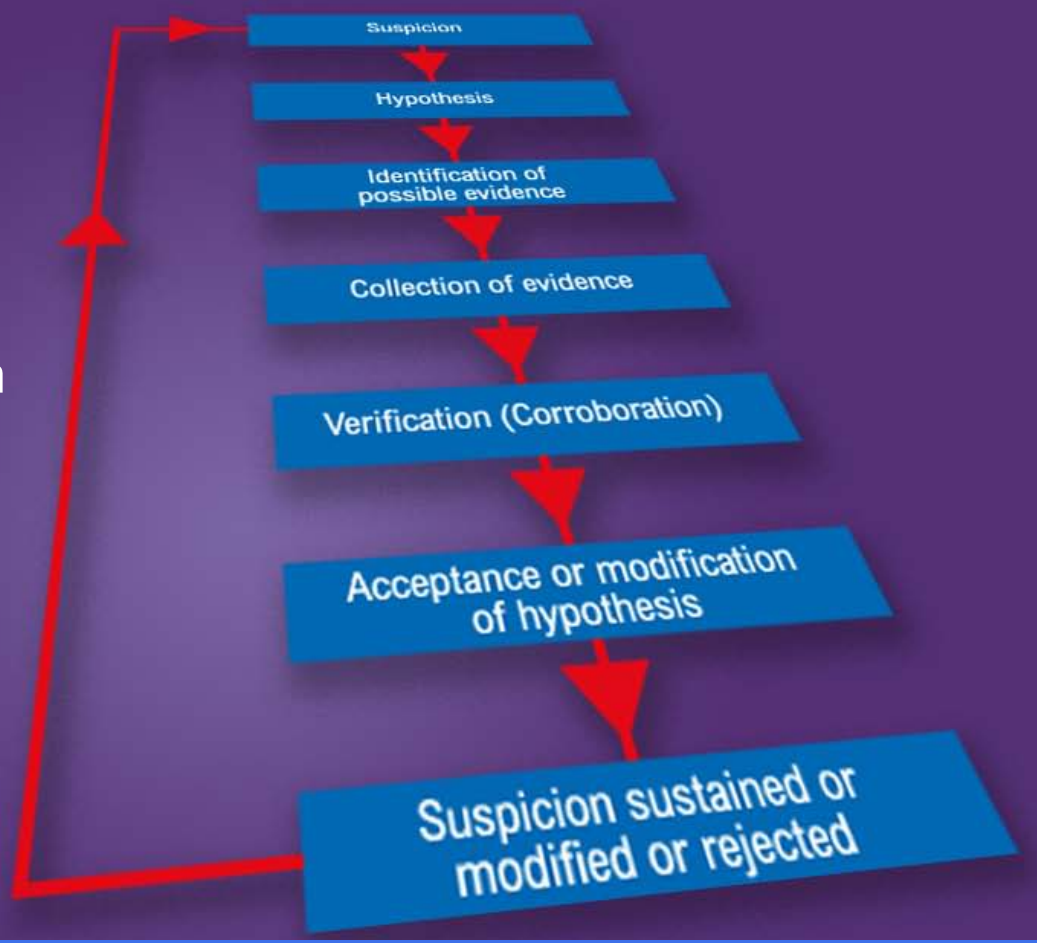
BSI: debating the definition of an investigation



The Professional Investigator

Winter 2017

FULL SCREEN

The Institute of Professional Investigators

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The Board wishes every Member

and their families a

Merry Christmas and a

Happy and Prosperous New Year.

Another year having gone by so

quickly, we hope that our last year's

message came true, as well.

AGM Report

A fairly uneventful annual general meeting took place on the 27th of October 2017, at which our excellent, now Past, Principal James Harrison-Griffiths FIPI handed over the chain of office to our new Principal Brendon Tolan MIPI.

At this event the Articles were changed by unanimous vote. This change has enabled the election of some new, young (and old) talent, whose biographies are included below.

We also had great pleasure in awarding Andrew Duffin FIPI his Fellowship of the Institute of Professional Investigators – well done, Andrew. Andrew's thesis is available on the IPI website (free). We encourage Members to seek Fellowship, and will happily add their theses to the IPI site upon successful examination by the Panel.

After the AGM the remaining participants had a pleasant lunch at the Club, and some new friendships were started. All in all, a typically friendly Institute event was enjoyed by all.

We encourage Members to seek Fellowship, and will happily add their theses to the IPI site upon successful examination by the Panel.

Andrew Duffin FIPI receives his Fellowship certificate from James Harrison-Griffiths.

James' last duty as outgoing Principal was to hand the reins over to our new Principal, Brendan Tolan MIPI.

Thomas Shearing received his IQ Level 3 Award certificate from James Harrison-Griffiths.

New Board Members

At the AGM, four new Board Members were appointed. Without further ceremony, here are their biographies and pictures.

Stephen Langley LLB (Hons) MSc CECI CHIMC HiM.si CFIP MIPI E.C.Dip. (Digital Forensic) MCMI

Stephen is an investigation expert and specialises in corporate investigations, brand protection, intelligence, human trafficking and security investigations. He is also a book series editor for the Centre for Security Failure Studies and maintains a strong network within the EAME region, in particular the UAE and Africa where he advises various Criminology groups.

A highly diligent and accomplished Senior Professional with extensive experience gained within the military and corporate sectors, who brings over 20 years of experience as a successful individual within the international community (having worked at senior global levels within Pinkerton, Caterpillar Inc, The Royal Military Police, G4S, and The UK Home Office). A seasoned practitioner educated to Bachelor of Law with an MSc in Security Management who, during his employment he has supported and co-ordinated global investigations and intelligence teams, other key security personnel and outside vendor networks.

Roy Herridge QPM, MIPI

Roy worked within the Metropolitan Police for 34 years. He retired as a Detective Superintendent, having been engaged in major crime investigations on murders, fraud, robbery, major crime and other serious investigations.

On my retirement h was awarded the Queens Police Medal for distinguished service within the capital, and he also held the largest number of commendations held in the Metropolitan Police at that time Upon his retirement he started an Investigation Company now Surelock (https://surelock.org), later joined by his partner Ronald Harrison ABI, a great asset. We are members of the Anti-Counterfeiting Group (ACG) (https://a-cg.org). The company's Directors and Investigators have all attained the Level 3 award for Professional Investigators (QCF) ahead of the anticipated industry licensing.

Roy has carried out investigations into many large-scale frauds, art thefts and other crimes in the UK, Hong Kong, Thailand, Singapore, Philippines, Switzerland, Pakistan and Panama.

Richard Newman FIPI volunteered to take up the remaining vacant Board position, was duly co-opted, and is welcomed back aboard the Board.

On another note, we express our gratitude for the service of retiring Board members Richard Bradshaw and Richard Lee, who spent several years assisting the Board in their deliberations. Thanks, both.

British Standards Institution

The Institute is chairing the BSI 102000-2013 Review Panel and on the 29th of October the first meeting took place. The intention of the meeting was to welcome new members into the project following the criticisms made a year ago by parties who had not been invited to the original drafting of the Standard and who had concerns over the scope and terminology in the document.

In the event, the panel was joined by a 'human resources' investigator, an SSAIB inspector and an IPI member attending as an independent. Andrew Duffin FIPI (whose Fellowship thesis can be read through the Institute Website's Members Section) was welcomed aboard and contributed some interesting perspectives. Other regulars included Richard Newman, now back on the IPI Board, Tony Imossi for the ABI, Alistair O'Brien for the SIA, and Chris Brogan. I mention Chris last because his input was the most impactive and controversial.

The intention was to scope the challenges of addressing the aforementioned concerns, but in the event the panel pretty much revisited, rephrased and rewrote the entire standard, subject to some input that had to wait.

The original objections to the standard (from October 2016) related to the belief that the Standard was aimed at PIs (even though the expression isn't in it), and that the word 'suspect' was, let's say inappropriate, because it was judgmental.

The decision was made to add a new introduction to the standard which made clear who the Standard was intended to include. This will address the 'PI' problem. This is being drafted by Andrew Duffin FIPI and is yet to be seen. The second was to address

The next bugbear was actually defining the process of investigation so as to distinguish it from (for example) an inspection

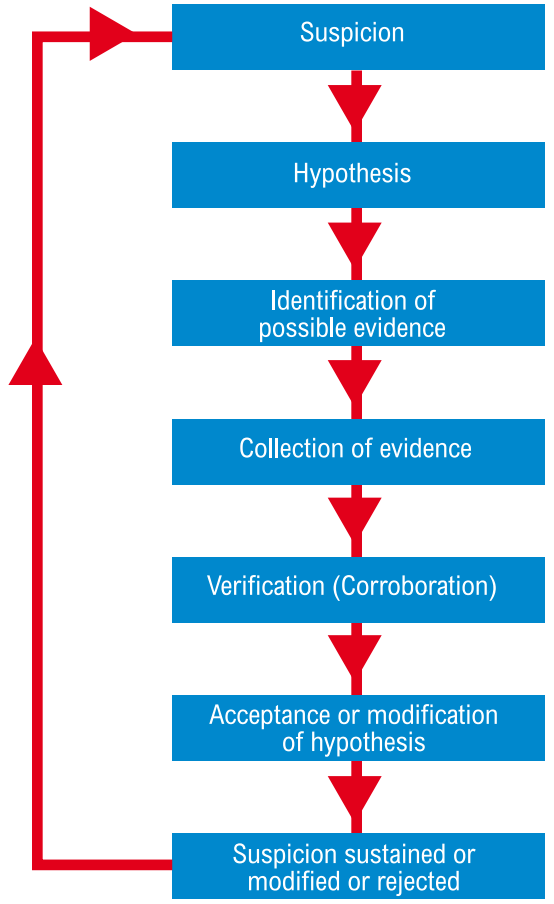
the new 'suspect', and the panel have initially agreed on changing the word to 'guilty party' or 'miscreant'– no, seriously, while that was the consensus we went instead for 'person of interest', who was defined thus:

"any person who is to be interviewed in connection with an investigation and by virtue of the objective of the interview would be entitled to the rights and protection of a legal advisor, friend, appropriate adult or other representative."

We await comment from those who felt this was a concern.

The next bugbear was actually defining the process of investigation so as to distinguish it from (for example) an inspection, and to make plain that regardless of the type of investigation, the terms used and the many specialist areas, the process was fairly standard. The following is the proposed draft, which is an edit from the IPI Manual agreed by Richard Newman

The Inference Cycle. (Fig. 1)



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"An investigation, regardless of type, essentially follows a set process. There are varying practices, legal protocols and restrictions in place that may have an effect on how the process is applied, depending on specialist enquiries, but in essence all investigations follow the following pattern, identified by Hugo Cornwall. It is called the Inference Cycle.

Suspicion. A suspicion, theory, incident, argument or other predicate event occurs that causes an investigation to start. In other words, something happens that causes a person to think 'an investigation is required.' Routinely, this follows a report by the client or informant – that is, something occurs which a client wants investigated. The term 'suspicion' includes actual incidents, and is used because it relates to those incidents which need investigation because the causes, consequences or responsibilities are not clear from the outset.

Hypothesis. The Inference Cycle recognises that in every case, an investigator will begin to theorise as to what has happened and/or who has done something. This is not an obstruction to an objective investigation, merely an acknowledged fact. A hypothesis is not a conclusion – it is an initial assessment. For example, an investigator walks into a room and sees a body wrapped in carpet with a knife in its back. The hypothesis is that a murder has taken place, no more. By inference, the hypothesis that this event is a murder means a murderer exists, but it does not identify a murderer. Very often, an early theory will prove to be correct but the following actions dig deeper into that initial hypothesis and may even change it. Sometimes it will not. Application of the Cycle will either support that theory, or will prove it to be incorrect. But the hypothesis will direct initial, essential investigatory practice – in this case, the establishment of a murder team, the instigation of scene preservation and localised enquiries.

An alternative example may be an accident in the workplace. The accident occurs, and attendance at the scene identifies a ladder on the floor, a scrape mark leading from the ladder to a pool of spoiled oil, and broken materials at the victim's point of landing. The hypothesis is that the ladder was placed in a pool of oil, but whether this is true, who spilled the oil, who placed the ladder and other elements have still to be investigated. The hypothesis merely identifies potential lines of enquiry, but each line may provide new hypotheses.

Identification of possible evidence. Having recognised that a theory exists, the investigator seeks evidence that will either support it, or evidence that will create a new theory. In an investigation, which has to be objective if it is to stand up to scrutiny in a court of law or in commerce, there will be a set process of information and evidence gathering that will achieve that aim.

Verification or corroboration. Discovery of evidence is not complete until the quality of that evidence can be said to be beyond reproach. The normal method of assuring the quality of evidence is to support it by corroboration, but this can also be done statistically, as with DNA analysis, for example. The better the corroboration, the higher the probability that the fact that is to be proved, has been proved.

Acceptance or modification of hypothesis. Having gathered all available evidence, one thing should be known. Was the initial hypothesis correct, or not? If the hypothesis changed as the enquiry developed, is the latest hypothesis correct? Is it proved beyond all reasonable doubt (the criminal standard of proof), beyond the balance of probabilities (the civil standard of proof), or is it proved to be false? It is evident that the hypothesis is not a static concept – it is dynamic and often changes during an investigation.

Suspicion sustained, modified or rejected. The result of the answer to the previous question, which allows the investigator to decide whether sufficient evidence exists to support the original hypothesis, any amended hypotheses, or whether the investigator must return to the beginning.

The Inference Cycle can be applied to individual elements of the investigation, to sections of it, or to the whole investigation process. It is not really necessary that the process be understood, but an understanding of the process and its application in investigation will improve the quality of the investigation process, and its result.

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This Cycle can take seconds – an investigator is told something has happened, goes straight to a CCTV system or accesses records, and obtains the evidence that confirms the suspicion. Or an investigation can take years for procedural, ethical, legal of historical reasons.

The Inference Cycle as Applied to an Investigation

Hopefully this will be accepted as a 'norm' and be included in the new Standard.

Now, controversy. Throughout this Standard, and BS 7858 Security Screening (which is being renamed and reviewed following a further meeting on the 9th of November), there are references to obtaining data about the individual to be employed as (in this case) an investigator or engaged in work that involves access to a secure facility (including data). The Standard promotes obtaining conviction data (which requires consensual disclosure of a certificate obtained by a candidate) and CCJ information. Cue Chris.

Chris, for those who don't know him, is a qualified barrister and an absolute guru in terms of Data Protection law. He knows his stuff. He argued, based on his studies, that enforced consent (i.e. you can't have the job unless you show us your conviction certificate) was not lawful consent, and so data obtained that way was (potentially) not fairly or lawfully obtained as per the First Data Principle. Secondly, as a CCJ was not necessarily evidence of bad character, obtaining it for the purposes of vetting was also against the First Data Principle. This started varying levels of debate which continue to date, and which also made their way to

Stage of Enquiry	Definition	Examples
Suspicion	Result of Initial Call for Service.	1. A caller reports an assault. 2. A road traffic collision has occurred. 3. An employee has disclosed bad practice.
Hypothesis	The Initial Impressions at the Incident Scene, or The Result of Client's Input, or The Result of Initial Witness Input.	1. The caller names the attacker. 2. Road conditions suggest bad driving. 3. A systems check is requested.
Identification of Possible Evidence	Documentary evidence Physical evidence Detailed Witness evidence (as dictated by circumstances of the case).	1. Forensic, CCTV, witnesses identified. 2. Measurements, dash-cam footage, witnesses identified, street plans are created 3. Protocols are checked, witnesses are interviewed.
Collection of Evidence	Taking of statements Gathering and submission of forensic evidence Collection of exhibits Witness Interviews Documentary collection.	1. Witnesses interviewed, wounds photographed, alleged assailant interviewed. 2. Witnesses interviewed, dash-cams footage reviewed, drivers interviewed. 3. Witnesses interviewed, system adherence checked.
Verification	Corroboration Forensic results	1-3. Evidence checked against other evidence to see if they support or contradict. Action taken as arising.
Acceptance or Modification of Hypothesis	Result of analysis of the collected evidence – what does it indicate?	1. Assailant is/isn't guilty. 2. Driver is/isn't liable. 3. System is/isn't being complied with.
Suspicion	Sustained: Prosecute/Claim/Report Modified: Return to Identification or Collection Stage Rejected: Return to Suspicion Stage	1. Prosecution or not. 2. Liable, or not. 3. System is valid, modified or replaced.

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LinkedIn in an effort to seek the views of others.

There was some heated debate, including a volcanic chat with the SIA representative (who sent his apologies for the next BSI meeting!).

My view is this: I believe that Chris is right in one sense, but that the DP Act also 'enables' this data to be sought in another sense. I am not an authority whereas Chris most definitely is, but one thing is definite.

Chris's raising of the question has a very positive result.

There is a tendency for all of us to read something, conclude that we fully understand it, and act on that assumption forever more. This is why I often heard people say, "Can't tell you, data protection." They'd read a bit or been told something wrong, and that coloured their responses thereafter. This is what I call 'annoying'.

There is a 'better way'. When someone challenges your thinking, the reactive start shouting, but the proactive amongst us say, "You see it differently – tell me more." As a result of this more mature approach we review what we 'know', and either we find that we are wrong, or we discover validity in what we thought, a validity which we can now explain with some considered authority. Consequently, I believe now that when we argue that we can obtain the aforementioned data, we can also justify why this is so.

This argument will be resolved by the time the Standard is opened up for public discussion, but the add-on issue is that BS 7858 will be affected to the same degree and in the same way as BSI 102000.

The next panel meeting will take place on the 14th of December.

IPI Member becomes President of the World Association of Detectives

Mike LaCorte MIPI has been honoured by election to Presidency of WAD, having already served as its Vice-President from 2015.

Mike is a director of Conflict International – an intelligence, investigation and security agency based in London, providing professional services in most jurisdictions worldwide.

Conflict International investigates a wide range of cases and their services are regularly retained by companies, high-net-worth individuals and respected law firms. Since Conflict International started in 2008 following a merger, it has grown to become leading specialists in intelligence, investigation and surveillance with a head office in London and branches in New York and more recently a new consultancy arm in Marbella.

Mike has worked in the investigation industry for more than 20 years. His early experience was out in the field gathering intelligence, which proved vital in understanding the process of professionally collating and presenting evidence, which is fully admissible in legal proceedings.

Photo/Text Source: LinkedIn

CIN Autumn Forum Report

On the 16th of November, Board Members Susan Ward, Roy Herridge and David Palmer attended the conference organised in Nottingham. Formerly the 'WAPI Conference' it became the CIN Autumn Forum when WAPI pulled out. Our thanks to Andrew Cole of C-I-N in Caerphilly for organising a well-attended event.

The day opened with input from Tim Young, CEO of The Surveillance Group. Tim provided some valuable input on surveillance from many perspectives, although his absolute reluctance to get involved in vehicle tracking (and all the issues surrounding it) meant that the post-session questions – and debate – were agreeably fractious. Some like it, some don't, and the ICO have been quiet since it was suggested (by us) that restricting their use meant that instead of RIPA controlling state surveillance, it restricted anyone else using surveillance BUT the state. In addition, Tim mentioned the interesting snippet that the FCA is now asking for assurances on data and human rights compliance by any surveillance or investigation team used by insurers, who are of course regulated by the FCA. He also referred to the need for Privacy Impact Assessments to be done prior to starting a surveillance – this is to comply with GDPR and those pesky FCA rules.

Members might be interested in looking up the stated cases Tim mentioned, namely: Kirk v Walton; MIB v Shikell; MIB v Richards, and Dermody v Network Rail.

Next, there was a session on marketing your business. An animated Helen Vandenberghe regaled us with some advice on marketing generic businesses, with input from the floor on applying

L to R: Tarquin Woollard; Chris Booth (ABI); Ibrahim Hussain; Tony Cooke (EPIC); Tony Holyland (SIA); David Palmer (IPI), Tony Smith (WAPI).

Licensing – the reality is that BREXIT has stuffed it until 2019 at least, and any election held soon after won't help

her ideas to the PI sector. Not the author's cup of tea or area of activity, but she will be remembered for her excessive effusiveness.

Next, Ibrahim Hussain on the subject of the GDPR, which comes into effect on the 25th of May 2018 one day after police forces will

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start frightening their staff with it. (Did I write that out loud?) Contrary to the author's earlier understanding, or possibly to tweak a correct understanding, he explained how GDPR is already law, not just proposed, but that the Data Protection Bill will clarify some UK-specific issues. In the main, it is already going to apply 'as is', so members are encouraged to seek input either from the many publications being made available (and from the ICO), or from one of the many start-up training companies that seem to proliferate at the moment. (Another out-loud blurt. Sorry.) The Bill and the GDPR have to be read together, in effect.

To my uninformed eyes, carrying on as we are now in terms of 'what it applies to' will be a safe-ish approach, but there are additional responsibilities that may apply post-May 2018. Ibrahim (said by Chris Brogan to be the guru on Data law) suggests there are 12 steps to take now that will ease the transition. Rather conveniently they are available through the ICO at this website address: https://ico.org.uk/media/1624219/preparing-for-the-gdpr-12-steps.pdf , which has been made available on our newsletter in the recent past.

It would be of assistance if an IPI member with some knowledge of this subject could write an authoritative piece to benefit their peers.

The last session was conducted by our old friend Neil Smith on Open Source Intelligence. No more need be said – great as ever, Neil.

The last hour of the day was conducted as a question-and-answer session with a panel of 'experts', which the author places in inverted commas because he was one of the 'experts'. The panel consisted of investigators from the ABI, WAPI, IPI, EPIC, and the trade, plus a welcome if uninformative visit from the SIA in the guise of Tony Holyland.

The main thrust of the questions were GDPR, the likelihood of the credit reference agencies making life harder, and licensing. In this order, the responses can be summarised thus:

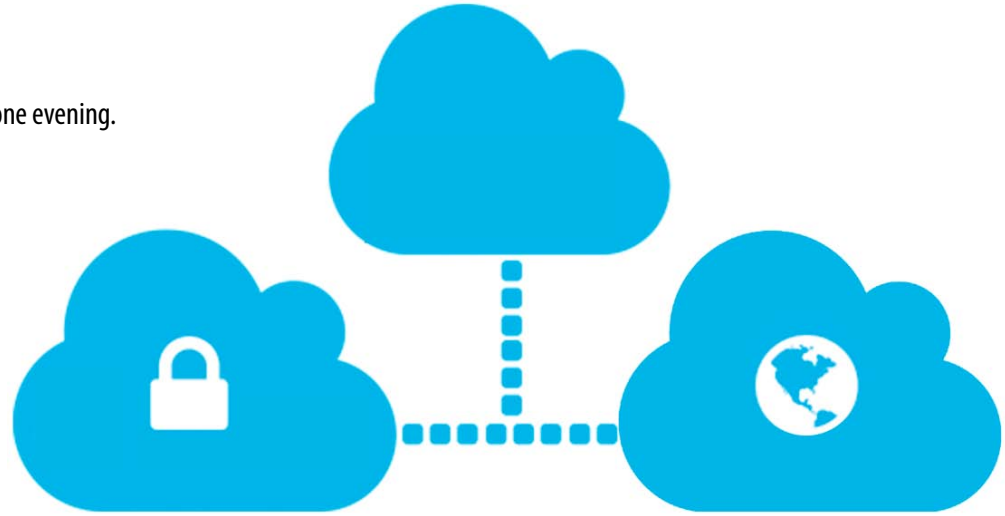
GDPR – it is coming, we're stuck with it, but hopefully businesses, clients and witnesses will be informed.

CRA - they will understand it and will not suddenly deny access to information already made available to investigators.

Licensing – the reality is that BREXIT has stuffed it until 2019 at least, and any election held soon after won't help. (The author observed that every time licensing approached an election took place as a way of avoiding it.)

New Computer – Watch out!

To those whining about the State and 'snoopers', here's an experience I had one evening.



My 'old' laptop went pop after providing me an indication of its senescence, those indications providing sufficient impetus for me to have backed nearly everything up before the 'crack-puff' sound of cyber-death, and I can honestly say that a successful Xmas 2016 present request for a hard-drive-transfer-gadget proved quite fortuitous and everything important was reloaded in no time.

I'd bought a new HP Windows 10 laptop and naively thought it'll work like my old one At first, whoop-de-do, bells and whistles and some impressive happenings. (PS – forgot to check for a DVD player – DOH!)

Then, one day, after an update, I discovered all my hitherto successfully uploaded stuff had disappeared off my PC. What gives, thought I? After a brief panic I accidentally found it in my OneDrive 'cloud'.

Which I thought was a bit odd because I never sent it there. It was now 'shared' with my C drive folders – Docs, music, pics, videos, etc. But while the laptop told me my stuff was being 'shared' on the C-Drive, it wasn't actually on the C-Drive, where I wanted it.

I didn't think much of it at first, as nothing important was gone and I had back-ups. Until today, when I found that when I saved a confidential file, it auto-saved to the aforementioned Cloud.

I don't trust Clouds. It's like popping down to your local shop where you know everyone, and you hand them your wallet and trust them not to look inside.

I don't trust Clouds. It's like popping down to your local shop where you know everyone, and you hand them your wallet and trust them not to look inside. Then I thought and looked deeper, and realised that the 'Cloud' into which I was auto-saving had a 5GB limit, after which Microsoft would want some money. I had a 1TB hard-drive but MS wanted me to pay, by accidental default, if I sent 'a bit too much' stuff to them without me even noticing.

So, expecting the worst, I saved all the Cloud stuff – which was everything – to another memory stick and deleted the content of the 'Cloud'. Then, as expected, I saw that the content of the shared files in the Cloud – remember, I sent NOTHING there by conscious choice - when deleted, was also deleted by default from my PC. Lucky I did the back-up, first, eh? And that Santa listened, too, for the bigger stuff.

The point I make is this. If this had happened to my wife, she would have lost everything precious to her. I am not super cyber-savvy, but I can fly one a bit. Nevertheless, even I had difficulty finding how NOT to share to the Cloud-I-Didn't-Want, and spent a valuable hour mucking about trying to keep 'my' stuff, well, mine. And if I didn't suspect that Cloud-

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deletion meant C-Drive deletion, my life might have been really damaged, in cyber-terms.

So, when you bleat about Big Brother accessing your stuff (really, it's hard to access it, I've had to do it for work and it's paperwork-central - ironically), consider this – Microsoft defaulted my new computer to make me share all my stuff where they wanted it, not where I wanted it. It was all 'disguised' in the setting up process.

Amazon, MS, Apple and all those people that want you to spend money on their stuff are abusing their power, possibly more than Big Brother ever imagined.

When you buy your next PC, make sure you disable sharing with the Cloud* so that you actively decide what you can safely put there. I have learned all that I know about computers by accident, as have most people. Some never learn enough to cope with this kind of issue.

BTW – I am Information Commissioner registered for a bit of work I do on this computer, and what do you suppose they'd think if, in all innocence and technical ignorance, I accidentally shared stuff by default to MS's cloud and it got remotely accessed, like celebs' nudes?

They wouldn't be fining Bill Gates, I'm sure.

**PS – I've deleted the cloud link and the computer STILL wants to default save to it. Nice work, Microsoft.*

IPI Wallets and Folders for Sale

The Institute has wallets and folders for sale.

Wallets for ID cards at **£6.00 each**. They are made of Chelsea leather, with a discreet logo. They are very practical for our ID cards and Oyster cards etc.

Clipboards at **£5.00 each** (pictured above). They are folding and open to reveal the clip on the right and the perspex on the left. You can put instructions, letters of authorisation or, for the Bailiffs amongst us, Warrants of Distress, under the perspex, so people cannot grab them to tear them up

If you are interested in either of these items please contact the Institute admin@ipi.org.uk

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