



Freedom of Information

Volume 6, Issue 4

March / April 2010

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- HMRC fails to respond over who gets taxed less, p.18
- Delays 'completely and unacceptably' undermine spirit of FOIA, p.19
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'Misunderstanding' over redaction, says ICO

The Information Commissioner's Office has said that there has been a 'misunderstanding' over claims made by the Culture Media and Sport Committee about information handling at the ICO.

The comments came as part of the Committee's report, 'Press Standards, Privacy and Libel', which is the product of the Committee's recent enquiry into illegal phone hacking by News International.

In the report, the Committee states "[w]e have been surprised by the confusion and obfuscation in the Information Commis-

sioner's Office about the format of the information it holds, and to whom that information has been released."

The criticism was apparently prompted following the Committee Chairman's visit to the ICO during the investigation. Mr John Whittingdale went to inspect invoices obtained during the ICO's investigation into journalists' 'blagging' — the practice of impersonating someone to obtain information from official databases.

A total of 17,000 invoices or purchase orders had

been seized in Operation Motorman in 2003, but the ICO said they could not provide the redacted versions to publish as part of the inquiry. They said it would take too long to perform the redaction of all personal information that would be needed to comply with sec 59 of the Data Protection Act. The Commissioner also doubted "whether [it] would serve any useful purpose."

The Committee was dissatisfied: "we would have expected to be told that the information was available in an electronic

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It's a close call at Tribunal for legal advice on giant NHS database

The First Tier (Information) Tribunal has decided that the Department of Health was right to withhold the legal advice it had taken in respect of the proposals for an NHS giant database (now established), despite the strength of the public interest arguments being "evenly balanced".

Upon receipt of the request, the DoH had argued that the legal advice sought was exempt

under section 42 of the Freedom of Information Act 2000 (exemption for legal professional privilege). The Information Commissioner agreed, deciding that the information was protected, and that the public interest test came down in favour of the DoH (i.e. for secrecy).

The Tribunal was asked to consider the same issues as the Commissioner, and unanimously decided that the Com-

missioner was correct in his determination.

It said "we find there is a strong public interest [and] the disputed information has the inbuilt weight in favour of maintaining the exemption. It is recent advice which in our view is still 'live' which makes it even weightier".

However, the Tribunal also said strong countervailing public interest

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