

Information Briefing

Update

August 2010

News

Freedom of Information Regulatory Action Policy

The Information Commissioner's Office ("ICO") has recently launched a new Policy setting out the measures public authorities will face if they routinely fail to meet the requirements of the Freedom of Information Act 2000 ("FOIA") or the Environmental Information Regulations 2004 ("EIR").

Organisations will face action from the ICO if they regularly fail to issue a response on time, refuse to disclose information without specifying an exemption, or if they fail to respond to a request altogether. The tougher approach to enforcing the FOIA will ensure individuals get speedier responses from public bodies. The ICO will be making more use of regulatory powers including Enforcement Notices, Undertakings and Practice Recommendations to improve compliance. Where there is evidence that a public authority is regularly or seriously failing to meet its obligations, the ICO will not hesitate to take regulatory action, particularly where organisations fail to respond to requests in a timely manner. The ICO has identified timeliness as a key target for action, in recognition that a quarter (between 20–25%) of FOIA complaints to the ICO relate, at least in part, to the time taken for public bodies to respond to requests.

The Policy is accessible on the following link: [Link](#)

ICO defends privacy interest over benefit crackdown

A spokesperson for the ICO has issued a statement in response to the government's proposal to use information provided by credit reference agencies to combat benefit fraud.

The statement states that the ICO is seeking clarification from the Department of Work and Pensions in relation to the government's proposal to use information provided by credit reference agencies to combat benefit fraud. The statement goes on to make a number of points in respect of the role of privacy policies and the importance of making it clear to members of the public the extent of the information sharing.

To view the statement in full, please see the following [Link](#)

Summary Care Record

The ICO has been involved in discussions with Connecting for Health regarding the roll-out of the Summary Care Record. The ICO has taken the decision that, in future, it will publish the meeting notes of these discussions. These will be viewable, in time, on the ICO's homepage.

Police Sector - FOLLOW UP REPORT

In our April 2010 Information Update, we reported on the ICO's investigation into compliance by the police force with the Model Publication Scheme.

The ICO's follow-up report on this matter can be viewed at the following: [Link](#)

Decision Notices

Case Ref: FS50275058

Public Authority: Neath Port Talbot County Borough Council

Summary: The complainant requested a report prepared by Counsel in relation to the "reorganisation / structure of the West Glamorgan Joint Child Care Legal Service". Following the Commissioner's involvement in the case, the public authority stated that the report was in draft form and intended for later publication. As such, the public authority stated that section 22 of the Act was engaged and that the public interest did not favour disclosure.

The Commissioner found that the public authority did not provide sufficient evidence to support its view that section 22 of the Act was engaged and accordingly ordered disclosure. The Commissioner also found procedural breaches in the way the public authority handled the request.

Case Ref: FS50314236

Public Authority: Isle of Anglesey County Council

Summary: The complainant requested full details of the income of the Chief Executive of the Isle of Anglesey County Council. The Council stated that the individual referred to in the request was its Interim Managing Director and that he was employed by a third party company to whom the Council paid a fee for his services.

The Council stated that the individual concerned was employed directly by the Council in a limited role for which he received a nominal fee. The Council disclosed that fee. The complainant did not accept that the Council did not hold further information about the income of the Interim Managing Director and the Council maintained that it had disclosed all the relevant information it held.

The Commissioner was satisfied that, on the balance of probabilities, the Council did not hold further information but he found procedural breaches in relation to the Council's handling of the request. The Commissioner required no steps to be taken.

Case Ref: FS50263415

Public Authority: North Devon District Council

Summary: The complainant made 18 requests to North Devon District Council on 11 April 2009, and a further request on 19 April 2009. The Council refused to provide the information requested, citing section 14(1) of the Freedom of Information Act 2000 (repeated requests). The Commissioner concluded that it was reasonable for the Council to apply section 14(1) of the Act.

Case Ref: FS50301299

Public Authority: Intellectual Property Office

Summary: The complainant requested information that had been withheld from a specified individual. This related to the way that an earlier request had been handled by the public authority, and the legal advice that was commissioned. The public authority issued a response and explained that it believed that all the relevant recorded information was exempt by virtue of section 42(1) (legal professional privilege) and that the public interest in maintaining that exemption outweighed the public interest in disclosure. The complainant requested an internal review and the public authority upheld its original decision.

The Commissioner determined that the information was covered by legal professional advice privilege and that the public authority was correct that the public interest in maintaining that exemption did outweigh the public interest in disclosure in this case.

The Commissioner therefore found that section 42(1) had been applied correctly and upheld the public authority's position. He required no remedial steps to be taken in this case.

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