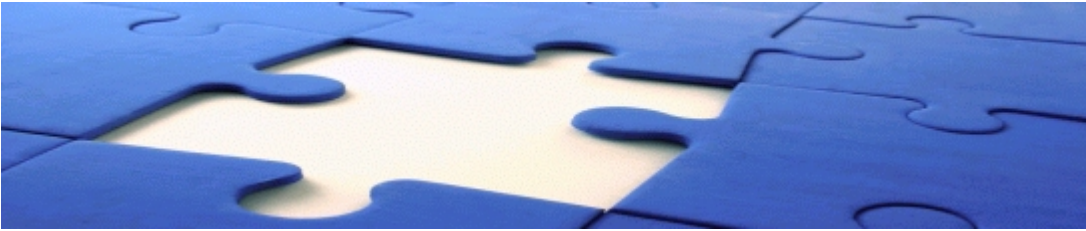


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### **DR FOI JULY 2007**

Welcome to this month's Dr FOI Bulletin. In this month's edition:

- Decision Notices
  - Request for Trust audit report; complaint upheld
  - Request for list of delegates who had attended PCT Consultation Event
  - Information Tribunal: Ms Pauline Reith and the Information Commissioner and the London Borough of Hammersmith and Fulham
- Who should be a Caldicott Guardian?
- Caldicott Guardian Newsletter
- FOI (Amendment) Bill sinks again
- Ministry of Defence: UFO sightings
- Scottish Information Commissioner issues his annual report for 2006/7
- Survey of Public Awareness of FOI Rights in Scotland
- The Surveillance Society
- "Blog Roundup"
- Public Sector Data Protection: Excellence Awards
- Child Protection Service Wales: Information Sharing Protocol between local authority and health agencies
- Irish police now to be subject to FOI
- Courses and Training



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### **Decision Notices**

#### Request for Trust audit report; complaint upheld

The complainant initially requested a financial audit report of South Warwickshire General Hospitals NHS Trust's (the "Trust") finances for 2004-2005, and the Trust declined to provide this, citing section 36 FOIA 2000 ("prejudice of effective conduct of public affairs"). The Information Commissioner reviewed the relevant information and the factors relating to the public interest in disclosure/non-disclosure.

His decision was that the Trust was wrong to withhold the information in question under section 36 of the Act, and, as such, was in breach of section 1 of the Act. He has also decided that the Trust issued an inadequate refusal notice (s 17). He therefore asked the Trust to disclose the information. For the full Decision notice, visit:

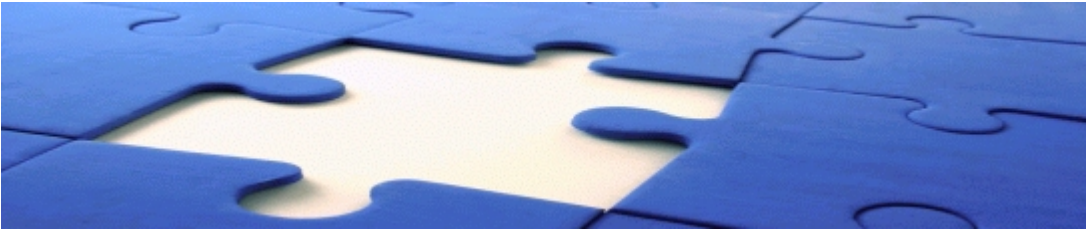
[http://www.ico.gov.uk/upload/documents/decisionnotices/2007/fs\\_50109031.pdf](http://www.ico.gov.uk/upload/documents/decisionnotices/2007/fs_50109031.pdf)

#### Request for list of delegates who had attended PCT Consultation Event

The complainant requested a list of delegates who had attended a public consultation event which was run by the Trust. The PCT provided a list of the job titles of the delegates plus the organisations that they represented. "However, it refused to provide the names and contact details of the delegates, and cited the exemption at section 40 of the Freedom of Information Act 2000 (the "FOIA"), stating it believed that the disclosure would be a breach of the Data Protection Act 1998 (the "DPA")". However, the Trust then retracted this, saying that they were now only seeking to withhold personal details where the delegates had provided personal e-mail addresses and residential addresses.

The Information Commissioner found that the PCT had breached the requirements of section 1 FOIA as it had cited an exemption which it had subsequently partially withdrawn. He also concluded that the public authority had breached the "requirements of section 17 of the FOIA by failing to issue an adequate refusal notice". To see the entire Decision notice, visit:

[http://www.ico.gov.uk/upload/documents/decisionnotices/2007/fs\\_50101815.pdf](http://www.ico.gov.uk/upload/documents/decisionnotices/2007/fs_50101815.pdf)



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### Information Tribunal: Ms Pauline Reith and the Information Commissioner and the London Borough of Hammersmith and Fulham

The appellant had originally made a request to the Council, asking for “the Council’s policy relating to the towing of vehicles under parking regulations (i.e. which factors are taken into consideration in the decision of when, and when not to use the limited resources of the borough’s towing vehicles”...

The Council had declined to provide the information; saying that they were “relying on section 31 of FOIA”. The Council believed that by disclosing the information they would be likely to encourage unlawful parking in areas of low priority. Ms Reith complained to the Council stating that she “believed that section 31 FOIA was designed for protection against gross infringement of law and order and/or injustice”. The Information Commissioner upheld the position of the Council, whereas the Information Tribunal substituted a new Decision stating that the Council should provide the information within 28 days.

To see the whole of the Decision by the Information Tribunal, visit:

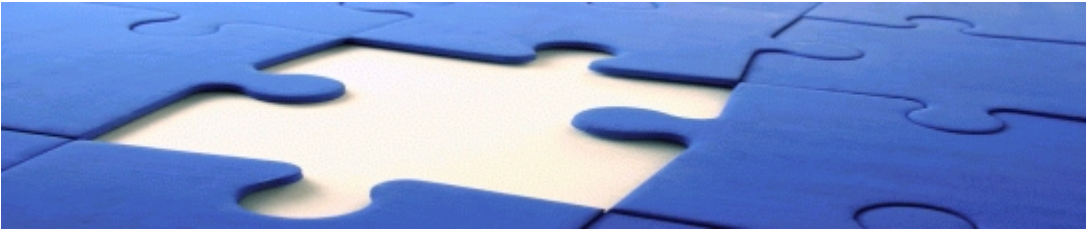
[http://www.informationtribunal.gov.uk/Files/ourDecisions/mspreithvinformationcommissionerandlondonboroughof%20hammersmithandfulham\(1june2007\).pdf](http://www.informationtribunal.gov.uk/Files/ourDecisions/mspreithvinformationcommissionerandlondonboroughof%20hammersmithandfulham(1june2007).pdf)

### **Who should be a Caldicott Guardian?**

Until fairly recently, Caldicott Guardians within health and social care organisations were generally practitioners at Board level. New statistics show that Caldicott Guardians are:

- Doctors 45%
- Nurses 22%
- Social care 15%
- IM and T 9%
- Senior managers 2%
- Other 7%

(Source: Training Needs Analysis and Survey Report November 2006 UK Caldicott Guardian Council).



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The next edition of Dr FOI will feature an interview with Steve Hinde, the Chairman of the Caldicott Guardian Council. This will include views on Role Based Access Control and the role of the Caldicott Guardian.

### **Caldicott Guardian Newsletter**

The latest Caldicott Guardian Newsletter is at:

<http://www.connectingforhealth.nhs.uk/systemsandservices/infogov/policy/caldicott/newsletter/issue-4.pdf>

### **FOI (Amendment) Bill sinks again**

The possibility of the Bill introduced by David Maclean MP progressing to legislation now seems even less likely. Many commentators are keeping track of its path; the best account can be found at the website of the Campaign for Freedom of Information, which states:

“David Maclean MP's Freedom of Information (Amendment) Bill has so far not found a sponsor in the House of Lords and cannot now be introduced before the summer recess. If a sponsor is found, it is possible that the Bill could still be introduced in October. However, it now seems extremely unlikely that the Bill could make progress in anything like its current form. It is conceivable that someone might still seek to take the bill forward in a highly truncated form (e.g. by proposing to restrict it solely with MPs' correspondence on behalf of individual constituents)”

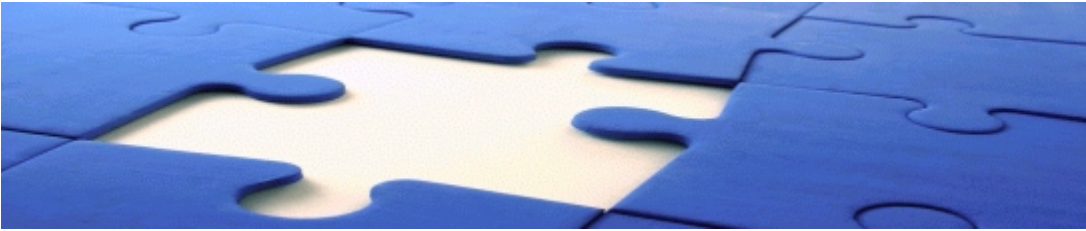
For the full story and more comments, visit:

<http://www.cfoi.org.uk/>

### **Ministry of Defence: UFO sightings**

The Ministry of Defence continues to have one of the best examples of a disclosure log, amongst all those which are available. A recent FOI request was for information about a UFO sighting above Torquay in April 1967. The response includes the paragraph below:

“Given the length of time since the alleged incident, the Ministry of Defence no longer holds “UFO” files for the period in question. Before 1967 all "UFO" files were destroyed after five years, as there was insufficient public interest in the subject to merit their permanent retention. However since 1967, following an



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increase in public interest in this subject, "UFO" report files are now routinely preserved. Files for 1967 to 1984, and any files prior to 1967 which did survive, are now available for examination at The National Archives, Ruskin Avenue, Kew, Richmond, Surrey, TW9 4DU, Telephone: 0208 876 3444. Details of how to access these records and The National Archives on line catalogue can be found on their website at <http://www.nationalarchives.gov.uk>."

For the full story, visit:

[http://www.mod.uk/NR/rdonlyres/02993219-2465-4126-B128-856ED1E58B53/0/ufo\\_sighting\\_torquay\\_28apr67.pdf](http://www.mod.uk/NR/rdonlyres/02993219-2465-4126-B128-856ED1E58B53/0/ufo_sighting_torquay_28apr67.pdf)

## **Scottish Information Commissioner issues his annual report for 2006/7**

The Scottish Information Commissioner, Kevin Dunion, has issued his annual report 2006/7. He has received twice as many appeals in the last 2 years. This is double that of the UK Information Commissioner Richard Thomas, per head of the population. He has altogether received 1082 appeals in this time period. It is mainly the Scottish general public who are responsible for the large number of appeals. 65% of all the applications for appeals in 2006 came from such applicants compared to 55% IN 2005.

To see the press release in relation to the annual report, visit:

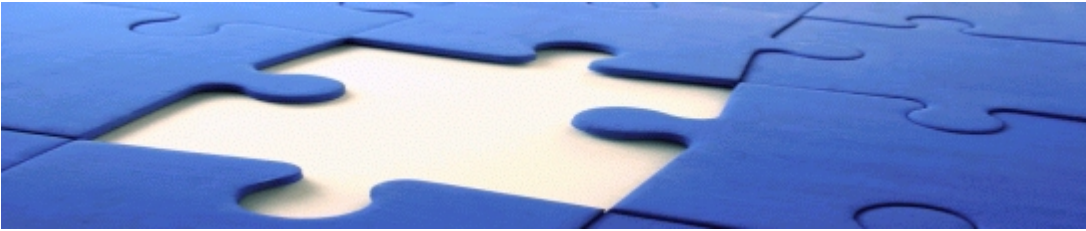
<http://www.itspublicknowledge.info/resources/media/pressreleases/pressrelease26.htm>

## **Survey of Public Awareness of FOI Rights in Scotland**

He has also published his fourth survey of public awareness of freedom of information rights. The report provides evidence to show that public awareness has increased substantially over the last few years:

"Public awareness of the new freedom of information rights grew markedly, up from 47 per cent before the Act was in force to 72 per cent in the first year of operation, which is reflected in the sustained high volume of requests for information to public authorities".

<http://www.itspublicknowledge.info/Documents/publicawarenessNov06report.pdf>



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### **The Surveillance Society**

The Bulletin has previously drawn attention to the excellent report on the website of the Information Commissioner “The Surveillance Society” (visit:

[http://www.ico.gov.uk/about\\_us/news\\_and\\_views/current\\_topics/Surveillance\\_society\\_report.aspx](http://www.ico.gov.uk/about_us/news_and_views/current_topics/Surveillance_society_report.aspx) ).

Other jurisdictions have similar concerns. The website of the American Civil Liberties Union has managed to combine their concerns with humour. Visit:

<http://www.aclu.org/pizza/>

### **“Blog” Roundup**

There are an increasing number of blogs which cover access to information and related areas. Here we set out several of the most informative, for your information.

Spyblog is a comprehensive blog which covers a number of areas including access to information. It has links to many other blogs, also.

<http://spyblog.org.uk/>

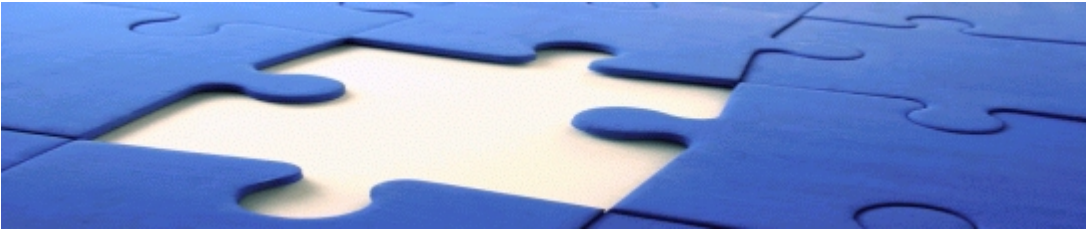
### Your Right To Know

This is a blog run by Heather Brooke who is a campaigner for open government. It was Heather who made the FOI request which resulted in the disclosure decision about “an itemised breakdown of all MPs’ Additional Costs Allowances for the most recent financial year”. We reported on this in the last edition of Dr FOI. To see the blog, visit:

<http://www.yrtk.org/about-author>

UK Freedom of Information Blog is one of the best of the blogs, and is run by the Campaign for Freedom of Information. Visit:

<http://foia.blogspot.com/>



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### [Guardian FOI Commentary](#)

This is an interesting set of links, stories and articles about FOI, managed by Rob Evans and David Hencke at the Guardian. Visit:

<http://politics.guardian.co.uk/foi>

### **Public Sector Data Protection: Excellence Awards**

The Information Commissioner is encouraging public sector organisations to apply for the above award. To see the press release and to learn how to apply, please visit:

[http://www.ico.gov.uk/upload/documents/pressreleases/2007/data\\_protection\\_award\\_180407.pdf](http://www.ico.gov.uk/upload/documents/pressreleases/2007/data_protection_award_180407.pdf)

### **Information Sharing Protocol between local authority and health agencies**

At the request of the Welsh Assembly Government, the Child Protection Service has published a model protocol for information sharing between the local authority and health agencies

<http://www.wales.nhs.uk/newsitem.cfm?ContentID=6850>

### **Irish Police to be subject to FOI**

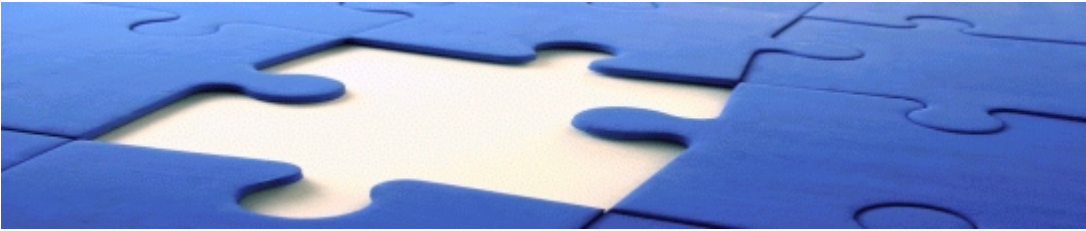
For the full story, visit Martin Rosenbaum;s blog:

[http://www.bbc.co.uk/blogs/opensecrets/2007/05/police\\_foi\\_in\\_ireland\\_and\\_birm.html](http://www.bbc.co.uk/blogs/opensecrets/2007/05/police_foi_in_ireland_and_birm.html)

### **Information Governance 6 month Certificated Course**

This six month course commences on the 1st October 2007. The course is for all Information Governance professionals including:

- Information Governance Managers and Leads
- Caldicott Guardians and clinicians working in this area
- Freedom of Information and Data Protection Leads
- Health Informatics Managers
- Others who work in the area of Information Governance



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The aim is to assist practitioners in achieving excellence in this area, by developing knowledge, skills and learning approaches, and by creating a network of practitioners who can continue to provide support and learning to each other after the course has concluded.

### Approach and Delivery

The course utilises a number of approaches:

- Meetings with tutors
- E-based learning with dedicated web site access
- Telephone tutorials with tutor and tutorial group
- CD ROMs
- E-mail and telephone support
- Interactive e-based learning
- Network development

For further information including a detailed course profile - please email [louise@dilysjones.co.uk](mailto:louise@dilysjones.co.uk)

## [Information Governance Certificate for both public sector and the NHS](#)

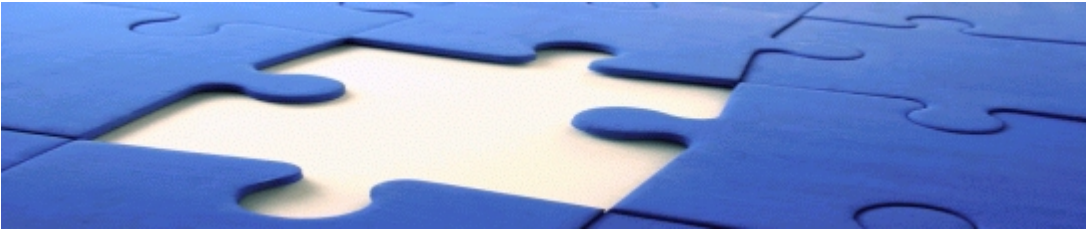
### **Courses and Training**

#### **\*New\* Information Governance & Implementation Issues**

- Information Governance and Implementation Issues Wednesday 19th September Institute of Directors London

Colleagues working in the field of information and clinical governance face considerable challenges in delivering their objectives. Caldicott Guardians, Information and Clinical Governance Managers, Human Resources Managers as well as Data Protection and Freedom of Information Managers may all have significant responsibilities in their roles for:

- Leading within the organisation on learning and awareness in these areas
- Providing advice and guidance to colleagues
- Briefing Board members about new and emerging issues
- Ensuring compliance and quality for these areas, which can only be achieved with the engagement and involvement of many others within the organisation.



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This course provides up to date tools and approaches to use in providing learning and awareness raising, tested tools for providing advice and guidance and focuses on how best to harness colleagues to achieve the information governance objectives.

E-mail [Louise@dilysjones.co.uk](mailto:Louise@dilysjones.co.uk) for further details

Cost £325.00 plus VAT

- Introduction to FOI and Associated Legislation - 27th July 2007, Institute of Directors London

"This is a wonderful course for those new to FOI. Having taken on the role of FOI Lead, this is the course that pointed me in the right direction"

"Excellent trainers, who really understand the public sector"

The main objective is to learn about the legislation and the implications for everyday working. At the end of the day delegates will have learnt about:

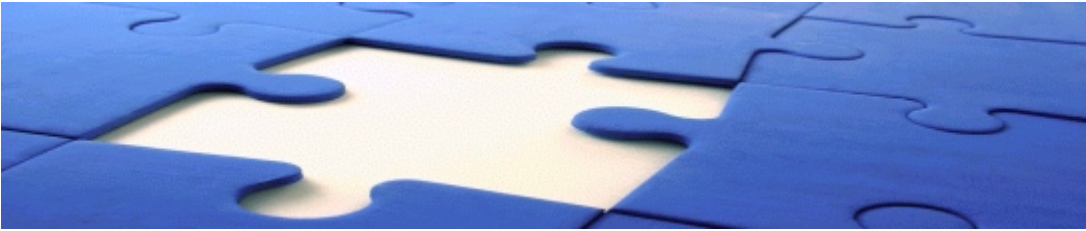
- The main issues in relation to access to information laws
- The key issues for the organisation
- The interface with the Data Protection Act 1998
- The use of the exemptions and the exceptions
- Practical cases and scenarios in relation to the role

Cost £325.00 plus VAT

- . FOI & EIR Decision Making & Disclosure - 6th September 2007, IOD, London

This is a full day course designed for public sector colleagues who are FOI practitioners and are seeking an in depth day on the use of the exemptions and how they have been applied in relation to FOI and EIR. We will also examine the developments in guidance in this area, interactions between the access to information laws and the merging of publication schemes with information asset registers.

Cost £325.00 + VAT



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Mental Capacity Act - 21st September 2007, IOD, London

Have you had the training to become compliant?

The Mental Capacity Act 2005 provides a statutory framework to empower and protect vulnerable people who may not be able to make their own decisions. It makes it clear who can take decisions in which situations and how they should go about this. It enables people to plan ahead for a time when they may lose capacity.

The Act replaces existing common law governing the treatment of people without capacity and covers a range of choices from day-to day decisions such as what to wear or eat, through to decisions about where to live, medical treatment, finances and property.

This Act is supported by the 'Mental Capacity Act 2005 Code of Practice'. Doctors, nurses, social workers and others working in a professional or any paid role have a legal duty 'to have regard' to this Code of Practice. You must explain any non-compliance with this Code and record the reasons at the same time as you make the decision not to follow the Code

Feed back from previous delegates:

"Impressive and very enjoyable"

"Excellent value. I liked the small group approach"

"Very good day, informative, friendly. Opportunities to ask questions and discuss; a very well informed facilitator"

[See our training page for further details on all the above courses](#)