



Welcome to the 29th issue of our quarterly Newsletter.

Next issue April 2008

The very first issue was October 2000 and since then we have acquired nearly 5,000 subscribers and published every quarter. Old issues are archived on our website with an index of stories. If you've received this from a colleague and would like to subscribe in your own right you can do so at <http://www.actnow.org.uk> and choosing Newsletter from the front page. This newsletter contains links to other websites. We cannot be responsible for content or availability of other sites. Please read the disclaimer and copyright notice on the second page of this newsletter. See a full privacy policy on our website.

### **2008 Course Program and updated website**

Act Now has just launched its 2008 program. Most of our usual favourites have been revised to take account of changes in legislation, latest cases and government/ICO guidance including:

- Information Security: Law and Practice
- Records Management: Complying with the FOI/FOISA RM Code with Philip Jones
- Environmental Information Regulations Update with Tim Turner
- Multi Agency Information Sharing with Ibrahim
- CCTV and the Law with Tim Turner
- Train the Trainer with Paul Simpkins

Don't forget that all our courses can be delivered at your premises and tailored to your needs. You can search through the entire year programme on the web to find subjects or venues of courses or click on <http://www.actnow.org.uk/fullprogram.pdf> to download the full 2008 flyer.

### **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 Passenger Focus, London Borough of Haringey, Royal Borough of Windsor and Maidenhead, General Medical Council, Healthcare Commission, East Hampshire District Council, East Riding of Yorkshire Council, London Borough of Barking and Dagenham, Cambridge City Council, Dumfries and Galloway Council, Coventry City Council, Reigate & Banstead Council, Flintshire Council, Royal College of Midwives.

If you would like a quote to bring the trainer to you please use our new online enquiry form: <http://www.actnow.org.uk/content/12>

### **Legal Advice, Training, Podcasts and Consultancy**



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

For Legal Advice, Podcasts & Training see Ibrahim's website  
<http://www.informationlaw.org.uk>

Thank you for your continuing support

Paul & Ibrahim

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## **WHY DIDN'T I THINK OF IT DEPT?**

A delegate on a course produced a DP calendar for his workplace. Nice cartoons and a non threatening way to get the message across.

Have a look at <http://www.actnow.org.uk/media/articles/arthur.pdf> and contact us. We'll put you in touch with the creator. Copyrighted to Community Gateway. No re-use without permission but I can't see any of our newsletter subscribers doing that....

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## FREEDOM OF INFORMATION

### 1. Freedom of Information - Three Years On

There has been a sharp increase over the last three years in the number of people who consider that the Freedom of Information Act is delivering significant benefits, according to research by the Information Commissioner's Office (ICO).

The findings show that just three years after the Act was introduced eight out of ten individuals now have more confidence in public authorities because of freedom of information, compared with only half of individuals when the Act came into force in 2005. Over 80% of individuals questioned felt that being able to access information held by public authorities promotes accountability and transparency, a significant rise from just 58% in 2005.

Almost nine out of ten of individuals feel that the Freedom of Information Act has increased their knowledge of public authorities. The research showed that support for the Act among public authorities is also increasing - some 88% of public authorities believe that freedom of information is needed, compared to 82% last year.

Information Commissioner, Richard Thomas, said: "I am delighted that so many individuals now recognise the benefits of the Freedom of Information Act. After three years it is clear freedom of information is now part of the mainstream of democratic life and is having a positive impact.

### 2. New FOI Bodies

On 25<sup>th</sup> October 2007, the Government launched a consultation on adding more organisations to the list of public bodies who have to comply with FOI. The aim of the consultation document is to seek views as to whether the Government should look to use the powers under Section 5 of the Freedom of Information Act and extend the coverage of the Act and if so, which organisations it should consider.

The consultation paper took views on five options

Option 1: take no action at this time. Only the public authorities already covered by the Act would be under a statutory obligation to provide information.

Option 2: self-regulation by relevant organisations. Organisations that meet the conditions of section 5 of the Act would be encouraged – for example by a Code of Practice -to provide information about their public activities on a voluntary basis.

Option 3: build information access obligations into contracts with organisations delivering public services. This would provide for some form of information access, in relation only to services provided under contract.

Option 4: introduce a section 5 order to bring a specified set of organisations within the ambit of the Act. This option would increase public access to information while putting limits on the extent to which section 5 would be used.

Option 5: introduce a series of section 5 orders so as progressively to widen coverage of the Act. This option would allow for the greatest possible extension of coverage through section 5 over time.

For more see the Ministry of Justice <http://www.justice.gov.uk/publications/cp2707.htm>

The closing date for responses is 1<sup>st</sup> February 2008

Our course on FOI: an A to Z guide is ideal for those who wish to acquire a basic understanding of the Act and its implications for their organisation.

See the flyer: <http://www.actnow.org.uk/media/flyers/foiaz.pdf>

### **3. Latest Commissioner 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:

- Vexatious requests and what makes them such
- Disclosure of celebrity pay packets by the BBC
- Disclosure of staff attendance at work
- The applicability of section 21 to information on the internet
- The link between the fees provisions and section 16
- The first Tribunal decision on disclosure of dead peoples' information
- Whether the time taken to redact exempt information is an allowable cost
- When advice to ministers should be disclosed
- Blue sky thinking and the section 36 exemption
- Disclosure of information contained in a dead person's social work records

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 latest can be heard on the front page of Act Now's website. All the first ten episodes archived on Ibrahim's personal website. You can also read the full transcripts there.

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

### **4. FOI Update Articles and Workshops**

Ibrahim Hasan writes a regular column in the Law Society Gazette reviewing recent FOI decisions. See <http://www.informationlaw.org.uk/page13.htm>

Act Now Training is also running a workshop series where these decisions will be discussed in detail by Ibrahim Hasan and Tim Turner. See <http://www.actnow.org.uk/media/flyers/foiex.pdf>

### **5. Access to deceased persons records.**

Every month there are ICO decisions involving requests for access to deceased persons' medical records. Finally we have an Information Tribunal decision in the area:

In *Bluck v Information Commissioner and Epsom and St. Helier University Hospitals NHS Trust* (17 September 2007), Mrs Bluck sought access to her daughter's medical records to establish

what happened when her daughter died. The hospital refused to release them without the permission of her daughter's husband which was not forthcoming.

The Commissioner's decision to allow the use of section 41 (Breach of Confidence) to withhold the information was upheld by the Tribunal. It decided that all the requisite elements of breach of confidence were present. Disclosure was being sought of sensitive medical information gathered via the confidential relationship between doctor and patient. It would be contrary to the deceased's reasonable expectation of maintaining confidentiality in respect of her private information. The Tribunal further ruled that the public interest in maintaining confidentiality in the medical records of a deceased outweighs the countervailing public interest in disclosure.

The Tribunal also agreed with the Information Commissioner that the duty of confidence between doctor and patient must survive the death of the patient even though there was no direct caselaw on this point:

The Tribunal drew upon European caselaw on Article 8 ECHR (the right to private and family life) to rule that the deceased's husband could take action for this potential breach of confidence. In *Plon v France* [2004] ECHR 200, the widow and children of the late President Mitterrand had brought an action in the French court to prevent the distribution of a book written by the deceased's doctor and describing his health over a number of years while he was in office. Although the court acknowledged that the lapse of time since the death of a major public figure might lead to the public interest ultimately overriding the late president's right to medical confidence, it nevertheless acknowledged the survival of that right and that it was appropriate for action to protect it to be brought on behalf of the deceased after his death.

Read Ibrahim Hasan's full article on access to deceased persons' records published in the November edition of the World Data Protection report:

<http://www.informationlaw.org.uk/page13.htm>

See also Ibrahim's latest podcast on the recent Commissioner decision on access to dead peoples' social work records: <http://www.informationlaw.org.uk/page10.htm>

## **6. Tribunal Decision on Vexatious Requests**

There is now a body of caselaw as well as a recently revised ICO guidance note about when a request can be treated as vexatious under section 14. On the 18<sup>th</sup> of December we had one of the few Information Tribunal decisions on this issue:

In *Mr M J Hossack v Information Commissioner and Dept for Work and Pensions*, (see it at <http://tinyurl.com/33scyk>) a member of staff from Jobcentre Plus, in the course of an enquiry from a solicitor, disclosed that the complainant was receiving benefits. That disclosure was unauthorised and a breach of the Data Protection Act. The DWP investigated the breach, apologised and paid compensation. Despite this, the complainant has been campaigning about that breach ever since. He has twice had the breach investigated by the Ombudsman, whose recommendations the DWP have accepted and acted upon. Mr Hossack remains dissatisfied. He has repeatedly threatened legal action, though none has resulted. He has campaigned publicly, naming individual members of DWP staff, accusing them of a variety of criminal acts including corruption and fraud. He has leafleted locally setting out his allegations; he has towed a trailer with posters advertising his allegations around the town. More recently, he has set up a website to publicise his allegations.

Over the years, the complainant has made many requests for information to the Department, which have been answered to a greater or lesser extent during the various inquiries and

voluminous correspondence generated by his campaign. One particular letter made specific reference to the Freedom of Information Act (FOIA) and requested “copies of the XXXX enquiry and YYYY enquiry information”. That request was refused on 11 May 2006 on the grounds that it was vexatious.

The Tribunal agreed with the Commissioner and the DWP. It found the previous decision of the Information Tribunal in *Ahithirunayagam v Information Commissioner and London Metropolitan University*, EA/2006/0070 helpful. In that case the Tribunal considered a number of factors in deciding that that request was vexatious. Several of these factors are present in the current case:

(i) Previous possession of the information: Mr Hossack already had the substance of the 2 reports, and has debated their detailed content with the department.

(ii) Tendentious language: Mr Hossack’s request was expressed neutrally, but the language of many of his past communications has been tendentious, aggressive, threatening and abusive. His purpose has been to harangue the department and its employees, not to seek information he did not already possess.

(iii) Reopening issues: Mr Hossack endlessly wishes to debate the circumstances of that original disclosure, each time magnifying its importance and effects.

## **7. FOI and Procurement**

The Welsh Local Government Association has produced an advice and guidance toolkit on procurement. Anyone wanting a copy please email [info@actnow.org.uk](mailto:info@actnow.org.uk)

We are also re running our very popular workshop on FOI, Contracts and Commercial Confidentiality. This highly practical workshop is designed to examine the key issues around giving access to commercially sensitive and contract information owned by public authorities or received from private sector partners through contracts and tenders. We will look at all the latest decisions from Information Commissioner and the Information Tribunal on this topic. This course is a must for FOI officers, lawyers and procurement staff.

See the flyer: <http://www.actnow.org.uk/media/flyers/foicc.pdf>

## **8. FOI Fees Regulations**

The Government received over 300 responses to the consultations and the majority of respondents opposed the proposed changes to the fees regulations. The Government has given careful consideration to the responses received and has decided not to proceed with the draft regulations on fees. <http://www.justice.gov.uk/publications/cp2806.htm>

Summary of responses: <http://www.justice.gov.uk/docs/cp2806-response.pdf>

## **9. First Records Management Practice Recommendation**

The Information Commissioner has issued his first practice recommendation in relation to the ‘S.46 records management code’ for an organisation failing to meet the requirements of the code which have been published for a number of years. It was issued to Nottingham City Council and makes recommendations to ensure that the Council complies with the Section 46 Code. See the ICO website at: <http://tinyurl.com/2khuux>

The code of practice relates to all records in a public sector organisation including e-mails and electronic records. Our RM Section 46 workshop examines the requirements of the code and how to apply those requirements in a public sector organisation. It is packed full of practical advice and tips on how to achieve compliance and sustain that compliance within a public sector organisation. This workshop is suitable for all those who are responsible for ensuring compliance with FOI and need to advise within an organisation on how that compliance can be achieved.

See the flyer: <http://www.actnow.org.uk/courses/40>

## 10. 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 500 teachers and school staff. The feedback has been very positive.

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.

## 11. FOISA Stories



Courtesy of the excellent FOISA Blog <http://foia.blogspot.com/>

### A question of trust - The Herald

"Ten years after the death of their son, the parents of a young man found dead in Wick Harbour in 1997 are to receive an unreserved apology from the chief constable of Northern Constabulary for the way he and his force handled their complaints about the police investigation into his death. In the intervening years, Hugh and June McLeod's distress has been compounded by the way the police have handled a series of complaints from the family. When the first Police Complaints Commissioner for Scotland (PCCS), Jim Martin, took up his post in April this year, their complaint was one of the first to land on his desk. He has now issued his report, which is deeply critical of Northern Constabulary and its chief constable, Ian Latimer...One of the significant factors in this case is that Mr Martin says that if the family had not used the Freedom of Information Act to gain access to a report by the chief constable of Central Scotland Police into how Northern Constabulary had handled their complaints, the extent of their shortcomings would not have come to light."

Full Story - <http://www.theherald.co.uk/features/editorial/display.var.1870523.0.0.php>

### Motorists still using mobiles - Scotland on Sunday 2/12/07

"Nearly 10,000 fines have been handed out to drivers using mobile phones since new laws came in this year. A total of 9,574 fixed penalty notices were given out by five of Scotland's police forces between February and the end of October. That equates to more than 1,000 people a month being penalised with a £60 fine and three points on their driving licence. The figures have been released as police warn that too many drivers are continuing to use their phones while in their vehicles...The country's largest force, Strathclyde, handed out 5,043 fines to people caught using hand-held phones between February and October. Lothian and Borders gave out 2,052, Tayside 1,056, Central Scotland Police 1,037 and Fife 386. The figures were obtained under a Freedom of Information request. Data from other forces is not yet available."

Full story - <http://scotlandonsunday.scotsman.com/ViewArticle.aspx?articleid=3586269>

### Edinburgh tram project chief offered six figure bonus - Transport Briefing 30/11/07

"The man charged with delivering Edinburgh's half a billion pound tram system will receive a bonus of up to £340,000 if the project is completed on time and to budget. According to documents released under the Freedom of Information Act, Transport Initiatives Edinburgh (TIE) chairman and chief executive Willie Gallagher has also seen his salary increase from £100,000 to £170,000. The documents show that his bonus was raised from 30% to 50% a year. Gallagher, a former Scottish Power director, renegotiated his contract with Edinburgh City Council in August, 14 months after he joined TIE, the council's arms length transport delivery company and tram client. "

Full story - <http://www.transportbriefing.co.uk/story.php?id=4557> (Need to register)

### Deadly bug cases soar by 70% in North-East - 19/11/07

"The number of people diagnosed with the potentially deadly bug Clostridium Difficult at north-east hospitals has risen by 70% in the last three years. Figures obtained by the Press and Journal using the Freedom of Information Act show there have been 513 cases across the NHS Grampian area so far this year, compared with 300 in 2004. The number of C Diff cases has also increased in Tayside, where there has been a 60% increase from 284 cases in 2004 to 457 during the first nine months of 2007. NHS Highland recorded 120 cases in 2006 compared to 50 in 2005 - a 140% rise. The bug was an underlying or contributing cause of death for five patients in the Highlands in 2006."

Full Story - <http://tinyurl.com/35r3ef>

## **12. Scottish Information Commissioner's newsletter**



The December edition of Inform, the Scottish Information Commissioner's newsletter can be accessed here.

<http://www.itspublicknowledge.info/home/News/Newsletter/InformNovember2007.asp>

The newsletter includes reflections on the fifth annual Holyrood FOI Conference, research findings on how FOI legislation is working in Scotland and very useful commentaries on recent key decisions. Awful shame that when you click on privacy policy as any data protection practitioner would do that you don't see what you'd expect.

If you'd like to receive the newsletter by email, [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info)

### **FOISA COURSES IN Scotland**

#### **FOISA: An A to Z Guide**

The Freedom of Information (Scotland) Act 2002 (FOISA) gives anyone the right to access any recorded information held by a Scottish public authority. Suitable for beginners and those with very little knowledge of FOISA, this very popular workshop is packed full of exercises and real life case studies designed to teach delegates the basics of the Act and the exemptions. Decisions and guidance from the Scottish Information Commissioner will be discussed. This, together with the expert tutors' knowledge and public sector experience, is guaranteed to make a very worthwhile event. See <http://www.actnow.org.uk/media/flyers/foisaaz.pdf>

## FOISA Update

There have been a number of decisions of the Office of the Scottish Information Commissioner (OSIC) and the Court of Session under the Freedom of Information (Scotland) Act 2002 (FOISA). This workshop examines all the latest guidance and decisions and helps you to apply them to real life scenarios. It is packed full of exercises designed to teach delegates the key factors to be considered when making decisions about exemptions. Time will also be devoted to practising the drafting of Refusal Notices, a subject which the Scottish Commissioner has drawn attention to in his decisions.

See <http://www.actnow.org.uk/media/flyers/foisaupdate.pdf>

## DATA PROTECTION

### 13. Child Benefit Data Fiasco and Jeremy Clarkson getting it wrong

Much has been written about the HMRC's loss of data containing millions of peoples' child benefit data. They're not the only ones losing data.

Foreign Office admits data breach

<http://www.silicon.com/publicsector/0,3800010403,39169152,00.htm>

FSA fines Norwich Union Life £1.26m for exposing its customers to the risk of fraud

<http://www.fsa.gov.uk/pages/Library/Communication/PR/2007/130.shtml>

Police data details found at dump

<http://news.bbc.co.uk/1/hi/england/devon/7160490.stm>

Find out loads more at <http://breachblog.com/> American but the odd UK story in there. And finally the good old DPA 1998 is getting a bashing from MPs

Tougher data laws needed, say MPs

[http://news.bbc.co.uk/1/hi/uk\\_politics/7168588.stm](http://news.bbc.co.uk/1/hi/uk_politics/7168588.stm)



Jeremy Clarkson also contributed to this debate in his normal fashion including the fatuous remarks "I opened my bank statement this morning to find out that someone has set up a direct debit which automatically takes £500 from my account," he said. "The bank cannot find out who did this because of the Data Protection Act". Wrong JC. Otherwise the police wouldn't bother with the Theft Act. And if you're daft enough to post your bank account details in the public domain it's quite likely that someone will use them. See the JC story at

<http://news.bbc.co.uk/1/hi/entertainment/7174760.stm>

Act Now produced a humorous look at the whole issue of security of personal data and identity theft. <http://www.actnow.org.uk/admin/adv.htm>

But what are the legal implications. Ibrahim Hasan has written an article which was recently published in the Law Society Gazette: <http://www.informationlaw.org.uk/page14.htm>

We are also running a special course on Information Security with well known experts: <http://www.actnow.org.uk/courses/101>

This course is facilitated by legal and information security experts and is designed to cut through the jargon and media hype. It will give delegates the knowledge to write their own action plan for bringing information security into their organisation. The legal and regulatory regime will be discussed as well as the practical options to prevent loss, damage and destruction of confidential/personal information.

#### **14. Police Told To Delete Old Record**

The Information Commissioner's Office (ICO) has ordered the Greater Manchester Police to delete a criminal record relating to a non-violent offence committed in 1983 from the Police National Computer.

In the ICO's view the conviction is no longer relevant and is excessive for policing purposes. The Data Protection Act stipulates that personal data processed for any purpose should be relevant, not excessive, and not kept for longer than necessary.

After investigating a complaint from the individual, the ICO issued an enforcement notice to the Greater Manchester Police. The police have appealed the case to the Information Tribunal, and therefore will not have to delete the data until after the appeal is decided.

The disputed record relates to an individual who committed a theft when they were 19 years old. The individual has had no other convictions recorded since that time.

Mick Gorrill, Assistant Commissioner for the ICO, said: 'This case is about a non-violent, non-custodial offence committed nearly 25 years ago. Apart from this offence the individual concerned has an unblemished record. The processing of this information is causing harm and distress to the individual. As a former detective superintendent in the police, I can see no cause for the retention of this information for policing purposes.'

#### **15. Department of Health Found In Breach of Data Protection**

The Information Commissioner's Office has found the Department of Health in breach of the Data Protection Act following an investigation into a security breach on the Medical Training Application Service (MTAS) website. The ICO was alerted in May 2007 to the security breach which allowed for the sensitive personal details relating to junior doctors, including religious beliefs and sexual orientation, being accessible to anyone accessing the site.

In order to protect against unauthorised access the Department of Health has been required to encrypt any personal data on their website which could cause distress to individuals if disclosed. Regular penetration and vulnerability testing must also be carried out on developing applications and systems to minimise unauthorised access. The Information Commissioner has also ruled that staff are trained on compliance with the Data Protection Act.

The ICO has required the Department of Health to sign a formal undertaking to comply with the principles of the Data Protection Act. Failure to meet the terms of the undertaking is likely to lead to further enforcement action by the ICO and could result in prosecution by the Office. Mick Gorrill, Assistant Commissioner at the ICO, said: "This is an unacceptable breach of security. Organisations must ensure that the personal information they hold on us is secure –

this is an important principle of the Data Protection Act. Individuals must feel confident that their personal details cannot be accessed by another party. Research by the ICO shows that nine out of ten individuals are concerned that organisations are failing to keep their information secure so it is essential that the Department of Health takes the appropriate measures that we have outlined in order to protect individuals' personal information."

## **16. Multi Agency Information Sharing**

The government's initiative, previously known as the Children's Index, now called Contact Point has now been launched:

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

The guidance for this emphasises training. There is widespread ignorance of the extent to which these information sharing can be carried out lawfully by public sector organisations and other agencies.

<http://tinyurl.com/33ufa4>

The Prime Minister has asked Dr Mark Walport and Richard Thomas to conduct a review of the framework for the use of information in the private and public sector. The review will be published in the first half of 2008.

They will consult experts in the fields of information sharing and privacy, and review the evidence already in the public domain. They will make recommendations on how to ensure personal information can be shared in an effective and pragmatic way, with appropriate safeguards for individuals and society.

As part of this work, Richard Thomas and Dr Mark Walport have launched a consultation into how personal information is used and shared in the public and private sectors, as part of their independent data sharing review.

<http://www.justice.gov.uk/publications/data-sharing-review-consultation.htm>

The Closing date for comments is 15th February 2008.

We are re running our popular workshops, entitled "Multi Agency Information Sharing", which 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 Contact Point, Biometric Passports etc. information sharing will be even more of a hot topic.

See the flyer: <http://www.actnow.org.uk/media/flyers/multi.pdf>

## **17. The UK's fraud prevention service**

[http://www.cifas.org.uk/default.asp?edit\\_id=252-28](http://www.cifas.org.uk/default.asp?edit_id=252-28) has lots to read through. It seems to be mainly private companies but well worth a scan. Their Top Tips to avoid ID Fraud at Xmas are interesting

- Keep all your personal information secure (shield your PIN number from people queuing behind you, don't carry your personal documents, PIN or passwords with you) etc.

- During the party season, take particular care of your handbag or wallet. Don't give thieves a chance. And be careful with your credit and debit cards. Don't let them out of your sight.
- When buying online – keep your passwords secure at all times, ensure that you have up-to-date security software, only use sites that provide secure payments and be sure you know who you are dealing with.
- Shred documents when you dispose of them, including Christmas cards, envelopes, credit card slips, bank statements and anything bearing your name, address and/or signature.
- Examine your bank statement carefully, especially as there will be more transactions than usual.
- Check your credit reference agency file regularly for unfamiliar items and take prompt action if you spot anything strange.
- If anyone in your family, especially teenagers or children, use social networking sites (eg Friends Reunited, Bebo, MySpace or Facebook) make sure they don't inadvertently give away personal information (or, for example, details that could be useful to burglars).
- Don't forget to keep your home secure, and keep your personal documents locked away. Theft or loss of documents such as your driving licence or passport should be notified immediately.
- CIFAS Protective Registration. Use this service if you have personal documents stolen. (Contact the service on 0870 010 2091). There is a charge of £11.75.
- Don't give your personal details to callers, charity collectors or "researchers" in the street. Check whether they are truly who they claim to be before giving them any information. Be just as careful when taking telephone calls. Fraudsters may try to dupe you into believing they are from banks or other companies. If you give them your account and security details they could run up huge debts in your name.

## 18. The Done a Runner (AKA the Euston Flyer)

Called in on my last trip to London to buy my son a pint and a pie. As the bill was more than a tenner I asked if they could take payment by card. No Problem sir – Give me your card. I did watching where it went, expecting it to be returned to me once a swipe had been taken. They didn't go to the till. They placed it in a home made holder that they placed behind the bar alongside a row of other similar cards (about a dozen). I asked to have it returned to me and said if they did that I couldn't pay by card. (!!). If I had more drinks they'd add up the bill and at the end of the night swipe the card and charge me. I said no. They returned the card to me and we ate and drank what we could afford and left. Many other people seem happy to allow their credit/debit card to be out of their sight behind a bar for some hours.... Being as Arsenal scored seven that night there were probably many happy punters who drank their fill and collected their card at midnight and staggered home. The bill arrived weeks later. Or did it?

## 19. Compensation for loss? (From a bulletin board)

A company is perhaps opportunistically offering a £5.99 pack to claim compensation for the HMRC data loss. I doubt anyone will get anywhere with a claim for damage (there needs to be some evidence of damage for the claim to work). Moreover, HMRC would have a significant incentive to fight and win any claim, on the basis that 25 million people might then want a piece of the action. Nevertheless, full marks to the company for seeing the opportunity.



You can read more about this astounding scheme here: <http://tinyurl.com/3d56au>

And if you have money to burn, download your own pack here: [www.compensationpack.com](http://www.compensationpack.com)

### 20. Accessing Communications Data – Latest News

The RIPA Communications Data Code of Practice (final version) has now been approved by Parliament and came into force on 1<sup>st</sup> October 2007 - Click here to read the final version.

We have two courses in this area:

#### 1. One Day Designated Person/ Investigator Workshop

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

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 31<sup>st</sup> 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 200 delegates. All have passed the exam with flying colours (Note: This course carries 8 CPD Hours.)

Download the flyer for both courses: <http://www.actnow.org.uk/media/flyers/spoc.pdf>

### 21. ICO calls for privacy impact assessments to limit our electronic footprint

Organisations must consider the impact on individuals' privacy before developing new IT systems or changing the way they handle personal information the Information Commissioner's Office (ICO) will urge today.

At a surveillance conference in Manchester the ICO said the breach at HM Revenue and Customs was a watershed and will call for organisations to implement new safeguards to help protect individuals' privacy. The UK's first privacy impact assessment handbook was launched to help organisations address the risks to personal privacy before implementing new initiatives and technologies. By carrying out a privacy impact assessment organisations will also increase public confidence in data collection.

David Smith, Deputy Commissioner at the ICO, says: "Very often the collection and use of personal information is essential and beneficial to modern life but many people do not realise that data collection is at the heart of surveillance. Each time someone gives away their personal information they leave electronic footprints which build up a picture of every aspect of their daily lives."

He continues: “It is essential that before introducing new systems and technologies, which could accelerate the growth of a surveillance society, full consideration is given to the impact on individuals and that safeguards are in place to minimise intrusion. Privacy impact assessments are a common sense approach to help organisations develop privacy friendly ways of working.” The ICO is also encouraging individuals to take more control over their personal information to help them guard against the risks of identity fraud. Research commissioned by the Information Commissioner’s Office shows that six out of ten individuals believe they have lost control over the way their personal information is handled.

David Smith says: “Before giving out any personal information we advise individuals to make sure they know who they are giving their details to, why these details are needed and how they will be used. If individuals are not satisfied with the response they should not feel obliged to give out their details they should simply ask to move on to the next question. In order to have trust in an organisation, individuals must be confident that their information is held securely and processed in line with data protection rules.”

The conference also highlighted the use of privacy enhancing technologies (PETs) to help protect people’s personal information. These technologies help to minimise the information collected about individuals and ensure that privacy safeguards are built into systems.

We are running a course on email and internet surveillance.

See the flyer: <http://www.actnow.org.uk/media/flyers/email.pdf>

This is an interactive workshop full of exercises and case studies. As well as the latest case law 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.

## **22. Records Management toolkit for Schools**

The Records Management Toolkit for Schools has been created to assist public sector schools in their compliance with the Freedom of Information Act 2000. Independent schools using the toolkit will need to bear in mind that certain parts of the toolkit will not be relevant to them.

The toolkit has been comprehensively revised and some additions have been made and some changes have been made to the format of the document. The information below outlines what can be found in the toolkit with links to the relevant documents which can then be downloaded and amended electronically for use in the school.

It contains the following sections

- Records Management Policy
- Records Management Programme
- Managing e-mail
- Information security and how to ensure compliance under the Data Protection Act 2000 (*yes we took a deep breath when we saw that*)
- Business Continuity
- Information audit
- Pupil Records
- Retention Guidelines
- Closed School Guidance

Many downloads but a very useful piece of work.

<http://www.rms-gb.org.uk/resources/848>

### **23. OSC Inspections**

The Office of the Surveillance Commissioners (OSC) has now started doing much more rigorous inspections. Some councils have been inspected twice in one year. The key to a successful inspection is preparation. We have prepared a list of common OSC criticisms of local authorities to help you <http://www.informationlaw.org.uk/USERIMAGES/osccriticisms.pdf>

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](mailto:info@actnow.org.uk)