



Information Rights Committee minutes

Tuesday 23 October

Members and other attendees present

Andy Laing	Head of Complaints Resolution
Anne Jones	Assistant Commissioner - Wales
Charlotte Powell	Lead Information Governance Officer
David Smith	Deputy Commissioner, Director of Data Protection (chair)
Geraldine Dersley	Lawyer, Policy Delivery (agenda item 8)
Graham Smith	Deputy Commissioner, Freedom of Information (Chair)
Jonathan Bamford	Head of Strategic Liaison
Ken Macdonald.	Assistant Commissioner – Scotland and Northern Ireland
Louise Byers	Head of Good Practice
Paul Arnold	Head of Customer Contact
Robert Parker	Head of Corporate Affairs
Simon Entwisle	Director of Operations
Hannah Cutler	Corporate Governance Officer (Secretariat)

1. Introductions and apologies

- 1.1. Apologies from Christopher Graham and Steve Wood who were unable to attend this meeting as they are attending the International Conference of Data Protection and Privacy Commissioners.
- 1.2. Apologies from Steve Eckersley who was unable to attend.

2. Minutes, Action points, and matters arising from the last meeting

- 2.1. The minutes of the last meeting were adopted with one minor amendment to action point 2.

Action point 1 – Secretariat to make amendment then arrange for the minutes to be added to the ICO website and for staff to be advised.

- 2.2. IRC discussed outstanding actions from 17 July:
- Action point 3 – to be completed by the end of the month.
 - Action point 4 - On-going and is to remain outstanding.
- 2.3. IRC discussed outstanding actions from 30 July:
- Action point 1 – Aiming for the consultation to be ready to go out in November.

Action point 2: Jo Pedder to ask Gemma Farmer to circulate an update on the work on privacy seals to IRC members. (Item 9.3 in previous minutes.)

3. Key Information rights developments

- 3.1. Issues raised in the Management Board information rights report included:
- 3.2. The Midata project and the costs and responsibilities that the ICO may have in the future if it were to be the body that regulates it.
- 3.3. A pilot in NHS Wales where non encrypted external emails are being scanned for personal data and checked with the sender if such data is found. Results so far are showing that up to 75% of emails stopped are not subsequently resent. How we are responding to requests to notify people on the Consulting Association blacklist.
- 3.5. Publication of four ICO audit outcome reports in order to share common areas of good practice with other data controllers. This will be updated every six months.
- 3.6. Civil Monetary Penalties (CMP) final notices in respect of breaches of the PECR will be issued in the next two weeks.
- 3.7. Northern Ireland will jointly host a cross border conference with the Irish Data Protection Commissioner aimed at attracting 120 delegates from small medium sized enterprises.
- 3.8. Amendments to the Scottish Government Bill procedure manual have been delayed. However bill teams have been

advised to contact the ICO where issues relating to personal information arise.

- 3.9. The re-introduction of website analytics to the ICO website.

4. Audit Programme 2013/14

- 4.1. The team have identified key sectors to engage with and to encourage participation in the audit programme. A discussion and validation of these proposed sectors took place.
- 4.2. Confirmation from the committee that a focus on Local Government would be important due to the number of CMPs in this area and our business case to extend our compulsory audit powers in this sector. This was also noted as being an important area for review within Scotland due to changes in the health and social care system.
- 4.3. The following areas were also discussed for consideration:
- 4.4. Private car parking companies and their use of ANPR.
- 4.5. Auditing of data sharing initiatives; approach currently piloted by the Good Practice Team following the path of data sent between organisations such as local authorities, NHS and third parties.
- 4.6. Follow up visit to organisations previously issued penalties as a result of enforcement activity.
- 4.7. Reviewing where we have formal commitment to allow the ICO to undertake audit related activities e.g. binding corporate rules and data sharing arrangements

5. Information Rights Committee Priorities

- 5.1. Enforcement powers; using the powers across the full range of obligations. We have recently issued the first CMP in a PECR case and enforcement notices have been issued in other areas; e.g. audio recording in taxis.
- 5.2. Changes in legislative framework; there is still uncertainty. Figures have recently been published on the cost of the proposed EU data protection changes to UK business over a 14 year period.
- 5.3. Open Government and Transparency; the Government response to the post legislative scrutiny of the Freedom of Information Act is awaited.

Decision: All of the current priority items are to remain on the agenda until March 2013.

6. Priority Action Group Reports

- 6.1. Health; actions on the plan to be completed after the next meeting on 24 October.
- 6.2. Criminal Justice; developing a process where the group can link in more closely with the Enforcement Team's 'Intelligence Hub'.
- 6.3. Internet and Mobile Services; IRC was satisfied with the areas of focus outlined and the activities completed so far.

Action point 3: Jonathan Bamford to set up a new priority action group 'Local Government'. This group is to decide on key priorities to focus on such as social care.

7. Developing approach to non-compliance casework

- 7.1. IRC supported the aim of exploring how we can use outcome information from individual complaints to the ICO, along with more general data, to help improve data controller practices.
- 7.2. They agreed with the idea of shifting ICO's emphasis more towards being able to demonstrate what organisations have done to improve their practices as a result of our casework intervention.
- 7.3. This could be through enforcement action but there would also be other options such as agreed action plans.
- 7.4. Within this approach IRC supported proposals to introduce more flexibility on how individual cases raising 'issues of significance' might be progressed whether through enforcement or otherwise

Action Point 4: Andy Laing to develop a formal plan to build on these proposals during the next quarter for consideration by IRC

8. Approval for BCRs for processors

- 8.1. Following the introduction of BCR (Binding Corporate Rules) for data controllers there has been significant interest from business in the creation of an equivalent system, to cover personal data processed by organisations acting as data processors on behalf of others, i.e. BCR for Processors. It is for the IRC to consider the approach of the ICO to BCR for Processors
- 8.2. There has always been an interest in BCRs due to the number of transfers completed and increased credibility for

companies within the BCR system. At this stage it is unclear how many applications we will receive and what resources we will require.

8.3. IRC favoured option 1 but concerns were raised over the risk that the ICO would run by authorising a processor without any knowledge of the particular processing they may be doing for a data controller in the future. It was stressed that responsibility would be on the data controller to enter into appropriate contractual arrangements.

8.4. Option 2 was also discussed as there is less risk involved for the ICO but it might be inconsistent with other EU data protection authorities.

Action point 5: Decision to be made by joint chairs after sub group meeting on 18 November and article 29 working party meeting 5/6 December.

9. Embedding information rights into the Education System

9.1. There have been 10 proposals to work with the ICO on this project and these are to be narrowed down to four; to present to the ICO.

9.2. An advisory panel will be arranged and a pilot rolled out.

10. Customer satisfaction research

10.1. The Good Practice survey is complete and the first stage of the complaints survey has been completed.

11. Consultations

11.1. Unfortunately there was no update for the committee on this item but relevant activities have been referred to in the quarterly Information Rights Report.

12. Research

12.1. Budgets were discussed.

Action point 6: Steve Wood to liaise with Andy Cryer regarding the research budgets.

12.2. The ICO looking at making a realistic assessment of the additional cost to businesses from proposed changes to the EU Data Protection Directive and the advice and information it would need to provide.

13. Any other business

13.1. There was no other business to discuss.

14. Key Messages

1. BCRs for processors going forward.
2. 'Local Government' is a new priority action group.
3. IRC input into the Audit programme has provided guidance and confirmed sectors to engage with.
4. Consultation is due to go ahead during November on the change in notification.
5. We have reached an exciting stage in the embedding information rights in education with 10 proposals to consider.