

Information Law Newsletter October 2008

Welcome to the 32nd issue of our quarterly Newsletter.

Next issue January 2009

The very first issue was October 2000 and since then we have acquired over 5,000 subscribers and published every quarter. Previous issues are archived on our website. 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 at the end of this newsletter. See a full privacy policy on our website.

2009 Draft Programme

A draft of our 2009 courses is now available. Details will be on our website in the next few weeks.

http://www.actnow.org.uk/media/articles/2009_Prog.pdf

In house Training and Information Management Consultancy

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 many clients including University of Pavia, Mantova, Italy, Bury Council, Essex CC, Sullivan Upper School Belfast, General Medical Council, Cambridge City Council, Hertsmere Council, Bennendon Healthcare Society, Edinburgh City Council, East Devon Council, Devon Council.

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>

All our public courses can be delivered at your premises. We can tailor them to your needs.

We have recently undertaken consultancy on Data Sharing, Data Security and Fair Processing Notices and delivered customised solutions to clients in these areas. Contact us for a chat.

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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STOP PRESS

The course on effective speaking is already full so we're offering it again in the same city the following day as well. <http://www.actnow.org.uk/courses/166> Places are going fast. Ring us.

FREEDOM OF INFORMATION

1. Latest Commissioner and Tribunal Decisions

During the first quarter of the financial year 2008/09 the ICO received 707 complaints under the Freedom of Information Act and Environmental Information Regulations.

- 705 cases were closed
- 58 decision notices were issued
- 21 appeals were received by the Information Tribunal in this period.

Decisions have dealt with difficult issues such as:

- The definition of information and when it is held by a public authority
- The applicability of FOI to information held in solicitors' files
- Vexatious requests
- Section 21 and what is reasonably accessible information
- Section 35 and the public interest
- Section 36 and requests about requests
- Disclosure of statistics
- Disclosure of legal advice
- When losing bidders' information can be disclosed under section 43

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.

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 fourteen episodes are now on Ibrahim's personal website. You can also read the full transcripts.

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

2 . Durant revisited- Lords criticise Scottish Information Commissioner

The Lords finally gave their view on this case and it's not that informative. Nothing much seems to have been decided except the Scottish ICO didn't act very well.

The Scottish Commissioner strangely welcomed this.

<http://www.itspublicknowledge.info/home/News/20080709.asp>

Link to an opinion from Society for Computers & Law.

<http://www.scl.org/editorial.asp?i=1871>

Link to an opinion from the Register

http://www.theregister.co.uk/2008/07/10/lords_overturn_data_ruling/

Link to the judgement

<http://www.bailii.org/uk/cases/UKHL/2008/47.html>

3. FOI and Legal Advice – More Guidance

Previously we have discussed *Mersey Tunnel Users Association v Information Commissioner and Merseytravel* (15 February 2008) where the Information Tribunal ruled, for the first time, that legal advice should be disclosed on public interest grounds despite the matter being covered by legal professional privilege (section 42).

In *Mrs. B Francis v Information Commissioner and South Essex Partnership Foundation NHS Trust* (21 July 2008) (the facts of which we discussed under section 21 above) the request also concerned some information held on the Trust's lawyers' files which was subject to the legal privilege. The Tribunal decided that the public interest balance in this case was firmly in favour of maintaining the exemption.

It compared this case with the decision in *Mersey Tunnel*. It noted that there, the legal advice was a one off, though it had effects which were still continuing. Here the advice extended over a period of time, and is still current: police enquiries, for example, have relatively recently been reopened. In *Mersey Tunnel* the issues involved were matters of pure public administration: the tribunal in that case observed that in such circumstances "there is less inbuilt weight attaching to the exemption" (paragraph 50). Here, significant personal interests were involved – literally, matters of life and death. The Tribunal said that this is a case "at the opposite end of the spectrum of importance", much closer to the examples discussed in *Mersey Tunnel*, of "legal advice in a criminal or child care case", (paragraph 49). The Tribunal accepted that the appellant had a great personal interest in information relating to the circumstances in which her son died, but that was not the same as the public interest in those circumstances, which had been largely satisfied.

Finally on section 42, the Commissioner's decision involving the Ministry of Justice (05/12/2007 Ref: FS50142679) (episode 10) has now been upheld by the Information Tribunal in *Jonathan Fuller v Information Commissioner and Ministry of Justice* (5 August 2008). The complainant requested a copy of any legal advice which confirmed that the possession of images of consensual sado-masochistic violent sex can successfully be prosecuted and that Article 8 ECHR does not apply. The Commissioner agreed with the MoJ that section 42 applied. He noted that the phrasing of the request was for 'any legal advice which confirms...'. He found that the either confirming or denying that legal advice was held, in the circumstances of this case, does in itself attract privilege as to do so would reveal the basic contents of the advice if held.

4. FOI and Statistics

Another difficult issue is whether the names of those public sector employees attending a meeting should be disclosed pursuant to an FOI request.

In a decision involving *Rhondda Cynon Taff County Borough Council* (FS50130239 19/05/2008). This concerned disclosure of statistical information relating to individuals excluded from schools in the local authority area as a result of drug finds. The Commissioner ruled that such statistics were personal data and properly exempted under section 40. Disclosure of statistics was considered again by the Commissioner in a decision involving *Department of Health (DofH)* (28/07/2008 Ref: FS50122432). The complainant made a request regarding the release of details of abortion statistics for 2003, where those abortions had been carried out under medical condition grounds. The DofH suppressed statistics where the number of occurrences was less than 10, instead marking it as "...".

It relied upon the exemptions under sections 40 and 44. The Commissioner ruled that the requested information was not personal data, and that therefore section 40 was not engaged. He concluded that the information was neither the personal data of doctors nor patients and,

unlike in the Rhondda decision, there was no possibility of anyone being identified from the data nor from any information publicly available.

http://www.ico.gov.uk/upload/documents/decisionnotices/2008/fs_50122432.pdf

5. Commercial Interests and Bidders Information

It is now common practice for complainants not just to request details of contracts and successful bids but unsuccessful ones too.

In Department for Transport (28/07/2008 Ref: FS50141374) the complainant requested the Net Present Value ("NPV") figures offered by the unsuccessful bidders for the South Western rail franchise. The DfT confirmed that it held this information, but refused to disclose it, stating that it believed it was exempt under section 43(2); that it would harm the commercial interests of the bidders as well as the DfT itself.

The Commissioner was not persuaded by this argument. He believed that the bidding process for a rail franchise, and the process of awarding the franchise to a particular bidder, is a complex one with many variables, including the needs and priorities of the bidding companies at the time the bids are made. He did not believe that conclusions could be drawn solely from the NPVs alone.

He was also not persuaded by the argument that the withheld information would allow competitors of the bidders to take a more informed view of their future bidding behaviour nor that the disclosure of the withheld information will be likely to lead to more conservative bids in future rail franchise competitions and thus harming the DfT.

http://www.ico.gov.uk/upload/documents/decisionnotices/2008/fs_50141374.pdf

Ibrahim Hasan is re running his 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>

6. Publication Schemes

The ICO wrote to all public authority chief executives in May to urge them to release more official information. Present schemes expire on 31 December 2008 and a new model publication scheme, with definition notes for each sector, has been developed and approved by the Information Commissioner.

New schemes should be adopted by 1 January 2009 and the ICO will begin conducting spot checks shortly afterwards. See our forthcoming workshop on FOI Publication schemes. Some courses are full. Please ring us to find out more or visit <http://www.actnow.org.uk>

7. Revised ROPSI Guidance

National Archives has revised the guidance on the Re-use of Public Sector Information Regulations. See guidance note 1 on <http://tinyurl.com/3n564g>

If anyone has any comments do send them to susan.healy@nationalarchives.gov.uk

8. Conducting an Information Audit

Information auditing is a method increasingly used in the public and private sector to assess the information assets held by an organisation. Information audits will feed into the development of information strategies related to information and knowledge management, legislative compliance, and records management. This workshop introduces delegates to the concept of information auditing using scenarios and examples. It is suitable for both public and private sector delegates and will assist with compliance with Freedom of Information, Data Protection and the Environmental Information legislation. Our speaker, Mike Swain, of Liverpool John Moores University, is a leading authority in this area.

Click on the link for more details

<http://www.actnow.org.uk/courses/80>

9. 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 1000 teachers and school staff. The feedback has been very positive. We have added new dates and venues:

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.

10. New speaker for Scottish courses.



Allan Graham joins the Act Now team for our FOI courses in Scotland. Allan is the Information Compliance Officer for Stirling Council and has worked in Data Protection and Freedom of information for 10 years. He is a member of the ISEB FOI examination panel and holds the ISEB certificate in Data Protection.

Allan has a reputation as a lively and engaging speaker/presenter and has spoken at many conferences throughout the UK. He will bring an expert Scottish viewpoint to our Freedom of Information courses in Scotland in 2009.

11. OSIC Newsletter

Read Kevin Dunion's latest FOIA newsletter here:

<http://www.itspublicknowledge.info/home/News/Newsletter/InformNewsletterJulyAug2008.asp>

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

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

12. FOI Update Articles

Ibrahim Hasan writes regular columns in the Law Society Gazette, IRRV magazines and the Records Management Society magazine reviewing recent FOI decisions.

<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.

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

13. CFI resources

A new report by the Campaign for Freedom of Information summarises more than 1,000 press stories based on disclosures under the UK and Scottish FOI acts in 2006 and 2007. The stories demonstrate the enormous range of information being released under FOI and reveal the substantial contribution to accountability made by the acts.

In 2006, the government proposed to restrict the UK FOI Act, partly because of what it said was excessive use of the Act being made by journalists. The report shows how valuable the press's use of FOI has been. The proposals were dropped by Gordon Brown after he became prime minister in 2007.

The report is at <http://www.cfoi.org.uk/pdf/FOIStories2006-07.pdf>

14. The Supply of Information (Register of Deaths) Regulations 2007

say that data on deaths "may" be provided to "any person or body undertaking list cleaning as defined in these regulations" - i.e. "a person who, or body which, updates lists so as to remove the entries on those lists of persons who are deceased".

A scheme has been set up whereby organisations can pay to be sent weekly lists of all UK registered deaths. It's run by the Registrars General for England and Wales, Northern Ireland and Scotland. However, the use is limited to "the prevention, detection, investigation or prosecution of offences", and is specifically aimed at preventing identity theft. This seems to be much narrower than the provisions of the Regulations.

(See <http://www.gro.gov.uk/gro/content/aboutus/ddri/index.asp>)

15. Increased powers for data protection - MoJ 16.7.08

The Government took views on proposed changes to the inspection powers and funding arrangements of the Information Commissioner's Office (ICO). Specifically they are seeking views on proposals to:

- promote good practice
- enforce compliance by enhancing the Commissioner's inspection powers
- amend the structure for funding the Information Commissioner's data protection duties.

The full consultation paper is available at www.justice.gov.uk/docs/cp1508.pdf.

16. ICO publishes new guidance for public authorities

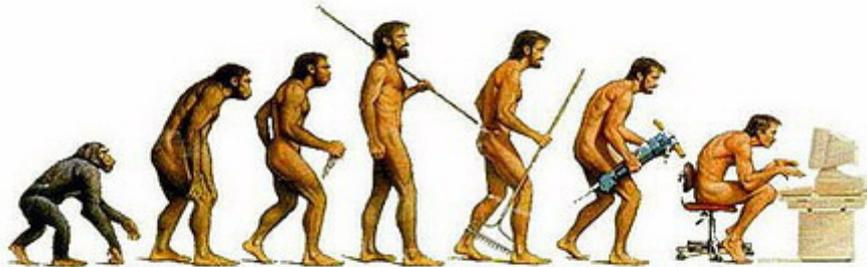
The following guidance has recently been published by the ICO:

Publishing of minutes and agendas (July 2008) <http://tinyurl.com/3z988b>

Requests for information about the deceased (July 2008) <http://tinyurl.com/4ly4n4>

Information contained in complaints & investigation files (August 2008) <http://tinyurl.com/3qvzgr>
When the names of individuals may be disclosed (Aug 2008) <http://tinyurl.com/4lerym>
Guidance about destruction of data <http://tinyurl.com/5v89bu>

DATA PROTECTION



17. Sexual life is private

World motorsport boss Max Mosley has won a legal action against a Sunday newspaper over claims an orgy he took part in had Nazi overtones. The High Court ruled the News of the World did breach Mr Mosley's privacy, awarding him £60,000 in damages. Mr Justice Eady said he could expect privacy for consensual "sexual activities (albeit unconventional)".

<http://news.bbc.co.uk/1/hi/uk/7523034.stm>

18. ECHR Judgement

The European Court of Human Rights has ordered the Finnish government to pay out €34,000 because it failed to protect a citizen's personal data.

The Court made its ruling based on Article 8 of the European Convention on Human Rights, which guarantees every citizen the right to a private life. A Finnish woman worked in an eye clinic where she also received treatment, having been diagnosed as having AIDS.

The woman began to suspect that news of her disease had spread to other employees and asked to be shown who had accessed her medical records and when. The health authorities only kept a note of the last five people to have accessed a record. The woman sued the District Health Authority for failing to keep her medical records confidential.

She lost the case because the court found that there was no firm evidence that her record had been accessed unlawfully. She also lost her appeal, and was refused permission to take her case to Finland's Supreme Court.

The Court awarded €13,771 in damages and €20,000 in costs.

see the actual Ruling at <http://tinyurl.com/6kntl7>

19. A Beeb salary

No-one is safe from the Freedom of Information Act, not even the BBC. Big brother is cracking the whip and Auntie will have to comply. The Information Commissioner's Office - which, one

would hope, should have more important things to do, has ordered the BBC to disclose the annual staff costs for EastEnders <http://tinyurl.com/3g5ntd>

20. Data Sharing Report

The previously mentioned Thomas/Walport on Data Sharing has been published:

http://news.bbc.co.uk/1/hi/uk_politics/7500826.stm

<http://news.zdnet.co.uk/security/0,1000000189,39445558,00.htm>

To read it : <http://www.justice.gov.uk/reviews/datasharing-intro.htm>

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>

21. ICO Annual Report 2007-08

A year ago I wrote of a sea-change in attitudes towards information rights. Not only has the tide now well and truly turned, but data protection and freedom of information have substantially grown in stature and influence through the tumultuous waters of the last 12 months.

Could be the first pages of a Catherine Cookson novel but in fact it's the Introduction to the Commissioner's annual report. <http://tinyurl.com/5wu726>

ICO All Annual reports

http://www.ico.gov.uk/Home/about_us/what_we_do/corporate_information/annual_reports.aspx

22. Collecting personal information fairly - new code of practice

The ICO is about to start work on a code of practice dealing with all aspects of collecting information about people. This is one of the most important areas of data protection, but also one where levels of compliance are extremely variable. The code will address issues such as drafting privacy notices, standards of explanation for individuals and the issues that arise when collecting information about groups such as children.

We are very keen to illustrate our work with examples drawn from real life. So, if you have any examples of innovative, genuinely informative or otherwise appealing ways of explaining the collection of personal information, please send them to us. We are also keen on seeing examples of bad practice - the overly legalistic, the counter-intuitive or the downright deceptive.

If you would like to be part of a small critical reader and consultation group or if you have any examples please contact shona.ritchie@ico.gsi.gov.uk

23. More Security Breaches

www.actnow.org.uk

Training for the information society

Please see this link to data lost from the back of a lorry, which also links to another story about a second breach:

http://www.theregister.co.uk/2008/01/14/document_breach_brace/

More recent stories include laptops stolen from government departments and sensitive documents being left on a train!

Our revised Information Security workshop is a must for all data protection/IT professionals. Click below to read the flyer

<http://www.actnow.org.uk/courses/102>

This workshop 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.

24. More ICO Guidance

The ICO issues guidance in the form of good practice notes, 'It's your information' notices and technical guidance. Since the last newsletter in April the ICO has published the following

- Getting it right - A guide for small businesses
- Small business checklist
- It's your information - Unwanted marketing
- Data sharing between different local authority departments
- How does the Data Protection Act apply to recording & retaining professional opinions?
- Disclosure of employee information under TUPE

25. DVLA selling your data? Surely not.

Unfortunately it's true and we've commented on it many times. Here's a virulent attack on the process from a politically oriented site. <http://tinyurl.com/4jd3sm>

26. New powers for the ICO

The Criminal Justice and Immigration Act has received Royal Assent creating tough new sanctions for the ICO. This new legislation will, when it comes into force, give the ICO the power to impose substantial fines on organisations that deliberately or recklessly commit serious breaches of the Data Protection Act and also fine for data loss and require reporting to the ICO of data loss. Primary legislation is done but the actual details are being horse-traded through the corridors of power as we word process. <http://tinyurl.com/4uwz5f>

27. New ICO

Richard Thomas is on borrowed time. The advert for the new ICO was in the Times at the end of September. Promising a 6 figure salary and appointment in mid 2009 we expect a rush of

applicants for this high profile and demanding position. Advert mentions 4 regional offices but we all know there's only 3. Poor Information...Applications by noon on Tuesday 21st October

<http://jobs.timesonline.co.uk/job/352Su269/information-commissioner>

28. BBC News Article 'Warnings over phone calls database'

A central database holding details of everyone's phone calls and emails could be a "step too far for the British way of life", ministers have been warned. Plans for such a database are rumoured to be in the Communications Data Bill.

http://news.bbc.co.uk/1/hi/uk_politics/7507627.stm

SURVEILLANCE LAW and PRIVACY

29. New RIPA Guidance

Many of you have engaged Act Now Training to do in house training on surveillance law and Part 2 of RIPA. A common theme running through the questions our trainers are asked, is the lack of clarity and guidance around completing the RIPA forms for authorising Directed Surveillance and use/conduct of a Covert Human Intelligence Source (CHIS).

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 have 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.

The guidance is available as a hard copy for £99 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 us 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.

30. Latest OSC Report

The Office of the Surveillance Commissioners has published its annual report for 2007/2008.

You can read it by clicking on the link below:

http://www.surveillancecommissioners.gov.uk/docs1/osc_annual_rpt_2007_08.pdf

The highlights are as follows:

- During the current reporting year public authorities (other than law enforcement agencies) granted 9,535 directed surveillance authorisations, of which 1,217 were still in place at the end of the reporting year. With a similar number of public authorities providing statistics as in the previous year, this indicates a significant decrease in the use of such powers, the figures for the previous year being 12,494 and 1,800 respectively.

During the current reporting year public authorities (other than law enforcement agencies) recruited 204 CHIS, of whom 105 were cancelled during the year with 72 in place on 31 March 2008. This is a significant reduction in the use of these powers compared with the previous year when there were 429 recruited, 345 cancelled and 143 in place at the end of the year.

Many local authorities have been confused about who to ask advice from and whose advice to follow; the Home Office, the Police or the OSC? The latter is in no doubt. See paragraph 8.4 of the report:

“I have, occasionally, considered it necessary to rebuke a small number of agencies for proffering advice which it is known conflicts with guidance published by the OSC. I have reminded these agencies that if such advice is given, it is the OSC guidance which my inspectors on inspections and which I on reporting to the Prime Minister will follow. This is because the high judicial office which all Commissioners have held suggests that their collective view, when interpreting the legislation, is likely to be the most reliable pointer as to what a trial judge may decide. It is for this reason, also, that the shortage of case law is not, in my view, the major problem in relation to the authorisation of covert activity which is suggested in some quarters: OSC guidance, in many scenarios, authoritatively plugs the gap, pending judicial decision.”

The local authority consultation group meetings have been disbanded. There will be a general RIPA consultation group set up with representatives from local government.

The Commissioner commented on the recent media FOI requests to public bodies for copies of his reports. He suggests the application of section 36 as an exemption from disclosure. He also considers himself to be a Qualified Person under this provision. Those of you who work on FOI will know that this is incorrect. For a note on dealing with such requests see Ibrahim Hasan's website: <http://www.informationlaw.org.uk/page15.htm>

Common mistake found in inspections generally:

(a) the incorrect reference to biographical detail as the method to judge whether private information will be acquired when the proper consideration is whether privacy, in its widest sense, will be intruded upon;

(b) the use of templated wording which invariably leads to error and is often an indicator of speculative activity;

(c) the timely cancellation of authorisations and insufficient detail in cancellations;

(d) an apparent over-reliance, by authorising officers, on information technology to prompt management actions and the incorrect use of set times before review; and

(e) the continued failure to articulate properly why the proportionality test has been met.

Local authorities are specifically criticised for :

- serious lack of understanding of proportionality
- poor oversight by monitoring officers
- use of tracking devices without considering the property interference issues
- head of departments conducting surveillance and also being the authorising officer

The OSC has also emphasised the importance of training. At paragraph 26 it states:

“Those authorities which have invested in high quality training and education perform to a much higher standard of compliance than those which have not. It is important that the lack of recourse to covert activity is not considered sufficient mitigation for lack of investment in training; if anything, better training is necessary to compensate for the lack of practical experience.”

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 e mail 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.

31. Accessing Communications Data – Latest ICC Report

Part 1 Chapter 2 of RIPA allows local authorities and others to access communications data. The Home office has revised the standard forms and has produced new guidance on how to complete them.

<http://security.homeoffice.gov.uk/ripa/publication-search/ripa-forms/application-comms-data/>

Please find below a link to the latest report (2007) of the Interception of Communications Commissioner (ICC) which has now been published:

<http://www.official-documents.gov.uk/document/hc0708/hc09/0947/0947.pdf>

The ICC, amongst other things, carries out inspections of local authorities who exercise powers under Part 1 Chapter 2 of the Regulation of Investigatory Powers Act 2000 (RIPA) to acquire communications data (e.g. mobile phone records, subscriber details etc).

This is usually done by trading standards, environmental health and licensing departments. You may wish to forward this e mail onto them.

The key points from the report are:

- There are approximately 474 local authorities throughout the UK approved by Parliament for the purpose of acquiring communications data, using the provisions of the Act. During the period covered by this report only 154 local authorities made use of their powers.
- A total of 1,707 requests were made by local authorities for communications data and the vast majority were for basic subscriber information. Very few local authorities have used

their powers to acquire itemised call records in relation to the investigations which they have conducted.

- Last year inspections were carried out at 44 local authorities and this included two re-inspections, which were necessary because the level of compliance was not as good as it should have been.
- The local authorities reported a total of 52 errors in 2007. The ICC made a distinction between reportable errors and recordable errors as per the final version of the code of practice.
- The Home Office is conducting a scoping exercise with the National Anti-Fraud Network (NAFN) to see whether it could provide a national service for its member local authorities.
- The ICC takes a more open approach to the disclosure of his reports under the Freedom of Information Act 2000:

“I strongly believe that it is in the public interest that public authorities should demonstrate that they make lawful and effective use of regulated investigatory powers. My annual report should provide the necessary reassurance that the use which public authorities have made of their powers has met my expectations and those of my Inspectors, although there is no reason why public authorities cannot make a further disclosure in compliance with a request under the Freedom of Information Act if they so wish. There is provision for this in the Code of Practice although each public authority must seek my prior approval before making any further disclosure. That is to ensure that the wider public interest is not adversely affected by a disclosure.”

- The importance of training has once again been emphasised:

“The specialist staff, who process applications for communications data, are not trained to the same standard as their counterparts in other public authorities and this has caused difficulties for some local authorities, which have not been able to attain the best possible level of compliance with the Code of Practice.”

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.

We are also running the two day SPoC accreditation workshop:

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

OTHER SUBJECTS

32. Phishing game

If you want to avoid phishing web sites and stay safe whilst using the internet, then try playing this game: http://cups.cs.cmu.edu/antiphishing_phil/quiz/index.html

It will teach you how to tell the difference between a phishing site and a legitimate site. It's also quite good fun. Even if you think you know all about how to avoid phishing sites, give it a go, and test just how good you are, you may be surprised. If you don't know what I'm talking about, then check out wikipedia for an explanation: <http://en.wikipedia.org/wiki/Phishing>

33. Say goodbye to the mickey mouse

The floppy disk went, the video recorder went now the mouse is under threat

<http://news.bbc.co.uk/1/hi/technology/7508842.stm?TId=36813917195>

34. Internet jokes

Probably as old as the hills but there may be some readers who haven't seen them.

<http://www.turnofftheinternet.com/> or <http://www.shibumi.org/eoti.htm>

35. National Identity fraud prevention week

National Identity Fraud Prevention Week is a nationwide awareness campaign designed to help you protect yourself and your business from identity fraud, one of the UK's fastest growing crimes. This year the campaign is being supported by the BBC's [Adrian Chiles](#).

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

The Commissioner is joining in. Read their press release and undertake anon line health check

http://www.ico.gov.uk/upload/documents/pressreleases/2008/nat_id_fraud_prevention_week031008.pdf

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