



The success continues

Deferred ISEB candidate passes, Act Now pass rate 91%.

A candidate who took the course in summer 2009 deferred the exam until October for personal reasons and passed the first time. Previously nine out of 10 had passed. Now it is 10 out of 11. OK, so it's just a small increase but only one fail so far... and that candidate will be resitting in time.

More candidates

In Autumn 2009 another 31 candidates took the ISEB course: 13 for FOI and 18 for DP. These will be sitting the exam in January and we will keep you informed about the results.

ISEB programme expands

Our ISEB programme is expanding. In 2010 we have planned ISEB courses in London, Manchester, Belfast and Edinburgh. The FOI course in Edinburgh is groundbreaking. We don't think that this has been offered before in Scotland and look forward to pioneering the course in Scotland. There will be an emphasis on the Freedom of Information Act 2002 as well as work on the 2000 Act.

For full details go to:

▶ www.actnow.org.uk/content/29

These are already filling up, so please book early to avoid disappointment. ■

Regional developments

In addition to our courses in London, Belfast, Edinburgh and the North of England we are extending our provision into the South West.

A series of courses is planned for Bristol to make it easier for delegates in South Wales and the South West to access quality training without extensive travel.

To run these courses we have a new speaker who

is well known in the field: Phillip Bradshaw from Cardiff Council.

Phillip qualified as a solicitor in 1981 and spent 13 years in private practice, initially specialising in litigation, but eventually moving into practice management. He moved to the public sector in 1996 as a manager in a local authority legal service. Becoming

[Continued on page 2](#)

WELCOME

to our 37th Newsletter – probably the newsletter with the largest circulation in the sector, with 6,067 subscribers, published every quarter and now entering its 10th year. Previous issues are archived on our website.

In this issue:

FREEDOM OF INFORMATION

- 3. Latest podcasts & webcasts
- 4. Public-sector contracts

DATA PROTECTION

- 10. DVLA: new rules on release of data
- 11. ICO guidance on Electoral Register

SURVEILLANCE LAW AND PRIVACY

- 16. RIPA guidance, V.2

And much more...

Previous issues are archived on our website.

This newsletter contains links to other websites. We cannot be responsible for content or availability of other sites. Please read the notice at the end of this newsletter.

Next issue: April 2010



Regional... from page 1

increasingly involved in corporate work he moved to Cardiff Council in 2001. Since September 2005 he has been the Information Manager in Cardiff with lead responsibility for all information governance issues, including freedom of information, data protection and

data sharing, and records and knowledge management. He plays an active role in supporting colleagues in these areas and is Vice-Chair of the Welsh Information Governance Group.

The courses are all listed on the website but for a summary please click on:

▶ www.actnow.org.uk/courses/city_Bristol ■

In-house training

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 we 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 need travelling expenses. For best value bring the trainer to you!

In the last three months we have done in-house training for London Speaker Bureau, St Helens Council, the GMC, Wigan Council, Barts and the London NHS Trust, Bath and North East

Somerset Council, Sefton Council, North Yorkshire Fire and Rescue, Bradford Council, Castle Vale Housing Association and many more.

Legal advice, training, podcasts and consultancy



For Consultancy, Audit & Training see Paul's website:

▶ www.paulsimpkins.com

For Legal Advice, Podcasts & Training see Ibrahim's website:

▶ www.informationlaw.org.uk ■

Thank you for your continuing support
Paul & Ibrahim

CONTENTS

FREEDOM OF INFORMATION & EIR

- 3. Disclosure of bonuses
- 5. Audit Commission Act 1998, s.15
- 6. Model Publication Scheme data
- 6. EIR & CON29 searches
- 7. FOI, DP, schools
- 7. FOI helpline
- 7. Regional news

DATA PROTECTION

- 8. New ICO powers
- 8. School vetting
- 8. New information security course
- 9. DNA database
- 9. DP made me do it!
- 9. Friendly helpline
- 10. PVP versus VWM
- 11. European issues
- 11. Zip, block, flag!
- 13. Call for more privacy choices online
- 14. Facebook privacy
- 14. County hall worker suspended
- 15. RIPA consultation outcome
- 15. OSC procedures and guidance document
- 15. Surveillance society report

RIPA & SURVEILLANCE

- 16. RIPA/RIPSA helpline



Freedom of information

Latest podcasts and webcasts

In the three months up to the end of January 2010 the Information Commissioner published 132 decisions whilst the Information Tribunal published 11. Subjects include:

- Information contained in publication schemes
- Marks on documents and whether they constitute information
- Vexatious requests
- Section 35 and disclosure of ministerial letters
- Statistics and section 40

- Disclosure of bonus payments to employees
- Tender evaluation information.

If you would like a full explanation of all the latest FOI decisions, then listen to the FOI podcast from Ibrahim Hasan. This is, we believe, 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. The first 19 episodes are now on Ibrahim's personal website together with the scripts. See:

▶ <http://tinyurl.com/yl75ffa>

Ibrahim also writes a regular FOI Update column for the *Law Society Gazette*. You can read this at:

▶ <http://tinyurl.com/yc5sfuf>

Ibrahim will be covering these and other developments in his forthcoming FOI Update workshops. See:

▶ <http://tinyurl.com/ydc6u2a> ■

Freedom of information

Disclosure of bonuses

The recent controversy over bonuses paid to civil servants employed by the Ministry of Defence highlights the public interest in salaries and bonuses of public sector officials. The Information Commissioner's guidance (see website ▶ www.ico.gov.uk) under the Freedom of Information Act 2000 (FOI) on disclosure of employees' salaries states that public authorities need only disclose salary information within a £5,000 band unless any of the following exceptional circumstances arise. These are:

- there are current controversies or



credible allegations

- there is a lack of safeguards against corruption
 - normal procedures have not been followed
 - the individual in question is paid significantly more than the usual salary for their post or
 - the individual or individuals concerned have significant control over setting their own or others' salaries.
- A recent Information Commissioner

[Continued on page 4](#)



Freedom of information

Public-sector contracts

When it comes to public-sector contracts, it is now common for aggrieved bidders (and other interested parties) to make an FOI request for information which will give them an insight into how the bids were evaluated and what scores each bidder received. In *Fred Keene v ICO and Central Office of Information* (14 September 2009) the appellant requested tender evaluation forms in respect of all those who submitted bids to the COI for providing reprographics services. In all there were 14 tenderers and 28 evaluation forms (completed by two evaluators). In response to his request the appellant was given his own company's evaluation

information but not that of others, on the grounds that it was commercially sensitive (section 43).

The Tribunal analysed all the information contained in the evaluation forms. It ruled that section 43 was not engaged either as prejudicing the bidders' commercial interests or those of the COI. It noted that the forms were not an assessment of the bidders' performance or the quality of their work. They did not contain what might properly be regarded as commercially sensitive information. For example, they contained almost no price information or financial data except for limited references to turnover

in the "Comments and Notes" section. Such information would, in any event, be publicly available from sources such as Companies House.

The key part of the evaluation form simply contained a score for each bidder, against certain criteria. A number of these criteria were clearly specific to the COI. There was no evidence before the Tribunal that as far as reprographic suppliers were concerned, the COI's criteria were likely to be the same or similar to other buyers of such services such that any negative assessment by the COI would have the prejudicial effect that was

[Continued on page 5](#)

Freedom of information

Bonuses... [continued from page 3](#)

decision under FOI (Department for Transport (24/09/2009)) involved a request for information relating to the exact salaries and latest bonuses of each chief executive of an agency of the DfT and for the permanent secretary. The DfT explained that some of the information requested was publicly available. The 2007-2008 annual reports of the DfT and the relevant agencies contain salary information relating to the individuals concerned within a £5,000

band. It applied the section 40(2) exemption to withhold the information relating to the exact salaries and bonuses of the individuals concerned.

The Commissioner agreed with this approach. He ruled that since in this case overall salaries, which include bonus payments if made, have been provided to the complainant within a £5,000 band, this provides the public with an overall picture of the amount of public money being spent and gives them an opportunity to scrutinise the decision. Disclosure of the precise salaries and bonuses would invade the privacy of the subjects, which could not be justified.



Freedom of information

contracts... continued from page 4

claimed. The Tribunal also took account of the fact that as at the date of the request, the disputed information was already two years old and the information on the basis of which the applicants were assessed (e.g. size of company and client list)

may well have changed.

The Tribunal also noted the existence of the FOIA (Civil Procurement) Policy and Guidance document published by the Office of Government Commerce relating to requests for civil procurement under FOIA (see www.ogc.gov.uk). Whilst this is not legally binding, the Tribunal noted that its decision was consistent with the guidance which the COI had failed to follow. ■

Freedom of information

Section 15, Audit Commission Act 1998

FOI is not the only piece of legislation giving access to official information. Section 15 of the Audit Commission Act 1998 gives a right to “any persons interested” (e.g. local council tax payers) to inspect the accounts of a local authority, as well as other named organisations, e.g. the NHS, at the time of the annual audit for a limited period of 20 working days. This right extends to all books, deeds, contracts, bills, vouchers and receipts “relating to” the accounts as well as allowing the taking of copies of all or any part of the accounts and those other documents. It goes considerably beyond FOI, mainly because it is not subject to any commercial confidentiality exemptions.

Section 15 came under judicial scrutiny in a recent High Court case. In *Veolia*

ES Nottinghamshire Ltd v Nottinghamshire County Council and Shlomo Dower and Audit Commission [2009] EWHC 2382, Veolia brought an action for judicial review asking the High Court to block the council’s decision to release details of its multi-million pound waste management contract, as well as invoices paid by the council. This followed a request by a local waste campaigner under the Audit Commission Act.

Veolia argued that inspection should not be permitted as the contract and the invoices did not relate to the council’s accounts. Mr Justice Cranston rejected this argument and ruled that the words “relating to” (in section 15) were sufficiently flexible to accommodate the documents in question. His conclusion took account of the fact that the function of section 15 is

to enable interested persons to inspect documents that reveal precisely how the council is spending public money. Such a function would obviously be frustrated if various contracts and invoices under which the council made payments to third parties were excluded from the right to inspect. Veolia also argued that a wide interpretation of section 15 would lead to confidential information in the contract and invoices being disclosed. The judge ruled that commercial confidentiality was not relevant under section 15, which only contained an exception for personal information.

Ibrahim will be considering all the latest decisions on FOI and access to commercially sensitive information in his forthcoming workshop: www.actnow.org.uk/courses/356 ■



Freedom of information

Access to information in the Model Publication Scheme

By now all public authorities should have adopted the Information Commissioner's model publication scheme for their sector. It is important to stress to staff dealing with FOI requests that information contained in the scheme should normally be disclosed as a matter of course if it is requested.

In a Commissioner decision involving Backwell Parish Council (FS50208722 02/09/2009) the complainant made a request for

copies of bank statements for a four month period. The Commissioner agreed with the council that disclosure of some of the statements would identify individuals who had been party to the settlement of an Employment Tribunal claim and so was exempt under section 40 of the Act (being third party personal data).

The Council's bank statements were though listed within its publication scheme at the time of the request. The Commissioner's

view was that it is possible for there to be exempt information contained within a class of information listed in an authority's publication scheme. However, in this case, by initially refusing to disclose the information in response to a request, even in redacted form (deleting the personal information), the Council failed to fulfill its commitment to publish information in accordance with its scheme, and accordingly breached section 19(1) (b) of the Act. ■

Freedom of information

EIR & CON29 searches, confusion, new workshop

The Environmental Information Regulations 2004 are proving as popular as FOI for those seeking recorded information from, among others, local authorities, utilities, government departments and waste management companies. Personal Search Agents in particular have been using them with determination. Following the new guidance from the ICO, this will only continue. See:

▶ <http://tinyurl.com/mthyz8>

The definition of "environmental information" is very wide, so the effect of the regulations will fall across the whole

organisation. This course will take delegates through the regulations in detail as well as examine the link with other legislation such as the Freedom of Information Act 2000. The latest guidance from DEFRA and decisions from the Information Commissioner and Information Tribunal will also be discussed. This course is suitable for those seeking an update as well as absolute beginners. Full details:

▶ <http://tinyurl.com/ydc6u2a>

Our EIR Watch newsletter is also available to download from the front page of our website. ■



Freedom of information

FOI, DP 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 1,500 teachers and school staff. The feedback has been very positive. These are now a half day briefing for senior management.

For more details see web page:

▶ 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. ■

Freedom of information

Regional news

Extension of FOI in Scotland?

On 8 December 2009 the Scottish government announced that it plans to consult on whether the Freedom of Information (Scotland) Act should be extended to the following bodies:

- Contractors who build and maintain hospitals
- Contractors who build and maintain schools
- Contractors who run privately managed prisons and provide prisoner escort and court custody services
- Contractors who operate and maintain trunk roads under private finance contracts
- The Glasgow Housing

Association

- The Association of Chief Police Officers in Scotland and
- Bodies used by local authorities to provide leisure, culture and sport services.

A report containing the Scottish government's response to the earlier discussion paper on the subject has also been published:

▶ <http://tinyurl.com/yjwwmkc>

There are comments on this from the Scottish Government in a news release:

▶ <http://tinyurl.com/yjr8xtm>

and a Scottish Commissioner press release:

▶ <http://tinyurl.com/yekyj2h>

You can also see the

Freedom of Information

FOI helpline

Act Now training has also just launched an FOI helpline service. This is designed to supplement your internal FOI expertise by acting as a "sounding board" or "signpost service" for you to discuss your FOI/EIR requests and possible responses.

Through the helpline I will be available to guide you through the relevant area of law, discuss possible exemptions and how to deal with any complaints.

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

▶ www.actnow.org.uk ■

Scottish Commissioner's Newsletter at

▶ <http://tinyurl.com/y99slhl>

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

▶ www.actnow.org.uk/courses/city_Edinburgh

We will also be running the ISEB Data Protection and Freedom of Information Courses in Edinburgh in summer 2010. ■



Data protection

New powers for ICO

The Ministry of Justice has sought views on proposals to allow the ICO to impose a maximum civil penalty of £500,000 for serious breaches of the DPA. Draft guidance on the circumstances in which such

a penalty could be imposed has been published by the ICO:

► <http://tinyurl.com/ybwjhgk>

The deadline for responses was 21 December 2010. We are expecting a final outcome before Easter. ■

Data protection

New information security course

The number of incidents of loss or theft of personal data has risen to an “unacceptable” level in the past year, the privacy watchdog has warned.

The Information Commissioner’s Office (ICO) said NHS hospitals holding private medical records were among the worst offenders. In total, 434 organisations reported data security breaches in the past 12 months, up from 277 the year before:

► <http://tinyurl.com/ylc6og4>

One of the central government responses to these data breaches is to align its security activity with ISO27001 more fully and reframe its Security Policy.

Our new course will look at what that means in practice and how it affects the wider public sector, introducing the Seven Principles of the HMG SPF and aligning them with current information security, assurance and governance trends and requirements.

This revised workshop is facilitated by legal and information security expert (Andrea Simmons) 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

Data protection

School vetting



Rules requiring about 11 million people working with children to register with a new agency and have criminal records checks are to be watered down. Schools Secretary Ed Balls has accepted recommendations of a review he ordered into the vetting and barring scheme for England, Wales and Northern Ireland. See:

► <http://tinyurl.com/ycbtmsb>

Paul Simpkins will be examining the new rules in our forthcoming half day workshops for schools on data protection:

► www.actnow.org.uk/courses/Schools ■

practical options to prevent loss, damage and destruction of confidential/personal information:

► www.actnow.org.uk/courses/417 ■



Data protection

DNA database

Details of how long profiles of innocent people arrested in England and Wales can be stored on the DNA database are due to be unveiled by ministers.

It comes a year after the European Court of Human Rights said the existing indefinite limit was unfair.

The BBC understands the Home Office is to propose keeping the DNA of innocent people for a maximum of six years. Police say retaining samples has helped solve crimes – but human rights groups say the change does not go far enough.

► http://news.bbc.co.uk/1/hi/uk_politics/8353824.stm ■

Data protection

DP made me do it!

One for the “Data Protection Made Me Do It” file:

► <http://tinyurl.com/yj5uzgr>

A spokesperson for the ICO said: “We were surprised to hear this report. This is what we call a data protection duck out. The Data Protection Act does not prevent a parcel from being delivered to a nine-day-old baby. The Act plays a very important role in protecting our personal information and sometimes organisations unfortunately misunderstand the law or simply use data protection as a duck out.

Another commissioner conference is in prospect for March 2010 in Manchester. It’s free and there is quite a good programme. Food was rather good as well and there were 300 delegates last year. Register your interest now:

► <http://tinyurl.com/y9xo9q5> ■

Data protection

Friendly DP helpline



The Act Now DP Helpline is designed to supplement your internal expertise by acting as a friendly advisor for you to discuss your data protection and privacy

issues with and avoid attracting the attention of the Information Commissioner. Our experts will guide you through the relevant sections of the Act and make recommendations about your response to difficult DP situations. Public authorities are increasingly receiving complex and time consuming data protection requests. These involve consideration of a number of data protection exemptions as well as relevant Information Commissioner and Information Tribunal decisions. Internal legal departments are often over-stretched and dedicated data protection practitioners are hard to recruit. External legal advice in this area is very expensive and there are very few experts in this field with real experience of advising the public sector.

Information and subscription details:

► www.actnow.org.uk/content/25 ■



Data protection

DVLA: new rules on release of data

On 17 August, new rules called Consent by Assurance were implemented by the DVLA relating to the release of relevant medical information for patients applying for driving licences.

The BMA has given agreement that the DVLA no longer needs to provide the patient's written consent for access to the relevant parts of their records for the purposes of being granted a driving licence. The documents explain the

new rules to GPs and to driving licence applicants.



This agreement might generate concerns among GPs about patient confidentiality.

The GMC website, at <http://tinyurl.com/y9en79b>,

has a FAQ supplement to their confidentiality guidance and one query advises that doctors should: "obtain, or have seen, written consent to the disclosure from the patient or a person properly authorised to act on the patient's behalf. You may, however, accept written assurances from an officer

of a government department that the patient's written consent has been given."

The BMA has taken legal advice about a system of accepting such assurances from a government department and received written assurances from the DVLA, in the form of a written legal indemnity.

There's a lot more than just disclosure to the DVLA in here, including new confidentiality guidance on electronic health records, sharing information with patients' families and disclosures for research and other secondary uses. There are also supplementary guides on reporting gunshot and knife wounds, responding to criticism in the press and reporting concerns to the DVLA. See:

<http://tinyurl.com/yextmnh> ■

Data protection

PVP versus VWM

Some brilliant TLA's here but old hands will know what they mean. Think of this scenario in the workplace, at school, etc. You make a comment or perform an action that might upset someone with the capacity to get you on a list of violent people and then a notice is sent out to several dozen places that you actually are a potentially violent person

who should not be alone with others, and then your life changes. It's very difficult to pilot through your organisation a list of violent people but the Commissioner has guidance on his website. This story, however, seems to take it to extremes.

<http://tinyurl.com/n38gnt>

The text gets confused half way through but I'm sure readers can cope. ■



Data protection

European issues

The Civil Society Madrid Privacy Declaration

Done in Madrid in November 2009 this sets out some lofty ambitions in the area of personal privacy and data protection.

There's lots of reaffirming and reminding and some notable British contributors are there but we're not sure how it will develop.

See:

<http://thepublicvoice.org/madrid-declaration>

New law?

Viviane Reding, the European Commissioner who for the past five years has championed consumer rights in the telecommunications and IT arenas, has been picked to take charge of a re-write of the European Union's 15-year-old data protection laws due to start next year. Not sure how long this will take or how much it will take into account of the *Durant* issues.

See:

<http://tinyurl.com/yzesyl9>

Data protection

Zip, block, flag!

Children aged five-plus will be taught to "zip it, block it and flag it" under a new code for internet safety to be taught in every primary school in England.

For the first time, web safety skills will be a compulsory part of the curriculum to help tackle the problem of cyber-bullying and online grooming by paedophiles.

The plans, launched by the Prime Minister in London today, come after a major review of online safety by the child psychologist Tanya Byron and were drawn up by the UK Council for Child Internet Safety.

<http://tinyurl.com/yze6edw>

Data protection

ICO guidance on Electoral Register

A colleague in the local government sector wrote to the ICO recently seeking guidance on use of the electoral roll. Here's the answer, which may prove useful.

Dear xxxxxxxx,

type of query falls within our remit.

Re: Full Electoral Register Use

I write further to your email to Jonathan Bamford, dated 19 November 2009, in relation to the above matter.

You have asked us for clarification on our position in relation to the use of the full electoral register dataset for the purpose of creating a "golden-record" for all citizens within the borough of xxxxxxxxxxxxxxxxx.

We understand that you have

Mr Bamford has forwarded your correspondence to the Data Protection Practice – Public Sector team for a response, as this

continued on page 12



Data protection

ICO guidance... continued from page 11

previously corresponded with the Electoral Commission with regards to your proposals and that your interpretation of the associated legislation differs from theirs.

The key issue, as we understand it, relates to the identity of the data controller for the data contained within the full electoral register.

According to our Notifications Register there is a separate entry for the Electoral Registrar of xxxxxxxxxxxxxxxx Council. Therefore, we would suggest that they would be a data controller in their own right. We would therefore consider that it is for the Electoral Registrar to make decisions about how Electoral Roll data is used and with whom it is shared, subject to the relevant legislation.

In order to provide some background to how this positioned was reached it may be useful for you to consider the following documents:

- ▶ <http://tinyurl.com/y9vx6cf> and
- ▶ <http://tinyurl.com/yefeayj>

These documents outline what the Electoral Registrar is required to consider before releasing data from the electoral register.

The latter is a guidance document for Electoral Registrars which outlines who can

be supplied with full copies of the register. Section 4.32 states:

“A councillor or employee of the council who has a register may only supply a copy of the register or disclose or make use of information contained in it that is not contained in the edited register for the discharge of a statutory function of the council or any other local authority relating to security, law enforcement and crime prevention.”

Our interpretation would, therefore, be that the disclosure of the full register for the purposes outlined in your email would be unlikely to fall

within this description.

Ultimately it will be for the Electoral Commission to decide whether to release the full electoral register for these purposes.

I trust that this adequately outlines our position on this matter. Should you have any queries, or should you require any clarification on any aspect of this response, please do not hesitate to contact us.

Kind regards,

Liam Duncan
Data Protection Practice – Public Sector ■





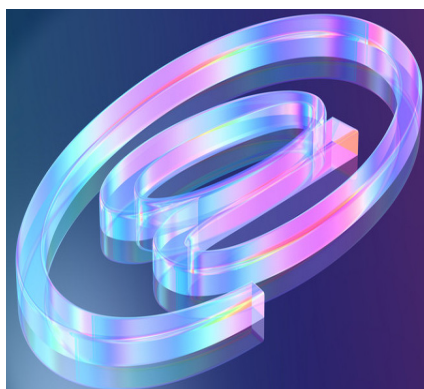
Data protection

Give individuals more privacy choices online: Commissioner

In December the Information Commissioner's Office (ICO) launched an online consultation on a new draft code of practice which will provide organisations with a practical and common sense approach to protecting individuals' privacy online. The new draft guidance explains how the law applies and calls on organisations to give people the right degree of choice and control over their personal information, for instance by giving them clear privacy choices or making it easier for people to erase their personal information at the end of a browsing session.

In his speech to delegates at the Personal Information Online conference in Manchester, Christopher Graham, Information Commissioner, will say: "The internet plays a huge role in our everyday lives as we do more of our business online than ever before. Customers can always vote with their feet and punish organisations that they feel have let them down – which serves as a very real reminder that getting privacy online

wrong is a risky game to play. People should have control over what happens to their personal information online, whether it's correcting inaccuracies, deleting profiles or choosing the privacy settings that suit them."



The draft guidance helps organisations comply with the law and provides a common sense approach to collecting personal information online, including when to collect information and when not to.

Iain Bourne, Head of Data Protection Projects, said: "Collecting information about people in the proper way, including making them fully aware of what will happen to their personal information and how they can access it and keep it accurate, lies at the heart of good privacy protection.

The draft code of practice explains a difficult area of the law and provides practical advice on a range of on-line privacy issues. It urges organisations to do more to explain what they do with the information they collect about people and to make sure they use it in line with individuals' wishes."

The code gives practical advice about areas like cloud computing, where in reality organisations may not know the location of information they are responsible for. It also calls on organisations to use the technology available to them to give people better rights, for example real-time access to personal information where this is possible.

The consultation begins on 9 December 2009 and ends on 5 March 2010.

For further information on the consultation, including responding, please visit: www.ico.gov.uk

Example guidance from Personal Information Online code of practice

If you intend to collect information that identifies an

Continued on page 14



Data protection

Facebook privacy - a scary story

Facebook has changed its privacy scheme. Simply checking it when we first log in is not adequate. It needs to be rechecked and given some thought in a quiet time.

This article is interesting and almost relevant and is almost scare tactics:

► <http://tinyurl.com/y8g5cze>

Some may have seen this on a bulletin board but as our newsletter reaches over 6,000 it's worth wider publication.

The author is Karen McCullagh, a lecturer at Salford Law school who with her students put together a presentation about the perils of Facebook and the wider issue of personal data

on social networking sites and how personal data can come back to bite you decades later. It's a PDF with clickable links. Happy New Year.

Resolve to protect your privacy in 2010

It's the time of year when we make resolutions to change our lives for the better. Read on for a New Year resolution which takes minimal effort to achieve but will have long lasting benefits for your private life!

If you are a Facebook user, I suggest you view this presentation and resolve to protect your privacy by following these practical steps

to maximise your privacy settings. A few clicks are all that is required.

Karen McCullagh,
Salford Law School.

► <http://tinyurl.com/y9e3kbg> ■

Data protection

County hall worker suspended after data leak

A county hall employee has been suspended from duty after being arrested as part of a police investigation into allegations that she leaked sensitive information about vulnerable people.

The woman was interviewed by officers from a Norfolk police unit which specialises in the protection of vulnerable children and adults following her arrest on 23 December.

A police spokesman confirmed the woman has now been released on bail pending further inquiries. The 51-year-old is suspected of offences under the Data Protection Act. Read the full story at:

► <http://tinyurl.com/yacmmmh> ■

Give individuals more privacy choices... [from page 13](#)

individual, you must be able to justify doing so. You can ask yourself the following questions:

- Is it possible to achieve my aims without collecting information that identifies people?
- If not, what sorts of identifiers do I need to collect? Obvious ones, such as names and addresses, or less obvious ones, such as the IP addresses of the devices used to access my site?
- Which data items do I need? For example, do I need to collect individuals' dates of birth or just their contact details? ■



Surveillance law and privacy

RIPA consultation outcome

The Home Office has just announced the outcome of the consultation on RIPA (part 2 – Covert Surveillance):

▶ <http://tinyurl.com/yebbqpz>

▶ <http://tinyurl.com/yb7q64j>

Their proposals include:

- revised codes of practice
- more of a role for

councillors in setting RIPA strategy

- the appointment of a senior officer within organisations to oversee RIPA compliance
- removing the possibility of junior officers authorising surveillance.

Ibrahim Hasan and Sharon Heels will be discussing these proposals in detail in our forthcoming RIPA Update/refresher workshops in Manchester, Edinburgh, Belfast and London.

For more information see:

▶ www.actnow.org.uk/courses ■

Surveillance law and privacy

OSC Procedures and Guidance document

The Chief Surveillance Commissioner, the Rt Hon. Sir Christopher Rose, has issued a Procedures and Guidance document, which explains the role of the Office of Surveillance Commissioners (OSC) and how the Commissioners carry out their statutory functions.

It sets out the views of the Chief Surveillance Commissioner with regard to the notification of authorisations for property interference and intrusive surveillance – neither of which can be used by local authorities – together with guidance on the use of CHIS and directed surveillance.

For the first time this Procedures and Guidance has been made available to all public authorities inspected by the OSC. Previously it has only been available to law enforcement agencies. You can request a copy of the document from the OSC:

▶ oscmalbox@osc.gsi.gov.uk

Ibrahim will be looking at this document in detail in his forthcoming RIPA courses

in Manchester and London. He has also produced a short briefing note:

▶ www.informationlaw.org.uk/page15.htm ■

Surveillance law and privacy

Response out to Rowntree report

The government has responded to the Rowntree report on the surveillance society:

▶ <http://tinyurl.com/yhwhzve>

The *Database state* report was published on 23 March this year and commented on the government's processing of personal information, particularly in a number of government databases and programmes. It's fair to say that the government has rubbished the report! ■



Surveillance law and privacy

RIPA guidance - version 2

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

With this in mind,

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

flowcharts as well.

The guidance is available as a hard copy for £149 plus VAT. You can also buy it in electronic form together (£499 plus VAT) with a perpetual multi-user licence 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

[continued on page 17](#)

Surveillance law and privacy

RIPA/RIPSA Helpline

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

The Act Now RIPA/RIPSA Helpline is designed to supplement your internal surveillance law expertise by acting as a "sounding board" or "signpost service" for you to discuss



your covert surveillance operations. Our experts will guide you through the relevant area of law, discuss possible legal tactics and how to complete the relevant standard Home Office forms. The helpline will be managed by Ibrahim Hasan and Sharon Heels, who are renowned throughout the UK as the leading surveillance law experts.

Please click here for more information and subscription details:

www.actnow.org.uk/content/25



RIPA guidance... continued from page 16

and customise the guidance to suit your organisation's specific surveillance operations.

If you would like to receive a hard copy for inspection, please email me with your name and address. We will then send you a hard copy which you may decide to buy or return within two weeks. If you are constantly having to answer routine

queries about the RIPA forms from client departments, you may wish to let them know about this.

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

▶ <http://tinyurl.com/yjmhjvt>

Ibrahim Hasan can also provide legal advice in this

area. Contact him at:

▶ ih@informationlaw.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 programme please do not hesitate to get in touch. ■

DISCLAIMER

The contents of this newsletter are meant for you to consider on the basis of general discussion and not as advice or expert opinion (legal or otherwise).

You are advised to obtain professional legal advice on specific issues. Any liability (in negligence or otherwise) arising from you acting or refraining from acting on any information contained in this newsletter is excluded.

Copyright

This belongs to Act Now Training and we ask that anyone who wishes to subscribe does so via a form on our website. Your

personal information will only be used for the purposes of sending you this newsletter and information about our training course programme.

Public sector organisations can re-use material within their own organisation if they acknowledge our contribution by linking to
▶ www.actnow.org.uk

ACT NOW TRAINING LTD
64 BRADFORD ROAD
DEWSBURY WF13 2DU
TEL 01924 451054
FAX 01924 451129