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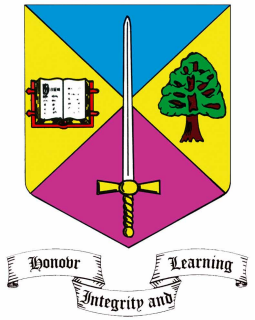


Photo Identification Cards

The Secretary-General would like to invite those of you who will require IPI identification cards to submit suitable photographs with your renewal forms; further details will be enclosed with your renewal notices.

Editorial

In July 2013 Teresa May MP announced that we would be licensed, or at least the licensing regime would be starting, by the end of 2014. We are into 2015 and the implementation of licensing for our sector isn't mentioned, alluded to or even hinted at in the SIA's plans.

Despite their many promises to Leveson and the Home Affairs Select Committee and despite all the opprobrium loaded upon us, including the unsubstantiated and even secretive conclusion that retiring police officers are considered to be corruptive if not corrupt, we still have no indication when we should expect license PI-00001 to be issued.

In 1939 Britain was unprepared for a world war. By 1945 we'd won one. That took a bit more effort and the country was wholly behind the effort (although the media has just decided to 'exclusively reveal' that some people weren't), but the inability of a quango to provide bits of plastic to an estimated 5,000-10,000 people – all of whom have to do a lot more admin to prove that they are entitled to possession of such a document – is laughable. This is particularly so if you consider that the template for the process, applied to many more thousands of security professionals, has been in being for some 13 years.

They may respond that they have to make sure that the regime is 'fit for purpose'. That's a fair argument. Or it would be if it wasn't for the

establishing licensing now will save time later because the inevitable loopholes will only get sorted when the existence of a regime makes them clear to sight

fact that experience and history shows us that whatever you do, some lawyer, criminal or clever dick will find a loophole you hadn't considered. There will inevitably be some issue arising that the media declare is the result of buffoonery, mainly because the media is perfect. Or at least the lack of an opposition to a 'free media' makes them perfect. (Hey, what happened to Leveson and the Press Charter?)

In my humble opinion, establishing licensing now will save time later because the inevitable loopholes will only get sorted when the existence of a regime makes them clear to sight. Let's be honest, a criminal will wait until the regime comes in before he'll enlighten us as to what that loophole is, and how he will benefit from it.

The Data Protection Act came into being in 1984. 31 years later they're still tinkering with it.

HMG – stop letting the SIA get away with inertia. You created them to do a job, make them do it!

(On the optimistic side, it was all Labour's idea and if they get in in May……)

On the positive side, the The Antarctic (Recognised Assistance Dog) Regulations 2015 came to pass this year. Apparently, the definition of an assistance dog, and how that recognition depends in part on who trained it, was part of the Antarctic Act 1994. No reference to the Antarctic in this one-section Regulation. Perhaps we should get a back bencher to sneak the issue of licences in under something like the The A55 Trunk Road (Westbound Exit Slip Road at Junction 20 (Princes Drive), Colwyn Bay, Conwy) (Temporary Prohibition of Vehicles, Cyclists and Pedestrians) Order 2015?

That would get my vote.

Mike Welply 1934 - 2015

It is with great sadness that we have learned of the death, on Saturday the 14th of February, of Past Master of the Worshipful Company of Security Professionals (WCoSP), Mike Welply.

Some may be aware that Mike was ill last year and appeared to pull through, but unfortunately became ill again culminating in his admission to a hospice last week.

Mike was born on the 3 May 1934 and was educated at Berkhamstead School, and joined the RAF on 14 Jul 52, initially as an Aircrew trainee at RAF Bishops Court, N Ireland, but he did not complete the navigator course. He transferred to the RAF Regiment and was commissioned on 25 Mar 54. His initial posting was to 194 (Rifle) Sqn RAF Regt at RAF Ouston, but then he moved to 89 (LAA) Sqn RAF Regt at RAF Bruggen in W Germany. After a variety of junior officer posts and interesting detachments, he went on to command 1(LAA) Sqn RAF Regt (1968-70) at RAF Bicester and then 51(Fd) Sqn RAF Regt (1973-75) at RAF Wittering, after which he was posted as a RAF Exch Offr to the USAF Security Police in Washington DC. He was promoted to wg cdr on 1 Jan 81. After further staff tours, including in HQ AAFCE at Ramstein Air Base in Germany, he retired at his own request on 30 Oct 84 to work in the City of London. Mike's later roles included work in the vetting of staff for security purposes, something which he enjoyed immensely.

He became Mayor of Thame, Oxfordshire from 2002-3 and was elected to the South Oxfordshire District Council, where he became Vice Chairman in 2009 and Chairman in 2010. As a founding member and Past Master of the Worshipful Company of Security Professionals, he initiated the Company's formal Affiliation with the RAF Regiment Corps. He was a Freeman of the City of London and was awarded the CG RAF Regt's Commendation in 2014 for his outstanding service to the Corps. At the RAF Regiment Dinner at RAF Honington which took place in the week before he passed away and at which it had been hoped Mike would attend, his being awarded the Commandant General's Commendation for his work and support of the RAF Regiment was publically acknowledged. At the dinner an Affiliation Certificate (between the RAF Regiment and the WCoSP) was awarded, and it was acknowledged that Mike had personally initiated the affiliation with the RAF Regiment. Air Commodore Andy Hall, the Commandant General, who had visited Mike a few days beforehand to present his Commendation personally, acknowledged the work Mike had done for the Company with the RAF Regiment and said that they were extremely proud to be affiliated with our Company. A great testament to Mike.

Mike was also founder of the Joint Security Industry Committee (JSIC) which consulted with and counselled HMG throughout the process that gave us the PSI Act, holding many successful events in the early part of the Noughties.

Secretary General of the IPI, Simon Smith, wrote, "Mike was IISec, TSI, Worshipful Company, ASIS and a Life Member of IPI. He was also longstanding IPSA, of course. Being ex-RAF Regiment he took a great interest in Air and Airfield security. He was very proud of what was best. Very keen to improve that which wasn't. An honourable man, a Patriot, a professional."

Bruce George wrote: "Simon has said it all more beautifully and eloquently than I could but can I just add that I too found Mike to be an immensely fine person and a true professional in all of his various roles. He was also hugely enjoyable to be around." Lynn Watts-Plumpkin of SSAIB and now IQ, wrote, "Very sad news about Mike, it was an honour to have known him."

David Palmer said, "I always found Mike to be the opposite of what I, an ex-RAF NCO, expected officers to be. He was warm, exceptionally funny, knowledgeable and friendly. There was no pretence about him. When you met him you were immediately engaged as a friend without further ado."

Our sincerest condolences go to his wife Sue and their son Ben.

Vince Carratu FIPI, Steve Whealdon MIPI

The end of 2014 also saw the sad passing of founder member Vince Carratu FIPI, and keen supporter Steve Whealdon MIPI.

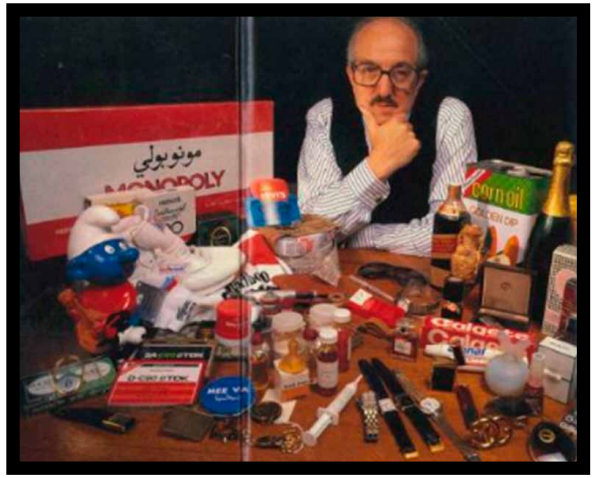
Vince

Vince passed suddenly at home and was described by his family as being in high spirits right to the end. John Grant, Companion and co-founder, wrote:

"Vincent Carratu was a legend in his time, a true professional and an outstanding and talented investigator. He established his firm in 1963 and specialised in corporate investigation, creating a new standard in what was previously a rather dubious private detective service in the UK. Apart from a minority of reputable firms, the standard of service from the majority of detective agencies was not of a high standard. Vince was a member of the Association of British Investigators, membership of which was given, after due diligence, to individuals with the highest skills and integrity.

In 1976, along with John Grant and Jim Cole, he became involved in the formation of the Institute of Professional Investigators. Vincent served on the Executive Board for many years and was elected Principal of the Institute in 1984.

Under his leadership his firm gained an international reputation for excellence and integrity. During the time he headed his firm he was actively engaged in serious high powered investigations and travelled the world on behalf of corporate and commercial clients. He exposed corruption and serious fraud, sometimes in dangerous situations, to bring offenders to justice much to the satisfaction of his high calibre clients. His two sons, Paul and Richard, were active in the firm and he was ably supported by his late wife, Sylvia. He will be sadly missed by all his friends and colleagues."



Vince in The Guardian, 1990

Steve

Steve had been suffering a severe debilitating illness, and sadly succumbed to its effects on in December. I had the pleasure of meeting Steve a number of times, where he was offering free surveillance input to IPI members, unfortunately at a time when we could not get people to come to seminars. He was a dedicated surveillance and close protection specialist and enthusiastic about addressing the effects, both good and bad, of licensing on all his chosen industry sectors. Trading as CSIAPPS Associates, he was extremely personable, eminently likeable, and is a sad loss to the Institute.

A Question of Ethics – Would You Take the Case?

By **Kevin Macnish**, Leeds University Teaching Fellow and Consultant in Applied Ethics. This article appeared in Pursuit Magazine.

Kevin is module leader for Leeds University's Professional Issues 2: Privacy and Confidentiality on the MA in Applied and Professional Ethics programme. Kevin's research is in the ethics of surveillance, security and technology. He is the author of numerous articles on surveillance ethics and has organised two international conferences on this subject at the University of Leeds. Kevin has been interviewed by BBC radio and television and the Atlantic magazine, and has spoken at both the House of Commons and the House of Lords in relation to his research. A witness to the Select Committee on Science and Technology, he was quoted several times in the committee's final report on social media and data analysis. Kevin conducts ethical analysis for security and ICT projects.

On Friday 19 September, we published a case study on Pursuit Magazine's Facebook site. This involved two parts: the first a set-up giving some basic information asking people what they would do. The second part, which was published on Monday, gave a little more information and asked whether people would change their opinions in the light of this extra information. Today we will put the two parts together with some thoughts on what people said, and include a concluding part which shows the decision a British court came to when it considered a similar case!

The first part set the stage:

> Anthony receives a phone call from a local government authority one morning. The authority wants him to place a family under surveillance in order to find out where this family lives. They are known to have two houses, but it is important to the authority that they find out which of the two houses this family actually lives in. The authority offers to hire Anthony at a competitive rate for two weeks which, they believe, will be long enough to establish which is the primary dwelling.
>
> **Would you advise Anthony to take the case? If so, is there anything in particular that he should be aware of? If not, why not?**

A lot of people responded to this, possibly because it came out at 17:00 on a Friday! There was quite a range of responses as well. From "never trust the government" to "take the case". Quite a few people wanted to know more (what exactly did the local authority want to know, and why) but generally there was a presumption that there could be good reasons for the authority making the request and therefore the implication at least was that Anthony should take the case. There was also a sense that provided the client was legitimate then there shouldn't be a problem with Anthony taking the case. Overall, those in favour of taking the case outnumbered the more cautious by 50%.

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The second part then tried to give the more cautious the additional information that they wanted. This went as follows:

> Not as cynical as some about working for the government, Anthony is curious as to the details of the case. Rather than say yes straight away, though, he calls up the authority to find out more. It turns out that a family of two adults and three children may have been lying about their primary residence in order to get their youngest child into a particular school. As this is not obviously a criminal case (at least in this particular jurisdiction) the authority doesn't want to turn to the police. They have also outsourced their own investigation capacities in recent years in response to cuts.
>
> The authority clarifies that they want Anthony to monitor the family's use of one of the two houses. The assumption is that if that is not the primary residence then the other must be. Two weeks should be sufficient for this, they feel. They want him to record when any member of the family leaves the house and where they go. When the family are in the house the authority want Anthony to record which lights are on, when they are turned on and when they are turned off.
>
> **Does this additional information alter the advice that you would give Anthony? If so, in what way? If not, why not?**

The Tribunal found that the Council made no attempt to interview Jenny prior to the surveillance, nor were less intrusive surveillance measures considered.

Fewer people responded to this, but those who did became suspicious with this extra information, with things not stacking up quite right. Why did the authority want to know about family activities? How can Anthony monitor all the lights in a house at once, and what evidence would that provide regarding anyone living in the house?

Before reading on, this is your chance to pause and decide what you would advise Anthony in each case. Should he take it or let this one pass him by?

The case was not entirely fictional but drawn from a real example that happened in the UK in 2008. Poole Borough Council in the south of England had its staff carry out surveillance on the family of two adults and three children. The justification for this was that two people had complained to the council that the mother (Jenny XXXXXX) had told them she'd lied about her residence in order to get the third child into the school. The surveillance lasted for between two and three weeks and came to light a few months later when the Council told the parents what they had done.

XXXXXX felt that the surveillance was wrong, and took the Council to an Investigatory Powers Tribunal – a court set up to rule on complaints of unlawful use of covert surveillance (http://www.ipt-uk.com/). Under UK law, public bodies which are permitted to use covert surveillance must ensure that it is necessary, proportionate, and discriminating (three ethical principles which I agree with and which, I argued a few months back in Pursuit, should underlie surveillance whatever the law!). I'll summarise below, but the Tribunal's full findings can be found here: http://www.ipt-uk.com/docs/Paton_v_Poole_Borough_Council.pdf

- The Tribunal found that the Council made no attempt to interview XXXXXX prior to the surveillance, nor were less intrusive surveillance measures considered. As such, the Tribunal found that the surveillance was not necessary.
- The Tribunal also found that surveillance had included the father and the three children, none of whom were suspected of having committed any fraudulent or criminal activity. As such, the surveillance was not discriminating but rather included people against whom no complaint had been made.

- Thirdly, although the Council justified the surveillance as aimed at preventing crime, the Tribunal found that whatever the outcome no prosecution would have followed. As such the purpose of the surveillance was not justified under the terms of the relevant Act.
- Fourthly, the Tribunal found that the surveillance was disproportionate to the goal of detecting a false address for gaining a place at a school. This case "was not of a high order and was not a pressing social need".

So there were four reasons that this surveillance was unlawful. That might not worry some who don't operate in the UK. More concerning (to me at least) is that these four reasons are also ethical. That is, whatever the local laws, they are good reasons to consider before undertaking any surveillance.

So what do you think? Was the Tribunal correct in its findings? Do you not need to worry about these issues if the law is different where you work? If you were prepared to take the case would you change your mind now or do you think the surveillance can still be justified?

Answers can be submitted for the attention of the editor via ipitrain@aol.com. We'd be intrigued what you think.

IPI MEMBERS 25% DISCOUNT

Counting the cost of unencrypted data

See the article to the right by PC PRO describing how GMP were fined £150,000 with a £30,000 discount for early payment for the loss of an unencrypted USB stick. An officer had been issued with an encrypted USB stick but on his own account used a larger capacity UNENCRYPTED alternative which went missing.

How many times have you read about a Government official losing a USB memory device either on a train or foolishly sending it by post? There ensues a witch hunt as to how and why this happened and what are the implications should the data fall into the wrong hands.

I suppose that to some extent we have all experienced that sinking feeling when we fear that we have lost something important like the house keys or a wallet. But what precautions can we take in our professional life?

This is also something which several of my clients have raised seeking reassurance that their data is safe and of course we all have a legal duty under the Data Protection Act.

I had a conversation with an IT "Guru" friend of mine on this topic and he recommended an external USB drive which he claimed was pretty much impenetrable either electronically or with a hammer! As a result I purchased an iStorage 500GB external hard drive (http://www.istorage-uk.com/diskg.php) which can store a massive amount of data. For those with an even bigger appetite for secure storage you can get versions with up to a terabyte of data and with options for SSD and USB 3.0.

Lost USB stick costs police £120,000

Computing | by NICOLE KOBIE | 16 Oct 2012

Like 16

Investigation data lost after officer's unencrypted USB stick stolen from his own home

Greater Manchester Police has been fined £120,000 for losing a USB stick containing data on more than a thousand people - despite a previous incident leading to an "amnesty" on unencrypted memory sticks.

The Information Commissioner's Office fined the police force £150,000 - but offered a £30,000 discount for early payment - after an unencrypted memory stick holding data relating to an investigation was stolen from an officer's home in July 2011.

The device held personal data on 1,075 individuals with "links to serious crime investigations". While the ICO admits not all of the data was sensitive, the ICO redacted even the description of the sensitive aspects in its own notification document.

See overleaf for details of the discount >

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I have used this to store data with confidence and when working on particularly sensitive cases have included its use in protocols agreed with the client and found their reaction very favourable. This model is about the size of a pocket diary or notebook but you can also get a smaller USB stick sized model with capacities up to 32GB if preferred:
http://www.istorage-uk.com/datashur.php

They are not cheap with the published price for the larger external hard drives commencing at about £120 plus VAT and the USB sticks £39 plus VAT but read the reviews on the above links and at the end of the day what price do you put on data security?

For those of us who recognise the transportation and storage of data as a vulnerability we have negotiated a 25% discount for IPI members wishing to purchase this product by entering the Promotion Code MOND15 at checkout. (Maximum of 10 units per product line per customer).

Guest column - Frank China

Wow! What a start to the New Year. Politics, Religion, War, we've got it all. So much that I really don't know where to start. Over the last fifty years the world has changed beyond recognition and belief. Change is inevitable, particularly in a fast moving world, on a lighter note fifty years ago a Chinese chippy was a foreign carpenter, eating raw fish was called poverty, not sushi, India restaurants were only found in India and a 'kebab' was not even a word never mind a food. East has come West with a vengeance. But before we can come to grips with what has happened East and West-wise we need to get our own house in order. So, let us see if Britain's forthcoming General Election might help to solve some problems for us here in the UK.

It is painfully obvious this time that it is no longer a simple two-horse race. No, not simply Labour v Conservative, with a splash of Liberal, it is a whole new spectrum in the UK's political world. They say there are two things friends should never talk about, Politics and Religion, but with this General Election nearly upon us politics seem to be the number one topic, so let us try and help within this political maze and provide a little clearer understanding and vision – well, I did say try!. Within the United Kingdom we have two main parties vying for our vote, Labour and Conservative, then there are a lot of little parties snapping at their feet, so a clear understanding and vision this time round is all we want so … 'heaven help us'!

So, assuming it looks very much like another hung Parliament, no one party having a working majority, in the spirit of trying to help, the actual picture probably looks rather like this.

There are the Scottish Nationalists (SNP), who want out of the *'not so* United Kingdom', the Scots always want to be different and although their referendum said the people wanted to stay in the Union, accepting the voice of the majority is not something a dedicated reformer would consider – so it might be she with the loudest voice would dominate. Their allies in a hung Parliament might well be Labour, but Labour has already voters in Scotland, so if they cuddled up to the SNP, it would be 'goodbye' to Labour in Scotland for – maybe ever! So almost an impossible ally!

Then there is the UK Independence Party (UKIP), who want us out of the European Union, regardless. Their allies might be the Conservatives, but the PM doesn't want out of the EU – despite many of his Party do want out. He wants to renegotiate Britain's relationship with twenty six countries, a task in which he believes he can succeed, but everyone else says he simply cannot. So while this might be an option for the Conservatives in a hung Parliament situation, the Party itself is totally split as to whether to stay in or leave the EU and UKIP's mandate for any coming together would be a long promised referendum to stay or leave the EU. Everyone except the PM seems to believe in renegotiation in the way demanded is a 'non starter', so the PM might have to go, or he changes his stand totally – never good for a PM!

So what about the Liberal Democrats, yes, one asks, what about them? Who should probably be the single logical choice as a hung parliament partner ; but the problem here is, first their popularity in national polls has slumped to an all time low, so will they remain the alternative voice, or not, come the results of the General Election, and it seems almost certainly it will be, 'not'. I wont even bother to go across the sea to, you've guessed it, Ireland, nor to the tree hugging Greens, since never has the latter's leader been exposed so completely as not knowing what she was talking about when questioned on TV recently.

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So who should the two major parties make a deal with if either one does not have a clear mandate, or majority, to govern? Well, Labour has candidates in Scotland, so if Labour tried to do a deal with the SNP, it would be 'goodbye' to Labour ever again raising its head in Scotland. Labour could never do a deal with UKIP since they have clearly stated that they wish to remain in the European Union, come what may!

So could the Conservatives fare better. Well, the SNP would not support Conservative policies in any shape or form, UKIP might if the promised Conservative referendum scheduled for 2017 is brought forward to immediate post-election time. At least the Conservatives have said they will hold one, Labour has said under no circumstances will they! So that might be a likely scenario, but could the PM stay 'top of the pile' in such a situation?

Well if all that isn't confusing enough for us, look at the wider world.

There is now something called the Islamic State (IS), a new religious creed attempting to emulate Alice in Wonderland with 'off with their heads' evidently not liked by most in the greater Muslim World since they purport to be the real Muslims. But even these real Muslims are fighting other Muslims who believe in different interpretations of Islam, the real Muslim faith. A bit like the Christians in centuries past. These new Muslims, or is it the old original ones, setting their sights on Middle Eastern domination, by fair means or foul. So just to muddy the waters even more, the West has joined in and seem to be picking sides as the 'weather' changes, and now for these modern day Crusaders there are so many different sides to pick. All rather fun, if it wasn't for the barbaric tendencies of the new lot with their 'off with their heads' approach to confrontation!

As an investigator you don't need to search for any missing link, since if ever you found it you wouldn't know if you had, or had not. Politics, Religion and the World is in a mess. **Let us first of all see how we can find some cohesion within our own country, then we can consider tackling the World, seems to me the only answer**.

Data Protection – *any further?*

In the decision **Frantisek Rynes v Urad pro Ochranu Osobnich Udaju Case C-212/13** (and there are a lot of accents missing), the European Court, that denizen of criminal rights, decided that an image of a person constituted personal data because it was possible to identify that person. No issues with that.

It was also held that the exception provided by the Data Protection Directive (95/46/EC) for data processing carried out by a natural person in the course of purely personal or household activities **should be construed narrowly**. It **DID NOT** cover video surveillance of a public space undertaken from the private space of the person processing the data.

So if a private person has a CCTV system overlooking a public area – where you might want to look to see which way the criminal went after they did your windows, or if that's where you park your car – then from this decision one should register with the ICO for £35. How about using GoPro or similar video systems while you cycle or drive? This decision might also impact on police enquiries: will any evidence have been obtained fairly if the CCTV user is not so registered? If we have business telephone numbers on our mobile phones, will they have to be registered next? Maybe I'm overthinking the problem.

This Act, although well-motivated, is becoming monumentally unworkable or certainly inconsistent in terms of the ability and willingness to prosecute an ever expanding genus of potential offenders! Meanwhile, the easy targets are hammered while the hard targets remain anonymous because of the hoops that have to be gone through to get information pursued for legal purposes!

Freedom of Information Act

How to go about obtaining information

While many members already know how this is done, those who have hitherto felt no need to seek publicly held data from local and national government would do well to visit https://ico.org.uk/for-the-public/official-information/ and read the material so as to know what is available, and how to get it.

However, owing to the Open Government Licence, we can fully reproduce it, here.

How to access information from a public body

What can I request?

The Freedom of Information Act, Environmental Information Regulations and INSPIRE Regulations give you rights to access official information.

Under the Freedom of Information Act and the Environmental Information Regulations you have a right to request any recorded information held by a public authority, such as a government department, local council or state school. Environmental information requests can also be made to certain non-public bodies carrying out a public function.

You can ask for any information you think a public authority may hold. The right only covers recorded

Some information may not be given to you because it is exempt, for example because it would unfairly reveal personal details about somebody else.

information which includes information held on computers, in emails and in printed or handwritten documents as well as images, video and audio recordings.

You should identify the information you want as clearly as possible.

Your request can be in the form of a question, rather than a request for specific documents, but the authority does not have to answer your question if this would mean creating new information or giving an opinion or judgment that is not already recorded.

Some information may not be given to you because it is exempt, for example because it would unfairly reveal personal details about somebody else.

You don't have to know whether the information you want is covered by the Environmental Information Regulations or the Freedom of Information Act. When you make a request, it is for the public authority to decide which law they need to follow.

The INSPIRE Regulations require public authorities that hold spatial or geographic information to make it available so that you can search it in particular ways.

What should I do before I make a request?

You can ask for any information you choose, at any time, but you may not always succeed in getting it. Before you make a request, it may help to consider the following questions.

- Is the information you want already available, for example, on the authority's website? Authorities must make certain information routinely available. You can find out what information is available by checking the authority's publication scheme or guide to information. Do this by looking at its website or by contacting the authority.
- Is the information you want your own personal data? If your request is for information about yourself, such as your medical records, you should make a subject access request under the Data Protection Act.

continued>>

- Is the authority likely to have the information? It may save you time if you check with the authority whether it is likely to have the information you want. For example, you may not be sure whether the information you want is held by your district council or the county council. Public authorities must give reasonable advice and assistance to anyone asking for information, so you should feel free to ask for help in making your request.

- Is the information you want suitable for general publication? The aim of the Freedom of Information Act is to make information available to the general public. You can only obtain information that would be given to anybody who asked for it, or would be suitable for the general public to see.

Some information, such as records about a dead relative, or documents you need for legal purposes, may not always be available under the Act. However, you may have a right to see the information you want under other legislation. The public authority holding the information you want should advise you.

What are the legal requirements for a request?
For your request to be dealt with according to the Freedom of Information Act, you must:

- contact the relevant authority directly;
- make the request in writing, for example in a letter or an email. You can make a verbal or written request for environmental information;
- give your real name; and
- give an address to which the authority can reply. This can be a postal or email address.

You do **not** have to:

- mention the Freedom of Information Act or Environmental Information Regulations, although it may help to do so;
- know whether the information is covered by the Freedom of Information Act or the Environmental Information Regulations; or
- say why you want the information.

It is sensible to write the date on any letters or emails you send and keep a copy, so you have a reliable record of your request. If you make a verbal request for environmental information, we recommend that you note who you spoke to, the date, and what information you requested, and you may wish to follow up with a letter or email confirming your request. A written record of a verbal request would be beneficial if you later need to make a complaint.

It can be helpful to check whether the authority recommends you send your request to a specific person or email address. Some authorities also allow you to request information via their website.

Some other websites allow you to contact public authorities and make a request through the site. Check that the site will allow the public authority to respond, otherwise it's not a valid request.

The ICO cannot request information from another authority on your behalf. You should address your request directly to the authority. There is no need to send us a copy of your request.

How should I word my request to get the best result?
Most people will exercise their rights responsibly but we also recognise that some individuals and organisations submit requests which may, whether by accident or design, cause a public authority an unjustified or disproportionate level of disruption or irritation. Some requests can cause distress to members of staff in a public authority.

The FOIA has a built in safeguard to protect public authorities from having to deal with such requests (called vexatious requests under Section 14). In the case of the EIR, there is an equivalent provision for requests which are manifestly unreasonable [Regulation 12(4)(b)].

All requests place some degree of demand on a public authority's resources in terms of costs and staff time, and we expect them to absorb a certain level of disruption and annoyance to meet their underlying commitment to transparency and openness under the FOIA and EIR. We also accept requests can be challenging in their language but using threatening or abusive language increases the risk that your request will be refused.

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It can be difficult for requesters to understand how information is labelled and organised by public authorities - the Act contains a provision that ensures that public authorities must consider whether they should provide you with advice and assistance, within reasonable limits.

Nonetheless, the amount of time and resources that a public authority has to expend in responding to a request should not be out of all proportion to that request's value and purpose.

You need to consider the dos and don'ts below – think about your request objectively - does it trigger any don'ts? If so you may want to rethink your information request otherwise it may be refused as vexatious.

If your request does lack any serious or clear purpose or if it is not focused on acquiring information, then the FOIA and EIR are probably not an appropriate means through which to pursue your concern. You might do better to explore whether there are other more suitable channels through which to take up the issue with the authority.

You should also bear in mind that the FOIA includes a safeguard against requests which exceed the cost limits for compliance (Section 12). The equivalent provision in the EIR is once again [Regulation 12(4)(b)] - manifestly unreasonable requests .

Therefore, if you are planning to ask for a large volume of information, or make a very general request, you should first consider whether you could narrow or refocus the scope of the request, as this may help you get what you really want and reduce any unnecessary burden or costs on the authority. Alternatively, you could try approaching the public authority for advice and assistance to help you reduce the scope of your request and cut down the cost of compliance – they have a duty to consider what advice and assistance they can provide.

Although you don't have to say why you want the information, if you are happy to do so it might avoid a lot of wasted time and be more likely to get you what you want.

Can a public authority charge for a request?
Yes, a public authority can charge you for the costs of sending the information, such as photocopying and postage. These are known as 'disbursements'.

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Information request dos and don'ts

We have produced the following list of dos and don'ts as a quick reference tool to help users make effective freedom of information requests.

Your request will be much more effective if it is clear, specific, focused and unthreatening.

Do	Don't
Find out who to send your request to. If you address your request directly to the appropriate contact within the authority then you may receive a prompter response.	Use offensive or threatening language.
Include your name, address and other contact details in the request.	Level unfounded accusations at the authority or its staff.
Clearly state that you are making your request under the Freedom of Information Act/Environmental Information Regulations.	Make personal attacks against employees.
Be as specific as possible about the information you want rather than asking general questions. Try to include details such as dates and names whenever you can. It may also assist the authority in identifying the information if you explain the purpose behind your request.	Use FOI to reopen grievances which have already been fully addressed by the authority, or subjected to independent investigation with no evidence of wrongdoing being found.
Re-read your request to check for any wording which is unclear or open to interpretation.	Make assumptions about how the authority organises its information or tell them how to search for the information you want.
Use straightforward, polite language; avoid basing your request or question on assumptions or opinions, or mixing requests with complaints or comments.	Bury your request in amongst lengthy correspondence on other matters or underlying complaints
Specify whether you have any preferences as to how you would like to receive the information, for example if you would prefer a paper copy or to receive an email.	Use requests as a way of 'scoring points' against an authority
Give the authority ample opportunity to address any previous requests you have made before submitting new ones.	Send 'catch-all' requests for information (such as 'please provide me with everything you hold about 'x') when you aren't sure what specific documents to ask for. If in doubt, try searching on the authority's website or enquiring whether any indexes and file lists are available. Alternatively, ask the authority for some advice and assistance in framing your request.
Stay focused on the line of enquiry you are pursuing. Don't let your attention start to drift onto issues of minor relevance.	Submit frivolous or trivial requests; remember that processing any information request involves some cost to the public purse.
Think about whether making a request is the best way of achieving what you want. If you have an underlying complaint then it may be better to just take your complaint to the relevant ombudsman and let them investigate.	Disrupt a public authority by the sheer weight of requests or the volume of information requested. Whether you are acting alone or in concert with others, this is a clear misuse of the Act and an abuse of your 'right to know'.
Aim to be flexible if the authority advises that it can't meet the full request on cost grounds and asks you to narrow it down. Try to work with the organisation to produce a streamlined version of the request which still covers the core information that is most importance to you.	Deliberately 'fish' for information by submitting a very broad or random requests in the hope it will catch something noteworthy or otherwise useful. Requests should be directed towards obtaining information on a particular issue, rather than relying on pot luck to see if anything of interest is revealed.
	Make repeat requests unless circumstances, or the information itself, have changed to the extent that there are justifiable grounds to ask for the information again.

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What happens after I make my request?
The authority must reply to you within 20 working days. It may:

- give you the information you've asked for;
- tell you it doesn't have the information;
- tell you that another authority holds the information or transfer the request on your behalf;
- under the Freedom of Information Act, say that it has the information and offer to provide it if you pay them a fee (but there are rules about what they can charge);
- under the Environmental Information Regulations, make a reasonable charge for providing information in accordance with their published schedule of charges. Note: If the authority allows you to view a public register or other information in person, at a place of their choice, it cannot charge for this;
- refuse to give you the information, and explain why; or,
- under the Freedom of Information Act, say that it needs more time to consider the public interest in disclosing or withholding the information, and tell you when to expect a response. This should not be later than 40 working days after the date of your request. It can only extend the time limit in certain circumstances, and it must explain why it thinks the information may be exempt;
- under the Environmental Information Regulations, say that it needs more time as the information requested is particularly complex and there is a lot of information to provide. In such cases the time limit can be extended by a further 20 working days as long as the authority respond within the initial time limit stating when it believes it will be able to respond in full.

Will I always get the information I ask for?
Not always. The Freedom of Information Act recognises that there will be valid reasons why some kinds of information may be withheld, such as if its release would prejudice national security or damage commercial interests. For some exemptions the public authority must consider whether the public interest in withholding the information outweighs the public interest in releasing it. If it decides that the information cannot be released it must tell you and explain why. Public authorities are not obliged to deal with vexatious or repeated requests or in some cases if the cost exceeds an appropriate limit. In addition the Act does not provide the right of access to personal information about yourself. This is instead available under the Data Protection Act again, subject to certain exemptions, and is known as a subject access request.

Can I complain if a public authority refuses my request or I am dissatisfied with the way it has been dealt with?
Yes. You should first complain to the authority and ask it to conduct an internal review. For freedom of information complaints we recommend that you do this as soon as possible and within two months of receiving the authority's final response

For environmental information complaints you should make your complaint within 40 working days.

The Information Commissioner's Office recommends that public authorities carry out internal reviews within 20 working days. Under Environmental Regulations Information there is a legal requirement that internal reviews must be carried out as soon as possible and within 40 working days. The authority cannot charge for carrying out an internal review.

If you believe that the public authority has not dealt with your complaint properly, or if it does not have a complaints procedure, the ICO may be able to help.

Inter-Disciplinary Ethics Applied – A Round-Table Discussion

On the 24th of February the Deputy Principal attended a round-table discussion on Ethics in the Security Industry, hosted by the IDEA Centre of Excellence at Leeds University.

This event was attended by a number of different entities from industry (in general) and from representative bodies, namely The Security Institute, ASIS, IPSA, WAPI, the ABI and of course us.

The IDEA Centre specialises in research consultancy and teaching in applied and professional ethics. Its background was in medical ethics, a subject which was taught for one hour in a 5-year medical degree until the Centre, headed by Prof Chris Megone, successfully argued that the teaching of medical ethics should be ingrained and taught alongside the whole course rather than as just an 'add-on'. Following their successes in medical training the Centre has expanded to research, teach and consult on ethics in a number of professions

Our 'formal' host was Kevin Macnish. Kevin's research is in the ethics of surveillance, security and technology. He is the author of numerous articles on surveillance ethics and has organised two international conferences on this subject at the University of Leeds. Kevin has been interviewed by BBC radio and television and the Atlantic magazine, and has spoken at both the House of Commons and the House of Lords in relation to his research. A witness to the Select Committee on Science and Technology, he was quoted several times in the committee's final report on social media and data analysis. He also graciously allowed us to reproduce one of his Pursuit Magazine articles in this issue of The Professional Investigator.

We also met Liz Ellis, a teaching Fellow at the Centre, and Tracey Poulter, who organised the event.

Arriving late due to the fact that Leeds is apparently a popular place and that driving around looking for a parking place is an excitement that can happily be missed, the event had only got to the introductions stage on my arrival so nothing was lost.

Chris then gave us an overview of the Centre and how 'Applied Ethics' work. In a nutshell that doesn't really reflect the depth of Chris' words, the objective of ethical training is not to allow a professional to know what to do in every possible eventuality, but it is to prepare them to be better able to make decisions when such eventualities

Professor Chris Megone

Kevin Macnish

Liz Ellis

continued>>

The main focus was on our desire for licensing, and the discord between the perception that the possession of a BSI-102000-compliant Code of Ethics

arise – it is to 'pre-arm' the professional with an idea of what their professional ethics will require of them in the crunch moments. To use his example, the medical trainees in their one hour training questioned whether they needed such training. After input they realised that making ethical decisions is a daily occurrence for a doctor – who gets the bed, should that patient's switch be turned off, and so on. Integrating your ethics into your daily work is a requirement, not just desirable – if you aren't going to make mistakes.

Liz followed with input on how the Centre worked with other bodies. The emphasis was not on the Centre 'preaching' to other professionals about what ethics should be – it was about developing, through analysis of the profession's own case studies, a framework for an ethical code and a deeper guide as to what the subsequent code meant. The profession identified the ethical expectations, not the Centre.

Then Kevin, whose expertise is in our wider security sector, provided his own input on what the Centre could do for the security industry in terms of consultation and the provision of ethical training.

In the afternoon the group split into three 'industry' groups to discuss specific issues pertinent to their own situations. For the sake of space I'll focus only on what the PI industry discussed.

The main focus was on our desire for licensing, and the discord between the perception that the possession of a BSI-102000-compliant Code of Ethics, or more specifically the fact that the possession of a Code is a requirement of BSI-102000, only meant that someone had gone through the hoops and paid to get that 'badge', but it didn't mean someone complied with it, any more than possession of a licence by a competent, hitherto ethical investigator meant that they wouldn't break a rule later. It is desirable to be ethical; it is desirable to have a Code of Ethics; it is desirable that such a Code be complied with – but the costs of 'proving' it were a concern.

We spoke about the use of surveillance – how the media decry the state's use of it, but sit on your front lawn menacingly if they want to. We discussed a topical issue, which was this: that day, the press had 'outed' Malcolm Rifkind and Jack Straw for allegedly touting their influence. We opined that it was shame that the press had done it, because if a PI had done it we'd be licenced in a week.

We spoke about the use of surveillance – how the media decry the state's use of it, but sit on your front lawn menacingly if they want to

It has long been a concern to me that the offence of 'misconduct in public office' is being abused as a catch all to convict people when they haven't committed an offence

We later discussed how the possession of a Code of Ethics can backfire. It has long been a concern to me that the offence of 'misconduct in public office' is being abused as a catch all to convict people when they haven't committed an offence that the Crown can actually pin down; for example, a police officer accused of rape who is cleared is now convicted of having sex on duty. There is no criminal offence for doing that and in any other job it may be considered a disciplinary issue, but it's now criminal by virtue of the misuse of that offence heading. A recent court case convicted a custody nurse of that offence. She was a private contractor working in a police custody unit and argued she was not a public 'officer'. The court decided that as she was working on a contract with a 'public office' – the police – she could be convicted of that offence.

So taking the two concepts in parallel, would a PI working for a local authority who does something 'unethical' – an agreed grey area in itself – be convicted of a crime? And would the 'victim' be no

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more than public sensibility, given the current furore over people doing perfectly legal things but allegedly outraging the public, e.g. tax avoidance?

The general forum also discussed the creation of an industry wide, sector interpreted Code of Ethics, and some suggestions were made as to how this would be done, the main suggestion being that the industry consults with an independent (e.g. IDEA) rather than the many vested interests all claiming primacy in the right to draft it. The outline idea would be that a general Code could be created that gave the industry some gravitas, and then individual sectors such as ours could produce its own interpretation on what the greater Code meant in their situation. The Centre also suggested that provided 30 people could be amassed, a training day on ethics in general could be provided.

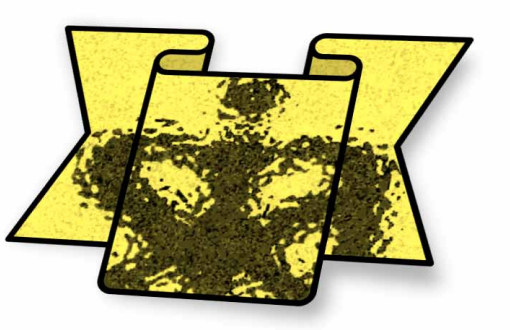
In all this was a good day out (apart from traffic and an out of date SatNav), with some meaningful discussion on the Ethics of the Security Industry and of our sector in particular. In a sense, and I don't mean to in any way suggest that associations don't have an interest in the subject, a professional Institute such as ours is the organisation whose focus should be on 'professional' and 'qualification' issues more than other organisations whose focus should (perhaps) be more on representation, socialisation and networking. I therefore agree that the Institute should remain represented on this round table – but perhaps they should move the Centre to Cardiff?

SIA Update

Security Industry Authority

In December 2014 the SIA started a 1 month consultation on their corporate plan. The Institute isn't quite sure whether that corporate plan meant to include some commentary on the industry sectors it regulates; it does list the sectors it currently regulates but notably omits to mention any it is supposed to be preparing to regulate. Specifically, us.

The full document is available at http://www.sia.homeoffice.gov.uk/Documents/sia-corporate-plan-consultation.pdf unless it has been removed following cessation of the consultation (30th January).



IPI 'SIA-Style' Accreditation

Many of our members report a general downturn in business activity and malaise in this industry, which we largely attribute to the adverse publicity generated by the Government and stagnation in the trumpeted process to licence Private Investigators.

We have already drawn this inertia to the attention of Home Secretary Mrs Theresa May, Chairman of the Home Affairs Select Committee Mr Keith Vaz and various individual MPs and received no positive assurances or specific dates when the matter will be brought before Parliament or Secondary Legislation enacted.

Therefore as an interim measure to provide the public and our members with the legitimacy called for by this Government but not enacted the Board is considering the commencement of an accreditation scheme for suitably qualified investigators and to issue identity cards accordingly.

The cards could be issued to investigators who fulfil the following criteria, which match or exceed those laid down in the Private Security Industry Act 2001, and who can demonstrate:

- An academic qualification to NVQ Level 3 OR Level 3 Award in Investigations which has been mapped against the requirements of the Private Security Industry Act 2001 and in fact exceeds those requirements
- Production of a CRB check carried out within the previous 12 months with negative result
- Production of documents to prove identity and address
- Production of proof of current PII insurance which again exceeds the requirements of the Private Security Industry Act 2001
- Registration with the Data Commissioner, where applicable

Provided these conditions are met the member will be issued with an identity card based on the below. Naturally, most IPI members will have qualifications that meet the expected standards, or they would not be members. This facility could also be made available to non-members.

There would be costs involved, which would be decided before such a service was offered.

Please let us know by email to admin@ipi.org.uk to let us know whether or not you are interested in such accreditation. Opinions in either direction will enable the Board of Governors make the best decision for us.

Distance Learning Course

The Institute continues to recruit students onto the course, and in January we hit the 200 student mark. Furthermore, we can also state that we continue to put students through the IQ Level 3 Award in Investigation exam process, and so far all those IPI students who have taken the course and the exams, have qualified.

The IPI sits in bewilderment as it becomes aware of eminent professionals who elect to pay a lot more for accreditation that they can achieve using our somewhat more economical but equally recognised services. £400 courses are for the untrained: long-serving professionals just need to be up to speed, cover any gaps, and get the exam out of the way.

At the risk of being seen to repeat myself:
"As an IQ Approved Centre, the Institute is able to look at a professional investigator's experience and qualifications and consider whether such a candidate needs to take the 39 hour course for Level 3 Qualification for a licence. The IPI Centre can exempt a candidate from ALL or PART of such a course (based on their assessment of the qualifications and experience) – the only absolute requirement is the taking of the assessment element of the qualification. Indeed, it did so for the Board members taking the IQ exam in April, all of whom now have the Award.

Don't pay for a course you don't need – even ours!
If you have experience covering the subject matter in the exam – just take the exam! The Institute,

Don't forget that IPI members can obtain a discount on the course in keeping with the following table:

Situation	Options	Assessments Required	Action available
I am wholly satisfied I know the material	Contact admin@ipi.org.uk with details of your recent qualifications	IPI will assess at a charge of £15 per application	If IPI is satisfied that criteria are met, just take the exam at £50.
I know the material but believe I need a refresher	Contact admin@ipi.org.uk with details of experience and any qualifications Two options are then available 1. Attend a refresher course run by the IPI and take exam the same day. 2. Purchase the IPI Manual at £75.	IPI will ***still*** need to assess at a charge of £15 per application, prior to attendance at course.	Once IPI is satisfied criteria are met through experience and other provided learning, take the exam: Refresher course at £150 **(£135 for IPI Members)** and is INCLUSIVE of exam cost. Manual is available for £75, exam cost is an additional £50.
I am new to the kind of private investigation knowledge requirements of the SIA			Invest in the Distance Learning Course, which is £375 **(£300 for IPI Members)** and is inclusive of the exam cost and a digital copy of the Manual

In the event that any member is able to arrange multiple attendees at courses, or multiple manual purchases, please contact admin@ipi.org.uk to discuss further discounts.

as a non-profit body, is not interested in charging members and other professionals for education they do not need. It has to charge for holding the exam, and to charge a reasonable admin fee for the exemption/ documentation process. We make only a minimal profit providing this service to professionals.

We would argue that no IPI Member should need 39 hours training – and pay for it – because if they DID need it, they wouldn't qualify as Members!!

Contact the IPI at admin@ipi.org.uk if you wish to explore the exemption and take the examination through us. Please note – we can ONLY exempt those who register through the Institute, and cannot exempt on behalf of other trainers and Centres. (Note: that doesn't mean that we cannot recognise other bodies' qualifications – we can, and do.)"

General Updates

BSI 102000-2013 – Provision of Investigative Services. The Institute is also actively involved in reviewing this standard. It is less than 2 years since publication and BSI would like the industry to review its content to see whether it remains fit for purpose or, having had it applied by some investigators, whether it needs amendments. Some suggestions have already been put forward but any members having observations on its content should let us know through admin@ipi.org.uk.

HOWEVER, the Institute has raised the somewhat exorbitant cost of the 22 page, print-it-yourself document at £108 (yes - that IS the price although you can join BSI and get it for 'just' £54). That 22 pages includes the blank pages, the ads and covers of a .pdf document. Given that HMG is trying to reduce costs to the business sector, the cost of a document which contains information that a business needs in order to comply with a licensing – correction, business registration – requirement seems a little steep. Add that to the cost of a licence and registration itself, and you're approaching £500 to stay in business. Add that to the 'option' of formal accreditation that can run as far (or as little) as £720 per day, and you're already working half a week for nothing. Of course, you can put your fees up.

Industry News

The Board monitors, as far as it is able, the industry and government sources that produce documents and consultations of interest to professional investigators. The following were publicised on the Institute's Twitter page, accessible via our website.

Legal Updates

New **Criminal Justice and Courts Act 2015** is worth a read for those involved in care and neglect cases, and policing, amongst other subjects involving the courts. There is one worrying offence committable only by police officers who act or fail to act, or threaten to do either, for personal benefit or to the detriment of another – with no equivalent for MPs! That one is wide open to interpretation. Available at http://www.legislation.gov.uk/ukpga/2015/2/contents/enacted.

New **Codes of Practice for Surveillance and CHIS (RIPA)**, the 'spirit' of the law for PIs at https://www.gov.uk/government/publications/covert-surveillance-and-covert-human-intelligence-sources-codes-of-practice …

Consultation documents on **Communications data codes of practice**: acquisition, disclosure and retention: at https://www.gov.uk/government/consultations/communications-data-codes-of-practice-acquisition-disclosure-and-retention …

Both consultations have concluded but a read of the material for those involved in such activities may be prudent.

The **Data Retention and Investigatory Powers Act 2014** is available here http://www.legislation.gov.uk/ukpga/2014/27/contents

The **Intellectual Property Act 2014** is available here http://www.legislation.gov.uk/ukpga/2014/18/contents/enacted

Changes in **remuneration rates for legal services.** Those who charge lawyers for work done on their behalf will be interested in the rates quoted in this concluded consultation. https://www.gov.uk/government/consultations/changes-to-remuneration-for-legal-aid-services

A consultation on how prosecutors deal with witnesses is also under way at https://www.gov.uk/government/consultations/speaking-to-witnesses-at-court-consultation

Civil court costs and their recovery are also under review at https://www.gov.uk/government/consultations/proposals-for-further-reforms-to-court-fees

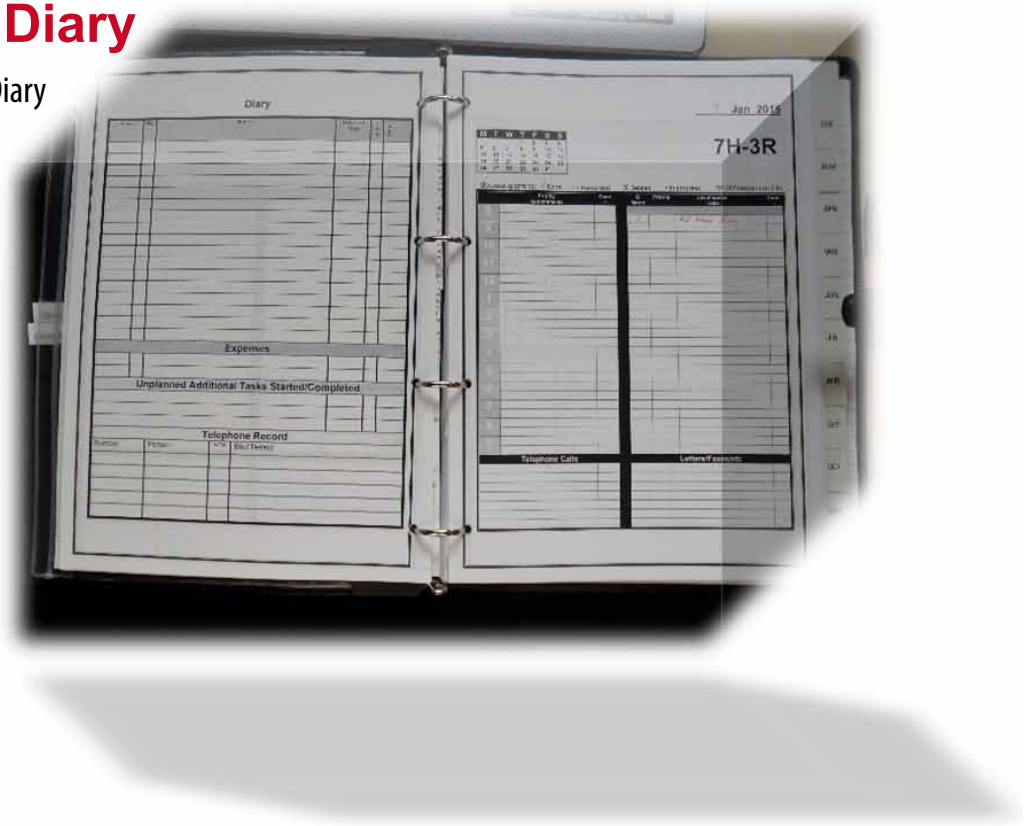
Data Protection buffs may like to read Information rights: review of the balance of competences at https://www.gov.uk/government/consultations/balance-of-competence-review-information-rights .

The Attorney General's Office is consulting on a revised code of practice that governs the use by prosecutors of some of the investigatory powers in the Proceeds of Crime Act 2002. **The Proceeds of Crime Act 2002** (the Act) has been amended by the Policing and Crime Act 2009 and the Crime and Courts Act 2013. The Act provides for this consultation on amendments to existing codes. The codes will then be subject to parliamentary approval before coming into force. The code of practice on which HMG seeks views provides guidance on the operation by prosecutors of the investigation powers under the Act. The Code for review can be downloaded here: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/386919/Code_of_Practice_issued_under_the_Proceeds_of_Crime_Act_2002.pdf

The **Public Contract Regulations** have come into force. Those involved in procurement can obtain the Regulations here http://www.legislation.gov.uk/uksi/2015/102/pdfs/uksi_20150102_en.pdf All 127 pages.

Disclosure and the Investigator's Diary

The Effect of the Criminal Procedure and Investigations Act 1996 on YOUR Diary



I have had many a heated debate with people about the criminal Disclosure provisions. The message from them appears to be that everything that comes into existence during a criminal investigation "must be disclosed. Full stop. No questions, no debate, just do it. So there, I have spoken."

The truth is that everything must be **considered** for disclosure – which means using your head. The Criminal Procedure and Investigations Act 1996 requires only that **relevant material** must be recorded and revealed, and ideally retained, not 'everything without any thought'. What does that mean in a practical sense?

What is material? The Code of Practice to the Act states (under S.2.1) that

"material is material of any kind, including information and objects, which is obtained in the course of a criminal investigation **and** which *may* be relevant to the investigation. This includes not only material coming into the possession of the investigator (such as documents seized in the course of searching premises) but also material generated by him (such as interview records)"

In other words, not ALL material must be retained (etc) – just material which may be relevant. The 'and' was important, and requires that we give conscious consideration to whether something is disclosable, rather than indulge in the blind creation of a documentary dumping ground for 'everything'.

At this point, therefore, I would have to agree that a diary entry may be material, as may the whole document.

What is relevant? To me, that means anything that is a fact or 'thing' upon which a case can turn, but the official definition under the same Code is that

"material may be relevant to an investigation ***if it appears*** to an investigator, or to the officer in charge of an investigation, or to the disclosure officer, that ***it has some bearing on any offence under investigation or any person being investigated, or on the surrounding circumstances of the case, unless it is incapable of having any impact on the case***; (my emphasis).

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In other words,

- Only something having any bearing on a case is material and relevant.
- The investigator, Disclosure Officer or OIC decides.

This definition implies that not every piece of paper (like a diary, for instance?) is necessarily relevant or material just because it exists. It just needs to be considered and either included on the schedule or dismissed as not disclosable. If you read the Joint Instructions on Disclosure, you would find that even statements do not have to be disclosed if they aren't material or relevant.

The Code is very particular about things that assist the defence or undermine the prosecution in any way (e.g. identifies issues about a witness.) But the term relevant appears to be missed when 'some people' explain the provisions. They just focus on 'material', meaning *any* papers, exhibits, other documents or conversations that are so much as mentioned, read, seen or discussed. But omitting the descriptive word 'relevant' is like a defence solicitor describing the burden of proof as beyond all reasonable doubt – they focus on 'all doubt' rather than on the word 'reasonable'. But it is there, and it is there for a reason. Do you see the distinction?

So it is unlikely that a mere notation to make an appointment to see someone is either relevant or material. It may be, or it may become so, but it is not *automatically* so.

The Joint Operational Instructions on Disclosure will show that even witness statements can 'fail' the disclosure tests, so arguing that everything that comes about as a result of an investigation is disclosable, is rot

Incidentally, it is often the case that it is not the entry in a document that is of interest to the defence – it is the event that gave rise to it. The document itself is only relevant because it is a record, but what gave rise to that record is what may assist a court. As such, disclosing that the event occurred may satisfy the disclosure requirements without the need to disclose the subsequent (private?) record. That decision is one for you, or the senior investigating officer, or disclosure officer. But it is a decision that must be made consciously, not without thought.

Let me give you an example of the distinction between 'all' and 'relevant' from a training debate I once had.

On a tutor constable course a scenario was set up where a trainee investigator told his tutor that he'd 'had a quiet word with a suspect in the car', a breach of the PACE codes of practice. It was the trainers' opinion that the WHOLE personal development portfolio of the trainee, within which *one single piece of paper* documented the incident, was disclosed. It was my argument that the breach should be disclosed, and arguably the single piece of paper dealing with it – but the whole document, never. The remainder of the document was arguably confidential in any case, and certainly did not assist the defence more than the document revealing the breach. The Joint Operational Instructions on Disclosure will show that even witness statements can 'fail' the disclosure tests, so arguing that everything that comes about as a result of an investigation is disclosable, is rot.

Use the information that exists to justify or dismiss any course of action. That's what your brain is for.

All of this means that if you do keep something in your diary that is relevant, it is disclosable. If it is removable or can be copied and is disclosable, then it needs to be disclosed, but not the whole diary. If it can't be removed it can be copied. You wouldn't hand original papers to anyone, in any case.

This also means that your (whole or part) diary is NOT automatically material, unless you put something into it that is material. And even then, only the relevant entry is material, not the whole diary. Secondly, as disclosure requires constant review, then the fact that I am retaining my diary means that everything is retained regardless of whether it is material, so if something becomes material it hasn't been lost and is still capable of being disclosed.

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I would argue (based on having read the relevant advice and the provisions of the Act as a Disclosure Officer on a BIG murder where there were no issues about my disclosure, and also as a qualified lawyer) that your diary is NOT disclosable in an investigation unless you put something in it that has a bearing on the case, and that even then, an edited copy is all that needs to be disclosed, i.e. the specific item/ document, and its meaning. Not what you did on the previous or later pages, what you doodled about your mate in the contacts section, not the pretty picture you may use as a section divider – ONLY the relevant material.

My advice, therefore, is to avoid using the diary for official notations with the obvious and important exception of appointments. Duplicate that information in your official note-book and the question becomes moot – it is the timing of the making of an appointment that is relevant and disclosable, at best.

What happens at the appointment should not be recorded or kept in your diary. If a statement is taken, for example, the statement form has a space upon it where the details of when and where it was recorded and/or signed can be entered. Disclosing a diary entry is arguably pointless, even when a prior appointment was made to prepare statement notes – put the time/ place on the statement notes.

Finally, in the event that you conclude that an entry or even a whole document is disclosable, remember that the Investigator discloses NOTHING to the opposing counsel – we disclose only to the lawyer/s representing our 'side', who then disclose what they consider should be disclosed to the defence. If you dispute a decision that requires full disclosure of a diary, challenge that decision. And remember the Human Rights legislation – ECHR Article 8 applies in respect of private diaries. If a diary is provided by your employer other criteria may apply, but the same arguments apply – in such a case the diary belongs to your employer and they could take the view that they have the right to decide what is done with it.

(From **Police Time Management** by David Palmer, available as a Kindle book through **this link** in Amazon. A blatant ad but this chapter's been provided free.)

Dates for the Diary

From Professional Security Magazine:

March 26:
BSIA spring conference-exhibition, Manchester.

March 29-31:
ASIS Europe conference, Frankfurt am Main.

April 15:
Security TWENTY 15, Bristol.

April 21-22, 2015:
Counter Terror Expo, London Olympia.

June 2-4, 2015:
Infosecurity Europe, Olympia (new venue).

June 9-11:
SDW 2015, document security exhibition (already sold out apparently), QE2 Centre, Westminster.

June 16-18:
IFSEC, ExCeL, London Docklands.

July 9:
Security TWENTY 15, Gosforth Park, Newcastle.

September 15-18, 2015:
DSEI, London.

September 22:
Security Institute (TSI) annual conference, London.

October 15:
Global Resilience Summit, London.

October 28:
ST15, Heathrow.

December 2-3:
Transec, Olympia.

2016

March 15-17, 2016:
ISNR Abu Dhabi.

September 27-30, 2016:
Essen

Private Eye January 2015

In the City

Spooks digging deep

HAS the corporate investigation bubble finally burst? Are the smart-suited (no trench coats) Sherlocks so popular with City banks and law firms losing their appeal? After years of relentless expansion, it seems hard times have suddenly hit the world of business intelligence, risk consultancy, due diligence, asset tracing and other people's secrets.

Last year two of the largest corporate private eyes recorded sharp falls in revenues and made losses. Other leading players in the PI business moaned of tough trading conditions to explain lower income and profits. Two established names went out of business altogether, while one new entrant had to seek a rescue takeover within months of setting up shop.

Over-expansion, over-charging and over-optimism that the good times would never end were factors, according to some of those in the business. Bad debts caused by the economic crisis were another.

A business which *Private Eye* estimated in 2013 was worth £200m a year in Britain alone was always attracting new entrants tempted by the very fat margins. Rivals came either from the start-ups of alumni of the bigger firms, or from invasion from the forensic departments of the Fat Four accountants or American consultants such as FTI, Navigant and Alvarez & Marsal. All were fed by a seemingly endless global diet of bids and deals, big-ticket divorce cases and commercial disputes.

But now it seems clients have become increasingly cost-conscious (unless they are Russian oligarchs for whom results rather than cost are the driver). Some international banks have taken more investigation and due diligence work in-house, faced with an onslaught of regulatory investigations and increasing fines for failing that first banking test – Know Your Customer. Other banks are driving harder bargains, which can make work unprofitable. Enquiries now mean economy travel, not business class. Salaries are being hiked by greater competition for staff.

US private equity-owned Kroll Associates UK, for many years the market leader among corporate PIs, saw its revenues in the year to last September slump from £26.5m to £17m, due to "challenging market conditions". Even an improved gross profit margin of just under 50 percent could not prevent restructuring costs helping to produce a pre-tax loss of £442,000 compared with a previous profit of £3.7m.

After a period in which it had become one of the "go-to" PIs, G3 Good Governance Group had a very bad 2013, blaming "challenging economic conditions faced by our client base". Founder Andre Pienaar left a year ago. Revenues fell from £16m to £12.5m (gross profit margins were trimmed to 33 percent) and a pre-tax profit of £2.3m was turned into a loss of £4.5m, thanks to a £2.4m provision for bad debts and £1.4m of restructuring costs. Most – £2m – of the bad debts related to previous years. So much for due diligence. G3 is controlled by the Swedish investment group Kinnevik.

G4S Investigation Solutions blamed the ban on referral fees for insurance claims as one reason why its revenues in 2013 dropped from £19m to £17m. It is one of the major investigators used by insurance companies. The fall in pre-tax profits was much more dramatic – from £2.2m to £523,000. Chasing insurance fraud is much less profitable than working City cases; its gross profit margin was only 20 percent.

Risk Advisory Group was another leading firm to go backwards in 2013. Its revenues barely grew to £20m, while pre-tax profits were down from £3m to £2m. So too did GPW, which saw revenues decline from £8.7m to £6.7m and profits more than halved from £1m to £454,000.

No believer in the transparency its clients often seek, Control Risks Group does not break down the contribution from business intelligence as distinct from the very significant "GunsRUs" security consultancy and "K&R" kidnap and ransom activities. But "a challenging year as clients continued to keep tight control over low discretionary budgets" saw revenues in the year to March 2014 fall from £79m to £70m. However, an operating loss was translated into a rise in pre-tax profits from £3.9m to £8.6m thanks to a larger dividend, worth £16m, from its Control Risks Services subsidiary based in the United Arab Emirates.

Only the very upmarket Hakluyt (aka Holdingham group), leader by revenues for UK corporate investigators (it prefers to distance itself from the grubby gumshoe image by describing itself as the purveyor of "information for the use of commerce"), managed to make any progress. In the year to June 2013 its revenues rose by £3m to £36m but pre-tax profits were barely changed at £3.4m. And that with gross profit margins of a remarkable 88 percent!

The progress made by other well-known names from the PI world – Diligence, Alaco and K2 Intelligence – is harder to measure as they do not produce full accounts. Both Alaco and K2 saw healthy increases in their net profits after all costs and charges.

K2 was set up by the doyen of due diligence, American Jules Kroll, in competition with his initial creation Kroll Associates after it was taken over. Its UK boss Charles "Clouseau" Carr narrowly escaped jail for taking a courtroom photograph after, it is rumoured, forgetting to turn off the flash on his smartphone!

The past year saw the demise of RISC Management and Penumbra Partners. RISC collapsed in January 2014, blaming its involvement on the investigation into the jailed corrupt Nigerian governor James Ibori and the resulting raid on its offices by Scotland Yard after false allegations of police corruption. A former RISC executive has since been charged with inflating invoices. Creditors were owed £390,000. Penumbra was a very different situation – it voluntarily wound itself up last month and expects to repay all creditors.

A lot of highly paid investigators in and around the not so dark streets of London's West End will be hoping 2013-14 was just a blip and the good times will soon return.

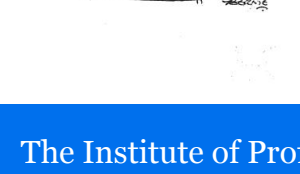
Slick Emery

A MEETING of EcoHouse investors last week was entertained by an appearance – but only on speakerphone and from an unknown location – by founder Anthony Armstrong Emery. He denied that EcoHouse was a scam and maintained he was seeking to raise funding for its Brazilian social housing developments. Those present were unimpressed.

Investors agreed to appoint PricewaterhouseCoopers as liquidator of EcoHouse Developments, the main UK company, which suspended operations in November. An incomplete list of investors was presented at the meeting. Their claims total at least £26m but the final figure, especially including investors in the Far East, could be much greater. Some investors have lost between £100,000 and £1m each.

Lawyers for investors are now preparing civil legal action against, among others, the West Midlands law firm Sanders & Co, which operated an escrow account through which many investors' money was released to EcoHouse to pay for work in Brazil (see *Eye* 1378). Sanders has denied any wrongdoing but was said to have so far failed to reveal details of the escrow account at Lloyds Bank.

The authorities in Brazil and Scotland Yard are now investigating EcoHouse. Meanwhile, the Toronto lawyer handling funds for EcoHouse investors in Canada has had his practice taken over by local regulators. The Law Society of Upper Canada obtained a trusteeship order against Sanjay Kumar Pahuja of Pahuja Law earlier this month.



Pahuja's licence to practise had been suspended for health reasons in March last year. But the regulator was "unable to maintain consistent and reliable communications" with him regarding outstanding matters or obtain clients' property, and there were "reasonable grounds to believe that Pahuja may have dealt improperly with client property".

The Law Society trustee began an investigation into allegations of "mishandling and/or misappropriating trust funds". Two EcoHouse trust accounts at the Bank of Montreal had not been part of the trusteeship but were handed over to another lawyer.

The regulator told the Canadian court it believed that EcoHouse amounts may have been paid from other client funds, and that Pahuja "may have mishandled or misappropriated trust funds from the EcoHouse trust accounts". Just how much EcoHouse raised in Canada, where it had a Toronto office since 2012, is unclear but could be as much as £5m.

Trading punches

BOXING promoter Frank Warren wrote to the *Eye* last month after we published (issue 1381) critical comments made by Mr Justice Knowles in his judgment in the breach of contract case brought by Warren and the now in liquidation Frank Warren Promotions (renamed W Promotions) against former world champion Ricky Burns.

"It appears that your magazine may not be in receipt of the full facts," Warren wrote. "In particular, you do not inform your readers of the decision on 15 December 2014 in which the court confirmed that I was the "successful party" in the litigation. As a result… Mr Burns… is left to pay his own legal costs of over £200,000 and has to pay me an additional £175,000 in damages and costs by the end of January with further substantial sums to follow."

Explaining why he took legal action, Warren wrote: "I jointly managed Ricky for a number of years and my company promoted him… He earned close to £1m. In March 2013 I received a letter from Ricky in which he sought to terminate his promotional and managerial agreements… I offered to meet with Ricky but as he would not meet I felt I had no option but to take matters further. I needed to prove the validity of the management and promotional agreements as, unless contracts are upheld, the sport of boxing is thrown into complete disarray… The court found that both the management and promotional agreements were valid… I am sorry, for Ricky's sake, that it came to this."

Private Eye had been awaiting a full transcript of the December hearing and judgment by Mr Justice Knowles. This was obtained last week. While indeed confirming that Warren was the "successful party", awarding him £75,000 commission and making an interim costs order against Burns of £100,000, the judge was far from wholly supportive in that 15 December judgment.

"Mr Warren has not succeeded wholly – far from it", the judge said. "He has failed on the

☛ See over..

this article

IQ Verify UKAS Approved

The Effect of the Criminal Procedure and Investigations Act 1996 on YOUR Diary

IQ Verify, part of the IQ Group, has gained approval from the United Kingdom Accreditation Service (UKAS) against ISO17021 (Conformity assessment for bodies providing audit and certification of management systems) and ISO17065 (Conformity assessment for bodies certifying products, processes and services). UKAS approval enables IQ Verify to undertake accredited compliance audits of Management Systems, Products and Services on behalf of clients.

Following approval the IQ Group, which includes Ofqual approved awarding organisation IndustryQualifications, becomes the UK's only organisation approved to offer both regulated qualifications and organisational audits to international and industry standards.

Group Chief Executive and Chair of IQ Verify, Raymond Clarke said, "We are delighted to be able to make this announcement, which yet again demonstrates our commitment to innovation and ongoing improvement in our offer to customers. With UKAS approval, the IQ Group is uniquely positioned to offer a holistic approach to assessment, audit and certification for our clients. Our primary focus will be those standards related to organisational resilience, but we will also be offering schemes in sectors such as investigation.

Lynn Watts-Pumpkin, Director and General Manager of IQ Verify said, "Our first standard is BS102000 (Code of practice for the provision of investigative services), where we have already attracted a large number of launch customers as a result of our relationships with the ABI [Association of British Investigators] and IPI [Institute of Professional Investigators] in the sector. This is just the start, however.

Before the end of April, IQ Verify will be offering the ISO standards for quality management, information security management, business continuity, risk management, supply chain security management and others including PSC-1 for security companies operating in hostile environments".

Robertson and Co were the first company to undergo an audit by IQ Verify to BS102000. Gavin Robertson said "We were seeking a forward looking and high quality certification body partner and having previously worked with Industry Qualifications in gaining qualifications for our investigatory team, the move to IQ Verify was both obvious and seamless. The audit experience was very positive and we will be working with IQ Verify on a range of ISO standards as we strengthen the external accreditation of our business".

The Professional Investigator

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