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## **DR FOI BULLETIN MAY EDITION**

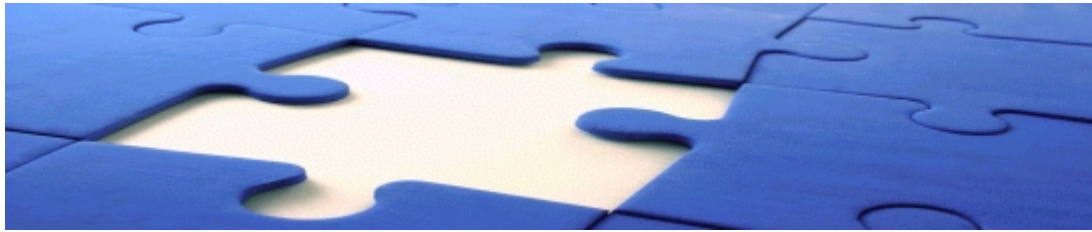
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### **Mr CP England and London Borough of Bexley vs. Information Commissioner**

In this case, the Information Commissioner had decided that the London Borough of Bexley should “in 35 days, to disclose a list of addresses of long term empty and uninhabitable empty properties in the borough to Mr England”. Both the Council and the complainant appealed to the Information Tribunal. The Tribunal heard evidence from a large number of people:

- Miss Nicole Duncan of the Information Commissioner's office who dealt with Mr England's case and carried out the investigation resulting in the Decision Notice of 25.07.2006
- Mr David Ireland, the Chief Executive of the Empty Homes Agency
- Dr Rebecca Tunstall, a lecturer in housing at the London School of Economics



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- Mr John Grosvenor, the person at the Council responsible for handling Freedom of Information Act requests
- Mr Kevin Murphy, the Head of Public Protection (Residential and Environment) at the Council
- and Chief Inspector Christopher Hafford, of the Metropolitan Police

They also had witness statements from a number of key others. In what is a landmark decision, in ordering disclosure of what many would have previously considered personal information, the Tribunal issued the following substituted Decision:

“For the reasons set out in the Tribunal’s determination, the substituted decision is that the London Borough of Bexley did not deal with the complainant’s request in accordance with the requirements of Part I of the Freedom of Information Act 2000 in that the London Borough of Bexley failed to disclose to the complainant the following information:

- (a) addresses of “long term empty” and “uninhabitable empty properties” that are not owned by individuals; and
- (b) the names of the owners of those properties referred to in (a).

“Individuals” means natural persons, or the beneficiaries of deceased individuals, if they are also natural persons.

The London Borough of Bexley shall provide a copy of the said information to the Complainant “

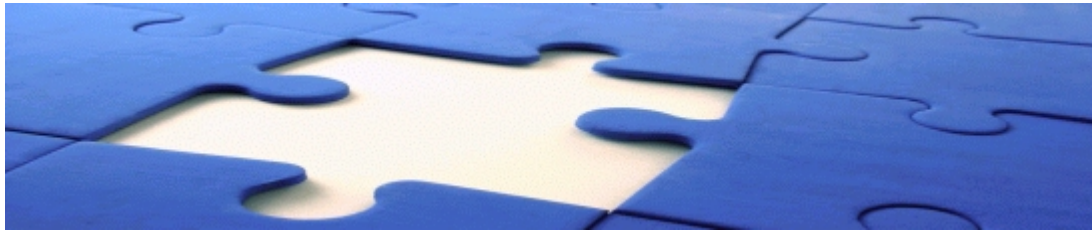
The full Decision can be read at:

[http://www.informationtribunal.gov.uk/Files/ourDecisions/MrCPEnglandandLondonBoroughofBexleyvInformationCommissioner\\_10May2007.pdf](http://www.informationtribunal.gov.uk/Files/ourDecisions/MrCPEnglandandLondonBoroughofBexleyvInformationCommissioner_10May2007.pdf)

### **Police Data-sharing**

In this article, posted on “Outlaw”, there is an account of how the European Parliament has voted to allow data sharing between the European police forces “only if it is done with proper regard for civil liberties”. Although the Parliament has no official clout in this area, the European Council (which does) had asked the Parliament for its view. For the story in “Outlaw”, visit:

<http://www.out-law.com/default.aspx?page=8076>



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### **Decision Notice on Personal Information applied for under the FOIA**

The complainant asked Calderdale Council for information about the grounds and financial arrangements for the early retirement of a senior member of staff of the public authority. The Council refused this request under section 40(2). The Information Commissioner upheld this, stating that disclosure of personal data relating to the former employee of the public authority would breach the first data protection principle and, therefore, that section 40(2) has been applied correctly. To see the decision notice in full, visit:

[http://www.ico.gov.uk/upload/documents/decisionnotices/2007/decision\\_notice\\_fs50074995.pdf](http://www.ico.gov.uk/upload/documents/decisionnotices/2007/decision_notice_fs50074995.pdf)

### **Data Protection Advice for Elected Members**

The Information Commissioner has issued guidance to help elected councillors to understand their responsibilities under the Data Protection Act 1998. To see this, visit:

[http://www.ico.gov.uk/upload/documents/library/data\\_protection/practical\\_application/advice\\_local\\_authorities\\_disclosing\\_personal\\_information\\_elected\\_members.pdf.pdf](http://www.ico.gov.uk/upload/documents/library/data_protection/practical_application/advice_local_authorities_disclosing_personal_information_elected_members.pdf.pdf)

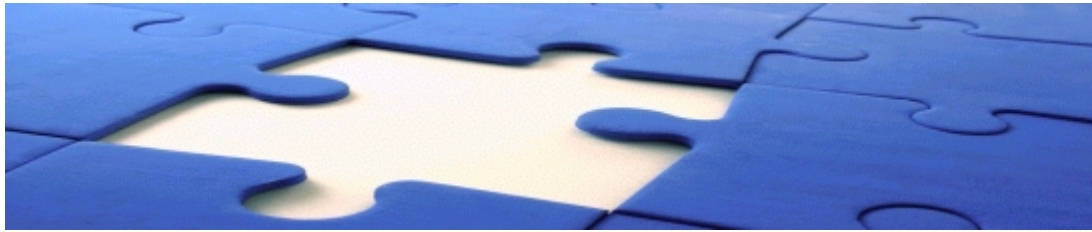
### **Information Commissioner describes FOI as a fixed feature of the 21<sup>st</sup> century and says that he will bring forward plans to deter vexatious requests**

The Information Commissioner, Richard Thomas, has said that he is surprised that public authorities do not make better use of the vexatious requests exemption. He announced his intention to bring forward plans to “deter mischievous and pointless requests”. Richard Thomas said: “I am sympathetic towards public authorities that refuse to deal with vexatious requests which clearly serve no reasonable purpose. Such requests do a disservice to all who want freedom of information to be a success. But I am surprised that public authorities are not making more robust use of the existing provisions under the Act for excluding vexatious requests.” To read the press release in full, visit:

[http://www.ico.gov.uk/upload/documents/pressreleases/2007/foi\\_live.pdf](http://www.ico.gov.uk/upload/documents/pressreleases/2007/foi_live.pdf)

### **Use of Section 44 by Parliamentary Health Service Ombudsman**

The complainant wrote to the Ombudsman to ask for transcripts of two interviews it had conducted in the course of investigating a complaint against the West Yorkshire



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Ambulance Service NHS Trust. The Ombudsman refused, citing section 44 of the Act and stated that the relevant statutory prohibition was section 15(1) of the Health Service Commissioner's Act 1993.

The Information Commissioner has agreed that the use of this exemption was appropriate; however, the Information Commissioner has found that the public authority breached section 17 of the Act by failing to issue a refusal notice within 20 working days of receiving the request.

To see the Decision Notice in full, visit:

[http://www.ico.gov.uk/upload/documents/decisionnotices/2007/decision\\_notice\\_fs50140862.pdf](http://www.ico.gov.uk/upload/documents/decisionnotices/2007/decision_notice_fs50140862.pdf)

### **Recent Disclosure by the Department of Health**

The Department of Health has issued a report of all the documents held between 1970-85 relating to blood safety. This was published on 22 May 2007 and to see it in full:

[http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_074950](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_074950)

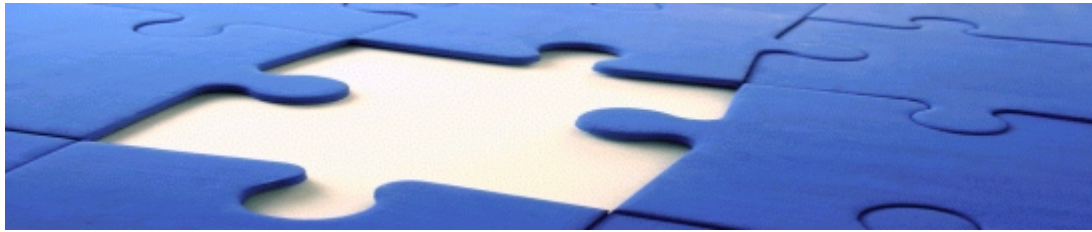
### **MPs and FOI-Bill rises again: Lords will decide whether MPs outside of FOI**

This link to the report in the Daily Telegraph sets out how MPs have voted by 96 to 25 against being covered by FOI. This would potentially allow them opt out of disclosing their travel and subsistence costs. This Private Members Bill still has to be approved by the House of Lords. Visit:

<http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2007/05/19/nfoi19.xml>

Martin Rosenbaum's blog sets out how the originator of the Bill, David Maclean, now wants the Bill to exclude travel and subsistence expenses of MPs; and how the Bill is becoming increasingly unpopular. Visit:

<http://www.bbc.co.uk/blogs/opensecrets/>



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### **The Department for Constitutional Affairs becomes a part of the Ministry of Justice**

The old web site at [www.dca.gov.uk](http://www.dca.gov.uk) now acts as an archive and new information about FOI and DPA can be found on the new website:

<http://www.justice.gov.uk/guidance/guidancefoi.htm>

### **Winners of the Health Informatics Accolade Awards 2007**

To read about the winners of the awards, visit:

<http://www.connectingforhealth.nhs.uk/newsroom/news-stories/winners-of-the>

### **New Members required for UK Caldicott Guardian Council; deadlines for nominations for mental health representative is Monday 2<sup>nd</sup> July**

To participate, further details are at:

<http://www.connectingforhealth.nhs.uk/systemsandservices/infogov/caldicott>