ dated 3.11.06

http://www.primarycarecontracting.nhs.uk/uploads/pes/november_06/gpps_faqs_3rd_nov.pdf

and <http://www.primarycarecontracting.nhs.uk/3.php>

"The Department of Health (DoH) has stuck by the 'implied consent' model for the central collection of electronic patient records in England, but will provide support for those who want to opt out" (GC Weekly) <http://digbig.com/4qnmm>

27. NHS Patient Database

There has been a lot of controversy about the new NHS patient record database. The system, which is part of the £12.4bn IT upgrade of the NHS, is vulnerable to public officials who may abuse the information or be blackmailed by criminals.

According to GC Weekly, "The Department of Health (DoH) has stuck by the 'implied consent' model for the central collection of electronic patient records in England, but will provide support for those who want to opt out." <http://digbig.com/4qnmm>

Family doctors are not happy either.

<http://www.contractoruk.com/news/002969.html> carries an article which starts:

"More than half of family doctors say they won't upload a patient's record onto an NHS database unless full consent is given by the patient.

Two-thirds of practicing GPs also believe uploading sensitive patient data will create a goldmine for computer hackers, given the temptation to access the lives of 50million people.

The figures are based on a poll for the Guardian, by Medix – an online health company the government has previously used to gauge medical opinion."

More information at: <http://www.e-health-insider.com/news/item.cfm?ID=2279>

28. Health Statistics Guidance

In using and releasing health statistics there is a risk, generally with small numbers, of identifying individuals. To address this, the Department of Health asked the National Statistician to provide it with guidelines for interpreting the National Statistics Code of Practice and associated protocols in the handling of health statistics across the health community, in a way that balances data confidentiality risks with the public interest in the use of the figures.

<http://www.statistics.gov.uk/about/Consultations/disclosure.asp>

29. Childrens Index

Recently there has been lots of debate about the need for a national database of all children. Computer Weekly has an article headlined: "Government proposals for a £224m database containing details of every child in the UK will divert scarce resources away from children and create a surveillance culture, according to a report published today by the information commissioner." <http://tinyurl.com/y4oygg>

ICO has a press release: <http://tinyurl.com/t3ze8> a report <http://tinyurl.com/vyco4> and an "Issues paper" <http://tinyurl.com/y5rh3j> on this subject.

30. Use of Council Tax Data

ICO has always taken a very restrictive view on the use of Council Tax data. Ibrahim Hasan has always disagreed with their approach. Read his article:

<http://www.actnow.org.uk/UploadCtax.pdf>

It seems that ICO may now be about to change their view. Read their latest guidance note see this link <http://digbig.com/4qnmn>

31. Recordings of conversation.

Alan Ward of 'The Oral History Society' has an interesting web page with the title: "Copyright and Oral history: Is your oral history legal and ethical?" This covers not only copyright but also DP and Fol aspects of recordings. See <http://www.ohs.org.uk/ethics/>

32. Audit Commission 'phishes' your bank details - by post

A delegate on a recent course brought this to our attention. She'd picked it up from another forum.

How would you feel if you thought the government was collecting your sensitive, financial information – including bank account details – in an effort, supposedly, to check against fraud?

Not only is this happening but that same information is being sent in plain text on floppy disks or CD ROMs through the post, eventually landing with a third party company in Stoke-on-Trent for data matching, causing concern among many councils and with the Information Commissioner's Office about security. And that's without the millions of local authority staff it affects necessarily being aware such 'harvesting' (a less polite term would be 'phishing') is even taking place.

That's right. If you work for a local authority your bank details, including account number and sort code, are being put in the post by your employer – clearly labelled and unencrypted – to the Audit Commission then forwarded to a company called Synectics Solutions in a blanket sweep embracing every council in the land to ensure you're not claiming benefits illegally.

To make matters worse still, the company it turns out employs students and 'work experience' staff as young as fifteen to carry out some of its operations.

This scandal forms the latest addition to the Government's National Fraud Initiative with the Audit Commission specifying the Payroll dataset it requires in its role as external auditor should from now on include details of bank accounts for everyone receiving payments through a council's system.

Although the move has been in the public domain for some time it remains open to question how many council employees are actually aware their particulars have been collected in this manner, regardless of a requirement on the part of councils to inform the data subject the exercise was happening.

A colleague said "If I had known that this included my bank account details then I would have objected," with another adding 'I have to say that personally I'm not happy about this as I don't specifically recall anything saying my bank details would be sent to the Audit Commission.'

Alongside this, the writer also raised various 'issues' that had been caused to her organisation internally, such as the fact that some employees were unhappy about their bank account details being released, and others feeling discriminated against since the requirement doesn't include agency staff.

Another major problem concerned 'informing' the data subjects of the new obligation.

'We are required to notify the data subjects of the use of the data. Level 2 of the Key Lines of Enquiry (KLOE), 4.3 states "The Council has provided the required data for the National Fraud Initiative (NFI), has notified data subjects of this use of data, and has established a process to follow-up NFI data matches." This is a major point for us as we are unable to identify all the data subjects who are entitled to notification. We have no knowledge of the contact details for joint account holders, and as we do not hold the information we cannot therefore notify all subjects.'

Where the question of the Audit Commission and council's legal positions were concerned, the writer went on to say this:

'Level 3 of the KLOE 4.3 states:

"Investigations into fraud and corruption are conducted in accordance with Statutory Requirements, e.g., Police and Criminal Evidence Act, Regulation of Investigatory Powers Act, Data Protection Act by appropriately trained staff."

The Audit Commission's request for information for the NFI exercise is not a specific request for data for investigation into fraud and corruption, if anything the data will be used in a phishing exercise.'

Her organisation it seems isn't alone in its unease; at least two other councils – Newark & Sherwood and Rushcliffe are known to have been worried about or declined to send employee bank account details to the Audit Commission until the legal position is clarified, notwithstanding the fact that those failing to do so run the risk of being penalised in their Key Lines of Enquiry.

We spoke to the Information Commissioner's Office about the matter and they accepted an issue existed, telling us a meeting with the Audit Commission had been requested, particularly to discuss the security of data. Although the Audit Commission website does thoughtfully suggest the 'clearly marked disks' containing the data sets, including bank details, should be sent via courier or registered post, the idea of sending information this way appears to lend a whole new meaning to the expression 'National Fraud Initiative'.

And what of Synectics Solutions, the company tasked with the huge undertaking of data matching council employees bank details with - presumably - benefits claimants? Well, as previously mentioned, by its own admission, the Stoke-based outfit regularly employs students and young people with its website stating: 'Most of our employees begin their career at Student or Graduate level. We look to the local community for work experience students at the age of 15yrs.' It adds its 'company culture...is professional, ethical and always fun loving'. Nice to know the 'yoof' of Stoke are enjoying themselves down at Synectics at any rate.

Whether any of these are 'responsible' for handling sensitive council employee information isn't known – when we spoke to the named contact Mark Sanders he was distinctly cagey, refusing to answer any questions about what exactly is done with the information and by whom, though we were informed by a colleague who'd checked with the Audit Commission that the company's MD had been vetted by MI5. So that's alright then.

Meanwhile a large number of questions remain unanswered, which we put to the Audit Commission without success - small matters like who gets to see the data, whether bank accounts themselves are delved into and by what authority the data is being demanded.

Now, obviously an information sharing protocol of necessity exists between councils and the Audit Commission, along with Section Six of the Audit Commission Act 1988 which states councils must provide all information an external auditor may reasonably require for the purposes of his functions under that Act.

Whether surmising every single local authority employee is a potential fraudster could be deemed reasonable is a moot point, but allowing that it could, what then of those employees assuming they're even aware of what's happening who refuse permission to allow their bank details to be collected and sent in this fashion?

And while this new requirement might - just - fall within the letter of the law and info sharing protocol, does it adhere to their spirit?

33. What Price privacy update

ICO has just issued press release about his latest report to parliament "What price privacy now?" - an update 6 months on from the earlier report. It names some of the UK's newspapers and magazines discovered to have bought people's personal information in search of a story. Includes tabloids, broadsheets and magazines. Press release

http://www.ico.gov.uk/upload/documents/pressreleases/2006/what_price_privacy_2.pdf

34. DP Calendars

A delegate on a recent course sent us a calendar he'd commissioned saying "Do you think anyone would be interested in an A5 tent style data protection calendar ? They currently have our logo on but it can be any logo. 50 Calendars would cost £3-79 each but 1000 Calendars would cost £2-32 each and it promotes the data protection message throughout the year in a non-threatening mildly humorous way. See a sample at <http://www.actnow.org.uk/calendar.pdf>

The only contact I have is stuart.harrison2@virgin.net.

35. Liverpool Council prosecuted under DPA

Liverpool City Council recently pleaded guilty failing to comply with an Information Notice and agreed to the Information Commissioner's Office auditing the authority's data protection procedures. The council was fined £300 and the judge said the council had shown an 'appalling breakdown of communication' and 'a clear lack of compliance' with the Data Protection Act 1998. This is the first prosecution brought by the Information Commissioner for failure to comply with an information notice. <http://digbig.com/4qnmp>

36. Blogger prosecuted under DPA

We've all laughed our socks off at the Bloggers video but it does happen. The Commissioner has highlighted it in his what price privacy report and the new video The Lights are on also mentions blagging. Here's a real life example.

http://www.ico.gov.uk/upload/documents/pressreleases/2006/clifford_12_12_06.pdf

SURVEILLANCE LAW

37. The next generation of RFID tags

RFID tags have a limited range of under a metre or so but there's a project underway to create tags with a range of 20 metres.

<http://news.zdnet.co.uk/communications/networks/0,39020345,39284095,00.htm>

The Guardian highlighted the vulnerability of these by hacking into the new UK hi-tech passport with a RFID scanner.

http://www.guardian.co.uk/idcards/story/0,,1950226,00.html#article_continue

38. An inspector calls

The CCTV inspectorate is very well known in security circles. They are in effect selling training in something that is not required. Their letter at first glance appears to be from a Government Organisation and at second glance you may want to ignore it, but please be aware that they normally make their request under FOIA so your Authority may choose to answer it.

Jonathan Bamford, the Assistant Information Commissioner said when asked

“The company called CCTV Inspectorate and CCTV Data Compliance Inspectorate has no relationship with the Information Commissioner's Office. They have no Official backing of any sort and they are not 'inspecting' in any official capacity.

As a result of communication between the Commissioner's Office and the company concerned, they have now removed the FAQ's section from the mailshot they have been sending out.

With regard to the questionnaire, the company has the right, like anyone else, to make a request under the Freedom of Information Act (FOI Act). You are obliged to respond within working 20 days. You do however, only have to supply information that is 'held' by your Authority. This may vary from authority to authority. You do not have to supply personal data that may be protected under the Data Protection Act if to do so would breach a DP principle, although if you have already made that information public (on your web site for instance), it is unlikely that this would be the case.”

39. Spy cameras again

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

http://www.ico.gov.uk/about_us/news_and_views/current_topics/what_price_privacy_now.aspx

40. ICO Surveillance Society Report

Constant surveillance by companies and government is in danger of creating a socially divided society, the Information Commissioner (Richard Thomas) has warned. A reliance on databases will carve society up according to social and economic status, according to his report “Entitled A Surveillance Society’

The report looks at surveillance in 2006 and projects forward ten years to 2016. It describes a surveillance society as one where technology is extensively and routinely used to track and record our activities and movements. The report provides glimpses of life in a surveillance society in 2016, including how:

- Shoppers will be scanned as they enter stores, their clothes recognised through unique RFID tags embedded in them. This will be matched with loyalty card data to affect the way they are treated as they do their shopping, with some given preferential treatment over others
- Cars linked to global satellite navigation systems which will provide the quickest route to avoid current congestion, automatically debit the mileage charge from bank accounts and allow police to monitor the speed of all cars and to track selected cars more closely
- Employees will be subject to biometric and psychometric tests plus lifestyle profiles with diagnostic health tests common place. Jobs are refused to those who are seen as a health risk or don't submit to the tests. Staff benefit packages are drawn up depending upon any perceived future health problems that may affect their productivity
- Schools will introduce card systems to allow parents to monitor what their children eat, their attendance, record of achievement and drug test results
- Facial recognition systems will be used to monitor our movements using tiny cameras embedded in lampposts and in walls, with "friendly flying eyes in the sky" (unmanned aerial vehicles) keeping an eye on us from above
- Older people will feel more isolated as sensors and cameras in their home provide reassurance to their families who know they are safe therefore pay fewer family visits.
- Prosperous individuals will start to use personal information management services to monitor their 'data shadow' to make sure they are not disadvantaged by any of the vast quantities of information held about them being wrong or out of date. Others without the resources do this will be forced to stand on the other side of a new 'digital divide'.

See

http://www.ico.gov.uk/upload/documents/pressreleases/2006/waking_up_to_a_surveillance_society_version_2001.pdf

See the Daily Telegraph article:

<http://www.telegraph.co.uk/arts/main.jhtml;jsessionid=13YNVBFYINW01QFIQMFCFFOAVCBQYIV0?xml=/arts/2006/11/23/ftsurv23.xml>

41. RIPA and Directed Surveillance

RIPA continues to make an impact on all parts of the public sector which do surveillance of people, their movements and communications. The Home Office have begun a review of all RIPA forms including those for directed surveillance and accessing communications data. These will be available from them very soon. In the meantime the instruction is to continue using the old ones.

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

42. 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 scrutinising 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 authorising 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.)

43. Email and Internet Monitoring Workshop

Monitoring and recording of employees email, 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

Other stories of note

44. Two places to look up law

<http://www.statutelaw.gov.uk/> and http://www.opsi.gov.uk/legislation/about_legislation.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 North West Leicestershire District Council, Cambridge City Council, London Borough of Westminster, Olympic Delivery Authority, English Partnerships, North East Lincolnshire District Council, York Council, Coventry City Council, Birmingham City Council, Rotherham Council, Six Towns Housing Association, Burnley Council, Cheshire Fire & Rescue, Department for Agriculture and Rural Development, Northern Ireland and English Partnerships

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!

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