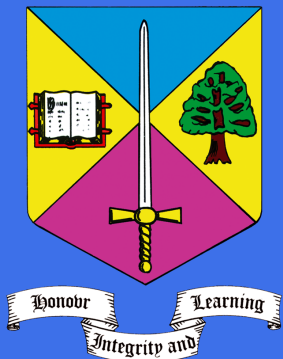


AGM

27 October 2017

London

Make a date in your diary

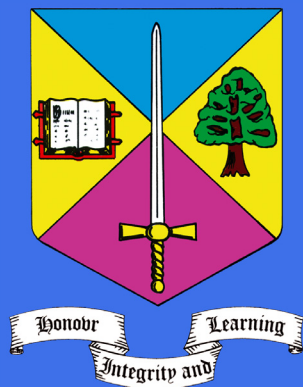


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Annual General Meeting Proposed Article Change

The Board is proposing a change to Article 53 regarding the change of requirements for a Member to be elected to the Board of Governors.

While the final draft change is yet to be properly drafted, the suggestion is that the two-year membership period that is currently required to have been 'served' prior to election to the Board either be completely omitted, or reduced to a period of one completed year (meaning at least a second year's fees have been paid).

If you wish to support or oppose the proposed changes, you will need to vote either in person or by proxy, in accordance with the Articles of Association (available through www.ipi.org.uk) .

That said, there is no prohibition on members making their own proposals to change the articles, provided they are proposed and seconded in accordance with the Articles of Association.

Subscriptions

As you are aware, the IPI's financial year runs April-March even though the AGM is in October. Members are sent membership fee invoices in March, but even now there are some members who have forgotten to pay their dues.

We have to remind you that a failure to pay dues within 6 months of an invoice date will result in an inability to vote at meetings, and suspension of services from the Institute including journal, newsletters and website presence. **And also use of the valued post-nominals FIPI, MIPI and AssocIPI.**

Please submit any outstanding dues as a matter of urgency.

Data Protection Registration

In a recent newsletter, we reminded members about registering with the ICO.

The size of your business dictates the cost but for most members it would be £35. As an indication of what a registration for a PI looks like, here is a direct lift of a suggested directory entry from the ICO website that may provide you with a better indication of what needs to be addressed.

“Private Investigation

Description of processing:

Nature of work – Private investigation

Reasons/purposes for processing information

We process personal information to enable us to provide investigatory services, to maintain our own accounts and records and to support and manage our employees.

Type/classes of information processed

We process information relating to the above reasons/purposes. This information may include: personal details, the investigation brief, results and related information, lifestyle and social circumstances, family details, goods and services, financial details, education and employment details.

We also process sensitive classes of information that may include: physical or mental health details, racial or ethnic origin, trade union membership, religious or other beliefs .

Who the information is processed about

We process personal information about: customers and clients, witnesses, the subjects of investigations, business contacts, advisers and other professional experts, suppliers, employees.

Who the information may be shared with

We sometimes need to share the personal information we process with the individual themselves and also with other organisations. Where this is necessary we are required to comply with all aspects of the Data Protection Act (DPA). What follows is a description of the types of organisations we may need to share some of the personal information we process with for one or more reasons. (Examples)

Where necessary or required we share information with:

financial organisations, credit reference, debt collection and tracing agencies, police forces, private investigators, government, business associates and other professional bodies and advisers, suppliers current, past or prospective employers, education and examining bodies, family, associates or representatives of the person whose personal data we are processing.

Transferring information overseas

We do not transfer any personal information outside the European Economic Area (EEA)."



As an indication of what a registration for a PI looks like, here is a direct lift of a suggested directory entry

Data Protection Fines – are they fair?

In a recent Newsletter, I reported and opined on the case of Boomerang Video, who had been fined £60,000 by the ICO. (Incidentally, the usual blackmail was attached that if they paid asap they need only pay £48,000).

The case was that BV had used a third party to create a website through which clients could rent video. To quote the ICO, it was unfortunate that the website created by the said third party contained a 'coding error' **which BV did not know about.**

To quote further, *"On 5 December 2014, an attacker exploited this vulnerability by using SQL injection to gain access to usernames and password hashes for the WordPress section of the site. One password was shown to be a simple dictionary word based on the company's name. The attacker then uploaded a malicious web shell onto the web server to further compromise the system and gain access to the personal data of individuals stored within.*

On 30 December 2014, the attacker was able to query the customer database and download text files containing 26,331 cardholder details (including name, address, primary account number, expiry date and security code). Although part of the primary account numbers were stored unencrypted, the attacker was able to gain access to the decryption key with ease, using information in configuration files on the web

server. Industry guidelines prohibit the storage of the security code after payment authorisation."

I wrote in the newsletter.

"I consider myself to be a responsible individual as, I suspect, do most business owners. Reading the judgment of the ICO in this case, I continue to question why data controllers are so heavily fined – to the point of bankruptcy, possibly – when they are victims of a crime? In this case, one of the company's failings was failure to ensure "that the personal data stored on the customer database could not be accessed by an attacker performing an SQL injection attack." Is it reasonable to expect a company – who in this case had engaged a computer company to design the hacked system – to even know what that means so that they can ensure it happens?

Imagine suggesting a rape victim was 'dressed provocatively', which is something in their control. That's bad enough, but imagine blaming the victim for not researching crime statistics for the area they were attacked, for example. We seem to live in a



We do not, as a rule, blame victims for being victims, except when it comes to data protection.

continued ►

world – and I know this from work – where the mere existence of a computer means we are expected to know how it works, and can type. So it's our fault, all the time. IMO.”

A member – an expert in the field of data security - replied that my logic was flawed, a perfectly valid observation to some degree. Yes, data should be protected. But there is, in my opinion, a world of difference between a multi-billion business with access to all the bells and whistles of cybersecurity, and a SME whose business is flogging videos. The one has professional-level expertise – the other could be a start-up. The one has large profit margins and OPM (other people's money), the other has start-up funds and waits thereafter to be paid. The one can be arguably said to either understand cybersecurity or pay for quality consultancies, the other has to rely on who they can afford. But in either case, they have been attacked and they are being punished for it. More heavily than if they walked up to a client and punched him in the face.

Hence my analogy of the rape victim, which may have been injudicious but makes the point quickly. We do not, as a rule, blame victims for being victims, except when it comes to data protection. We may question someone who left a door open or their keys in a car and there may be insurance consequences that mean they aren't compensated, but we don't slam them with a hefty fine, the size of which conveniently helps maintain the victim bashers' existence. Which was my point. The punishment should fit the crime and the greater the access to

**Hence my analogy of the rape victim,
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cybersecurity, the greater the fine should be. And the smaller the business attacked, the greater the understanding should be.

All that said, when I debated with Lord Leveson the pointlessness of increasing DP offence sentences when we routinely caution car thieves, he didn't agree, either...

BSI

The British Standards Institute is preparing to review the BSI 10200-2013 and invitations have been sent to various parties, including those who were on the original panel, with a view to carrying out that work. A panel meeting has been scheduled for the 20th of October, and any member who is a member of another investigation organisation or relevant professional body is invited to contact the Deputy Principal ondavidpalmer@ipi.org.uk so that their name can be put forward. Space is limited to 20 people.

The intention is that the current standard should be adapted, and possibly slightly extended, to better represent the variety of investigative disciplines that exist. Naturally, an update will be available at the Annual General Meeting.

Please note that while BSI does occasionally feed their guests, there is no funding and attendance is on a purely voluntary basis.



Fellowship

At the time of writing we are pleased to announce that there are TWO ongoing Fellowship Thesis submissions, a situation that confirms Fellowship of your Institute is still desirable to professional investigators. However, we are still asked questions about submissions, so we thought we'd assist by reprinting the requirements in the Journal.

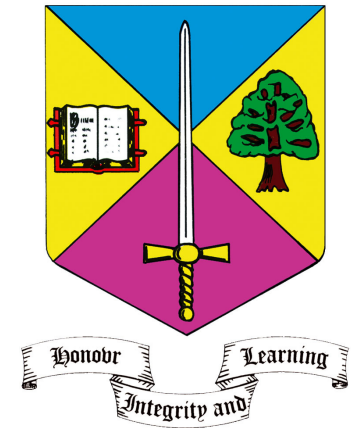
The rules for a thesis submission are contained within Bye Law 10, which states:

RULES FOR EXAMINATION OF SUBMITTED THESIS.

- i. The applicant must first submit to the Institute a title synopsis of his subject consisting of not more than one hundred words
- ii. The applicant must then be informed by the Chairman of the Examination Panel as to the subject's suitability for examination
- iii. A thesis shall consist of at least eight thousand words on a subject designated by the applicant and accepted by the Board of Governors.
- iv. Once prepared it should be submitted in triplicate to the Institute and passed to the Thesis Panel. After reading the same the Thesis Panel will decide whether it is acceptable and, if so, may then have it read by the author at an Institute training session or seminar at which time he may be questioned respecting its contents.
- v. The Thesis and recommendation of the Thesis Panel shall then be passed to the Board of

Governors who shall, if satisfied as to its content and presentation, award a Fellowship to the applicant.

- vi. After submission of the Thesis the author must assign all copyright in that document to the Institute except with the specific exemption permitted by the Board in respect of works to thesis standard required of Members in their normal employment.
- vii. The subject must be relevant to the investigation profession.
- viii. The Thesis must be the original work of the applicant.
- ix. The applicant must have the ability to identify the problems and study them carefully.
- x. The applicant must show resourcefulness and query relevant information.
- xi. Must have the ability to draw conclusions, which follow the facts and make practical and legitimate recommendations.
- xii. In depth of study and extent of student's utilisation of the material.
- xiii. The form and written presentation must be set



**We are not looking for a doctoral thesis.
We are looking for an analysis, explanation
and professional level explanation of an
investigation subject**

continued ►

out in a clear and unambiguous manner, following clear lines of thought and in a professional manner.

xiv. A full bibliography must be shown.

In practice, and given that this Bye Law was set in 1976, some requirements have been relaxed – for example, we have agreed that a PDF submission is acceptable although we would also require a Word version. The Thesis Chair (David Palmer) will decide whether the submitted subject is approved, and he will identify two other markers to assess the thesis, who will, in turn, make recommendations to the Board for Fellowship award. The copyright issue is not absolute – if the applicant wants to retain copyright it can be shared between them and the Institute.

We are not looking for a doctoral thesis. We are looking for an analysis, explanation and professional (managerial) level explanation of an investigation subject. We suggest that an applicant writes about what s/he knows, to the highest level he or she can achieve. There must be evidence that some kind of research has taken place – even when you ‘know what you know’ you must have learned it somewhere. The references need not be Harvard references or footnotes, but it must be made clear what they are – e.g. ‘In Palmer’s book Tracing, it is stated that.....’.

One word of warning: Plagiarism isn’t ethical, it isn’t nice and it isn’t clever. Given the nature of our Institute, it is sad to report that one submission received was found to be plagiarised to the point at

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which we wanted to award Fellowships to several American lawyers whose work was submitted under the applicant’s name. (Said applicant quietly retired from the Institute....) You can use other people’s quotes PROVIDED they are referenced and expanded upon with your own interpretation and critique.

If there are any further questions in your mind, please email the Deputy Principal at davidpalmer@ipi.org.uk and he will assist.

Process serving – Having a Good Date

There has recently been a decision in the Court of Appeal, more fully reported in “Insight” magazine, the excellent publication of the Institute of Rating, Revenues and Valuation which, for anyone interested in credit management, debt collection and Bailiff work, or even benefits, is always a publication worth reading.

Whilst, obviously, mainly centred on the service of necessary Notices in Rating cases, the facts of UKI (Kingsway)Ltd v Westminster City Council [2017] could be, and if scheming defence lawyers have their way, will be, applied in the wider context. Simply put, if commercial premises are subject to serious building works, they are exempt from Rates. However, eventually, there comes a time when enough is enough, and Councils can say “time to pay” by means of serving the relevant Statutory Notice. The terms are very much on all fours with some process we serve, Statutory demands for instance, in requiring precision in the date of service. So, the Managing Agents were asked who owned the building, and declined to answer. (Why, eludes me. If ever an Estate Agent needed taking into the locker room for a good old style “explanation “there it is. I suspect readers will have other examples!) The Council’s people went to the premises and served the Notice on a Receptionist working for yet another Company, which appears to have been the physical “Managers” of the building. (The different Companies, to me, would sound awfully like someone “dodgy”, but I’m old fashioned.)

The upshot was that, although admitted that the receptionist scanned it to E mail and forwarded it,

if commercial premises are subject to serious building works, they are exempt from Rates.

However, eventually, there comes a time when enough is enough, and Councils can say “time to pay”

a Tribunal decided it had not been properly served. The property could not be put back into the Rating List, and, at London prices, the Council was short of its money. They appealed, rightly, to what was, in my day (I clerked a member for a few months there, when I was young) the Lands Tribunal, who very



sensibly applied logic. The owners admitted they’d got the E mail, they had to, after all, they’d argued the case in the lower Tribunal. Therefore, pedantic nonsense aside, they’d had Notice, had argued the point, had their say and their day, logic applies. This is very much on the lines of the CPR, when service arguments are raised, did the Defendant have a case anyway, or is this just a delaying device? District Judges have been robust, nowadays, in applying logic to this question. Gone are the days when failure to serve was sufficient to re start the proceedings.

However, showing that they have more money to spend on Lawyers than pay their due taxes, the Claimants beat a path up to the Court of Appeal. There, of course, the liberal establishment and woolly thinking elite, pointed out that, as only so many days are allowed to reply (you’d think that applied in CPR cases, too, wouldn’t you?) the exact date of service was needed, and the poor little receptionist didn’t count as able to be served.

Of course, our Members serve documents properly on the person sought, we may have used the Land Registry to identify the owners, perhaps the ‘belt and

continued ►

braces' approach would have avoided this whole case. However, we are not a large Council, having to churn out, literally, thousands of pieces of paper yearly to people including those dodging and diving. Westminster, especially, must be a nightmare. Also, we would track down the owner for the appropriate fees, which, if a big Council was instructing us on the job, would soon be a talking point in expense. Even at minimal prices, it's arguably not cost effective for an Authority. To use people like us for those where the Officers are on notice of difficulty, (such as with the above Estate Agents not being able to say who the owner was, I bet if they were owed a Bill themselves, they'd know quickly enough!) might be an idea. Even then, however, Councillors would have to be convinced in each case that Public money was properly spent in paying for Investigators.

Overall, a sad story, not least, as I say, because there will no doubt be a queue of sharp suited "M'Learned friends" wanting to refer Judges to the wise (?) words of the Court of Appeal. Any substituted service, for instance, ought now (it always ought, but now seriously more than ever) to be very clear on deemed date of service. The application must include that the Court order deems service three clear days (for instance, to give all the snivellers the impression we're being fair to the poor old defendant) after delivery and measures further, such as petitioning for Bankruptcy/Winding up, must be timetabled accordingly. Again, a sad but true reflection of our age.

Of course, I was a Bailiff of the old school. We

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worked, on NNDR (Business Rates) for the majority of Councils in our County. When receptionists and others were unable to tell us anything, didn't know who paid their wages etc, we just moved the furniture out. You'd be surprised how quickly that brought back remembrance! Also, on a number of occasions, chaps sitting at the back oblivious to us suddenly became the owner when we moved their desks.

I don't hanker for the old days (Mobile phones, brilliant, Computers, I'm using one, recorded Sky TV, love it!) but I do hate the tendency to be shift. These characters were either told by their Agents that the Council wanted to list the building, or they should sack those Agents for not telling them. Bet they knew. They have just clung to any old nonsense to avoid a few weeks (admittedly, probably serious dosh) of paying, and the only losers, as always when games are played with the Public purse, are the honest paying citizens. I bet they didn't waive their rents from Tenants when they moved in! There is, in any event, no such thing as "Public money", it all comes from the hard-working stiff's like us who have to pay it. (Many of our Members, of course, on their Job Pensions!)

However, my big worry, now, is that we'll all get hit with this woolly Judgment (or, rather, lack of judgment.)



Si SMITH FIPI
Secretary-General

(Ps The Company in this case is worth researching at Companies House, if anyone can be bothered!)

The Security Commonwealth

The Institute is represented at the Security Commonwealth by Richard Cumming FIPI, who has provided the following summary of their last meeting.

1. Superintendent Dave Roney of Protect and Prepare Counter Terrorism Policing (was ACPO TAM) gave a very interesting presentation regarding the recent attacks in UK and the rest of Europe and the UK response which obviously also benefits from private sector input.
2. There followed a presentation by Shaun Hipgrove (Head of JSaRC at the Home Office) who explained that his unit acted as an access point to HMG for private sector security suppliers.
3. The OSPA awards (see last issue) will take place at the Royal Lancaster on 1 March 2018 with an afternoon conference followed by the evening awards ceremony.
4. Of more direct relevance, the SIA representative Ed Bateman said that the SIA Review was a year late and still no date for publication and that whilst Regulation of PIs had been supported by several Ministers it was not a priority and anything requiring primary legislation would be delayed until after Brexit (although as we know, such Regulation should not require a new Act of Parliament).
5. All Security Events (<http://allsecurityevents.com/>) is a shared corporate calendar in which members can upload conference dates well in advance to avoid clashes with other organisations.
6. Joe Connell of the ASC (Association of Security Consultants) was elected as the new Chairman.



SIA

Members may not be aware but four months ago the Deputy Principal contacted the SIA through their web portal asking where their 2016 Survey results could be found, and what had happened to the 2017 results. Eventually, he got this response.

"Our records show that you contacted us over three months ago but did not receive a response. We are very sorry that we did not reply."

We hope that you have since had your issue addressed. If you still have questions for us, please contact us again and we will review your enquiry as soon as possible."

It is good to know that while they have no ability – or perhaps intention - to answer a question, they DO have an automatic email facility to acknowledge that omission. Good on them.

Meanwhile – still no survey results published...



The New General Data Protection Regulations

...Gee, thanks.

Readers of the Professional Investigator will know that I am not overly enamoured of the Data Protection Act – or, to be more specific and less right-wing, the hoops through which even the police have to go to convince third parties that it is not a bar to disclosure but a permissive piece of legislation that merely requires that disclosure be justified.

I am bored with having to explain that to those who just use it as an excuse not to do something – ‘Can’t do that – Data Protection’. Always followed that up with ‘are you registered (smile)? Then blackmail.

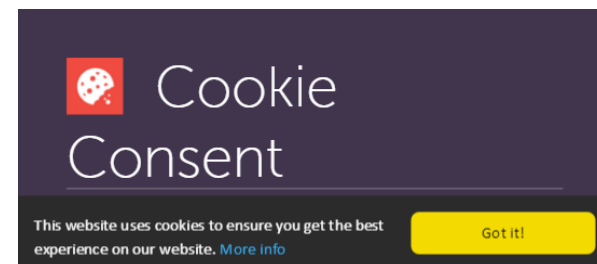
Anyway, despite our forthcoming absence from the bureaucracy that will impose it (and yes, I know we have to agree because etc etc), the EU is now introducing enhanced bars to investigative freedom (except ‘investigative journalists who have a free pass to break laws). Again, I know I am being a bit ultra-conservative.

The new Regs will come into effect in May 2018, 10 or so months before we are freeeeeeee! In order to direct some thinking and hopefully generate some comment for a letters page, here is a summary of my thoughts on what the Daily Telegraph interprets the rules to mean.

1. People will have the right to be forgotten. Criminals, sex offenders (possibly excluded but will that apply to commercial search engines?), fraudsters and other repeat offenders will be able to seek to have their records deleted, thus
2. Personal data will now include IP addresses and cookies, so retention will be harder for commercial interests. Again, well-meant but where does that leave the legitimate interests who have to fight tooth and nail for justice?

Personal data will now include IP addresses and cookies, so retention will be harder for commercial interests.

threatening the finances, safety and security of those of us who do not have access to criminal records – which one hopes will be excluded! (The way this lot think, you never know.) Of course, good old UK wants that to be expanded so that anyone can have their pre-adulthood social media posts deleted. On the one hand I understand, but can’t help wondering if it’s our lawmakers who are concerned about their futures? Start looking for photos of Theresa May in the wheatfield – perhaps she neglected to mention she was naked?



3. Privacy will be assumed, rather than consent. You will have noticed that the consent box for you to be marketed to is always ticked unless you untick it. From 2018 you will have to actively consent. I’m sure that the lawyers and cyber-geeks have already come up with a psychological route to defeat this. But it raises the ‘consent’ question on insurance policies – if PSIA licensing comes in, insurance investigators not employed directly by insurers won’t have the consent defence.
4. Algorithms. Not a Star Trek term after all, it means that instead of being cyber-profiled for health insurance assessments and the like, we can ask to be profiled by a known individual. Hmm – opportunity for professional investigators?

5. Data portability requirements mean we'll be able to move data between 'cloud' companies if we wish. If only we are daft enough to store it on a cloud in the first place. (If wi-fi is hackable, why isn't a cloud?) Does this mean hiding stuff from investigators will be even easier?
6. After anonymization of data, any attempt to 'de-anonymise' data will be a criminal offence, which means security industry attempts to identify if a database suffers from a weakness in that area will commit a criminal offence if they try to find out. Clever.

Of course – and see other articles in this issue – the powers that be will whack up the fines to the point it'll probably be cheaper to kill a target rather than get caught investigating them by computer.

The Telegraph did make one interesting point. It said that the commercial (etc.) organisations that are expected to implement all these wonderful ideas probably won't have the required capacity to do so. Which means the ICO will be wringing her hands with glee at all those fines she can issue. I presume fixed penalty notices will be the next step, save all that investigation.

What do **you** think?

ABI

A recent communication from an IPI member has highlighted a potential concern regarding BSI 102000-2013. As we understand it, an Assessment Body (which goes into BSI applicants' businesses and checks them for compliance) had contacted an applicant; I quote,

"The 102000 states that there must be a course of independent adjudication built into a procedure and could I ask you to confirm what your arrangements are.

I recall, hopefully correctly that you used and had signed up to the FCA complaints process and that your procedure listed the various courses of complaints. I assume, rightly or wrongly that they would be your independent adjudicator.

*I need to ensure this is correct as the Association of British Investigators act as the independent adjudicator for their members and **are raising complaints where Assessing Bodies don't properly address this clause as they see themselves, incorrectly in our opinion, as being the only organisation that can provide this for investigations companies.**"*

In the opinion of the Institute, the ABI is eminently capable of being an independent adjudicator for its membership, but any suggestion that the ABI and only the ABI can be an independent adjudicator for an investigation business can safely and optimistically be said to be, erm, ambitious.

The Institute will be happy to act as a Member's independent adjudicator if they wish to seek BSI status, in accordance with our Memorandum and Articles and Bye-Laws.

Guest column - Frank China

There are so many things to talk about these days aren't there? Brexit of course, everyone thinks it is going bad because nobody has said what is happening; and Terrorism!

Terrorism! Well, we have seen enough of it of late and after every atrocity the call goes out 'we'll not be beaten' and 'they cannot frighten us'. And of course they cannot; but is that what they are trying to do? I don't believe they are, after all they simply cannot believe in their mind that their actions will result in a massive world change. All terrorism is a statement, 'Your are wrong, we are right, and we are so right that we need to tell you in whatever way we can, that you are wrong'. I saw a T-Shirt recently on which it said "I AM NOT ARGUING, I am simply telling you why I am right", and that is exactly, in extreme terms, what the terrorist is doing. Since they cannot have air time, they have to resort to headline making events, even if it means killing themselves. It is hard for we more rational people to understand this; after all, we would never resort to killing oneself simply to make a real statement. So why do they do it?

I don't know, no one does. All I do know is that we will not stop them until we find out how they ended up in that frame of mind. I wish I had the answer, but what we do know is that the current source and nature of terrorism



has originated from one specific religious persuasion; I am trying not to use that emotive word, but in truth that is the start point, so should we be banning that religious faith? Should we be saying enough is enough? In places like Saudi Arabia you cannot build a Christian church, yet in the UK we have fallen over backwards to accommodate all religious faiths. Should that now change? As a Christian you always have to excuse your views - 'well not everyone in that faith is the same'. No of course they are not, but where is the voice of their mass of good guys? Regrettably pretty silent! Until that 'mass of good guys' shows some support for the country in which they are living, and in which many were born, is it not right to have a tough approach to that total mass – hard I know, but what other answer is there until the problem is

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cracked? After all, we are a Christian country and living here one should follow very clear guide lines.

Now back to Brexit. Personally I think things are progressing AOK; who in the right mind is going to show their negotiating hand at this stage? Sure, the pound has dropped, but exports have gone up, other countries are showing a willingness to work with us and the EU, without out hefty funding, looks likely to collapse. Maybe not tomorrow, but the signs are in not too many years time! Germany will be having to fund everyone now, and the question is 'will they be prepared to do so'? Answer that question yourselves, you don't need to be genius to do so.

Every time I put 'pen to paper', I end up with the expression 'the world is in a real mess'. There is no leader, no one who the people can follow and have trust in. Everyone is screaming about Trump, but what did he do? The same as our Nigel, tell it exactly how it is. Globalisation has been the call of every large well established business and that means organisations established to make money

for their shareholders, but people are now saying, 'at the expense of what? Vast salaries are being paid to truly undeserving CEOs, even charity bosses are taking home incredible sums, compassion all gone!

So, 'workers unite'... and then what, probably just starting the circle all over again, but with a different cast. The answer? I wish I knew, but what is certain, each country needs a leader, a true leader with distinct compassion and with an everyday understanding of life. As they appear, we can only hope that the next one is better than the last and that, I expect, is the way it will always be!

The Professional Investigator

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