

## Information Law Update

**Ibrahim Hasan**  
Solicitor and Director  
Act Now Training



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## Local Government Transparency Code



- Applies to England only
- S.2 Local Government Planning & Land Act 1980
- Not legally binding but can be enforced through Regulations (S.3)

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## Minimum Data To Publish

- Expenditure over £500, (including costs, supplier and transaction information).
- Senior employee salaries (£58,200+) and other details including “The pay multiple”
- An organisational chart of the staff structure.
- Members’ allowances and expenses
- Copies of contracts and tenders

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**Minimum Data To Publish (2)**

- Grants to the voluntary community and social enterprise sector clearly itemised and listed
- Policies, performance, external audits and key inspections and key indicators on the authorities' fiscal and financial position
- The location of public land and building assets normally recorded on asset registers
- Data of democratic running of the local authority

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**New Public Authorities**

Section 5 Order (November 2011)

- ACPO
- Financial Ombudsman Service
- UCAS

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**To Be Consulted**

20 organisations performing public function incl.

- Advertising Standards Authority
- Law Society and Bar Council
- Examination Boards (where not covered)
- Local Government Association
- NHS Confederation
- The Parking and Traffic Appeals Service
- Traffic Penalty Tribunal

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**Protection of Freedoms Bill  
Changes to FOI**

- Definition of Publicly Owned Company
- Publication and re use of Datasets
- Role and Powers of Information Commissioner

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**Publicly Owned Companies**

Clause 92 (amendment to section 6)



- a) wholly owned by the Crown
- b) wholly owned by any public authority (one or more) listed in schedule 1

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**Section 11: Format of Response**

Applicant can express a preference

- Copy of information in permanent form
- Inspect a record containing info
- Summary of information

Reasonably practicable

Cost

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### Datasets

- Clause 92 – Protection of Freedoms Bill
- Amends section 11 and section 19

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### What is a Dataset?

A collection of information (in electronic form) which:

- has been obtained/recorded for the purpose of providing a public authority with information in connection with the provision of a service by the authority or the carrying out of any other function
- is factual information which is not the product of analysis or interpretation other than calculation, and
- is not an official statistic

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### Examples

- Property references
- Schools and contact lists
- Organisation chart
- Spend data

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**Electronic Form**

- Clause 92(2) – Amends S.11 FOI
- Applicant expresses a preference
- Provide information in electronic form which is capable of re use
- NB - So far as reasonably practicable

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**Licence for Re Use**

- Clause 92(3) – New S.11A FOI
- Dataset includes copyright work
- Make copyright work available for re use in accordance with terms of specified licence
- New Section 45 Code licence(s)

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**Publication Scheme**

- Clause 92(4) – Amends S.19 FOI
- Publish any dataset requested plus updated version
- Grant licence to re use

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**Reasons for Refusal**

1. Information is not held
2. Request is vexatious
3. Request is a repeated request
4. Costs are over the Appropriate Limit
5. Part 2 Exemption applies

Serve Refusal Notice

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**Information Held by Others**

- Information “ held by another person on behalf of the authority” (section 3(2(b))
- Leeds City Council (10/4/07) - market research
- DWP (17/11/08) - ATOS doctors info

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**PFI Contractors**

- Alan Dransfield v IC and Devon County Council (EA/2010/0152 30th March 2011)
- Operation and Maintenance Manual
- Confidentiality clause

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### Vexatious Requests (S.14(1))

Awareness Guidance No: 22 (Version 4)

“Is the request is likely to cause unjustified distress, disruption or irritation without any proper or justified cause?”

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### Considering the Context

- Duke v IC and University of Salford (EA/2011/0060 26th July 2011)
- DOS Attack using WDTK website
- Cf: Dransfield v IC (EA/2011/0079)

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### Salaries

- Cabinet Office (Reference: FS50347053 20 June 2011)
- Those earning more than £150,000
- Objections v reasonable expectation of privacy

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### 31. Law Enforcement

Disclosure would prejudice prevention, detection of crime, apprehension or prosecution of offenders, assessment or collection of any tax, administration of justice, immigration controls, security of prisoners...



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### Empty Properties

- Voyias v IC and LB Camden (EA/2011/0007)
- Section 31 engaged
- Public interest in disclosure outweighed the increased risk of low-level criminality

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### Covert Surveillance and RIPA 2011

Ibrahim Hasan  
*Act Now Training*



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### What is RIPA?

- Interception of Communications (Part 1 Ch 1)
- Acquisition of Communications Data (Part 1 Ch 2)
- Surveillance & CHIS (Part 2)
- Disclosure of Encrypted Data (Part 3)
- Scrutiny (Part 4)
- Miscellaneous (Part 5)

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### RIPA Review Recommendations

- All RIPA activity to require Magistrate approval
- Directed Surveillance to be subject to Serious Crime Test
- RIPA only way to access comms data

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### The Protection of Freedoms Bill

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### Magistrate Approval



- Clauses 37 & 38 amend Part 1 and 2 of RIPA
- Applies to Directed Surveillance, CHIS and Communications Data
- Grant and renewals
- Additional to internal authorisation

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## Magistrate Scrutiny

- Necessary and proportionate
- Right purpose
- Right person
- Right safeguards

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## Magistrate Process

- Authorisation cannot take effect until approved
- Application can be made by anyone in council
- No need to give notice to subject
- Average time – 20 minutes?

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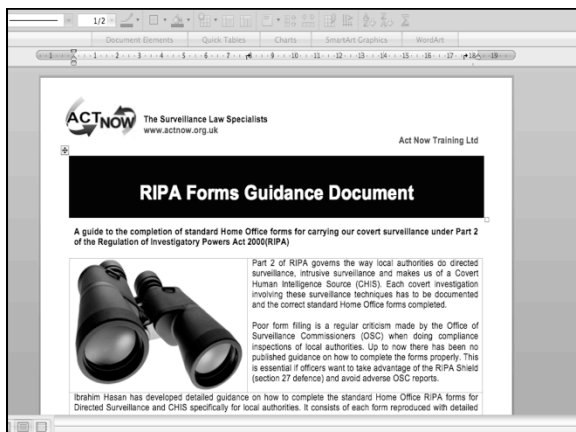
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### Changes to Directed Surveillance

- Six month imprisonment threshold
- Will be implemented through order under section 30(3)(b) RIPA
- Except where done to corroborate underage sales of tobacco and alcohol

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### Serious Crime Test Offences

#### SIX MONTHS

- Fly tipping
- Benefit fraud
- Trading standards
- Financial offences
- Dangerous dogs

#### NOT SIX MONTHS

- Dog fouling
- Littering
- Planning offences
- Noise abatement notices

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### CCTV and ANPR



- Clause 29 - statutory code of practice
- Specified bodies must have regard to the code
- Covers all types of councils and the police
- Enforcement?

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## Consultation



- <http://homeoffice.gov.uk/media-centre/news/CCTV-ANPR>
- Closing Date: 25<sup>th</sup> May 2011

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## Surveillance Camera Commissioner

- Encourage compliance with the code
- Review operation of the code/annual report
- Provide advice about the code (including changes and breaches)

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from the ICO and Tribunal  
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### Advice Helplines



1. Data Protection
2. Freedom of Information and EIR
3. RIPA/RIPSA and Surveillance Law

Annual subscription per organisation

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### Connect With Act Now



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### Contact Us



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