

<b>Meeting report</b>	<b>Strategic Liaison</b>
<b>Date:</b>	27.09.2011
<b>Attendees ICO:</b>	Victoria Cetinkaya (Senior Policy Officer) Dawn Monaghan (Group Manager Public Services) Gemma Farmer (Lead Policy Officer)
<b>Attendees HE sector:</b>	Chris Hale - Universities UK Ralph Weedon - JISC Legal Dr Michael Jubb - Research Information Network Julie Tam - Russell Group Rosa Parker - Medical Research Council Carolyn Pike - Association of University Legal Practitioners Andrew Kinglake - HE & FE Records Management and Information Compliance Group Jonathan Colam-French - University of East Anglia Richard Hudson - University of Sheffield Prof Kerstin Mey - University for the Creative Arts (Guild HE) Pippa Thompson - HEFCE Sarah Gwyndaf-Roberts - Bangor University Gabrielle Bourke - Constitution Unit, UCL
<b>Apologies:</b>	Jon Baldwin -University of Warwick (AHUA) Prof Tom Ward - University of East Anglia Prof Richard Jones - University of Sheffield Roger Gair - University of Leeds Linda Cording - University of Greenwich Dr Allen Howells - Glyndwr University Prof Keith Mander - University of Kent Prof Nigel Seaton - University of Surrey Sara Stock - HE & FE Records Management and Information Compliance Group Paula Shelley - Universities and Colleges Employers Association
<b>Reason for meeting:</b>	<b>Regular meeting of the ICO Higher Education sector panel on FOI and DP</b>

<b>Issues discussed / questions raised</b>	<b>Action</b>
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### **Action points from the last meeting**

All complete, although a representative from Southampton data store to speak to the panel has not yet been secured. Further attempts will be made.

### **Update from the ICO on the Protection of Freedoms Bill**

VC brought the panel's attention to the [proposed amendment to the Protection of Freedoms Bill](#), recently tabled by Andrew Miller, Chair of the Commons Science and Technology Committee. The proposed amendment would amend section 22 of the Freedom of Information Act with the effect of exempting pre-publication research from disclosure where it would substantially prejudice the project, peer review, or the interests of participants in the project, the public authority or its partners, or the physical or mental health of any individual. The ICO will monitor the progress of the proposed amendment and keep the panel updated.

### **Update on ICO guidance for the higher education sector on freedom of information**

GF introduced the [ICO guidance on FOI and research information](#) which was published on Monday 26 September. The panel welcomed its publication – although many members had not yet read it as it was published just the day before the meeting. Some questions were asked about how the guidance would be promoted. The ICO has issued a [press release](#) on its website, which has been circulated to, for example, Research Fortnight and it was highlighted in the September issue of the [ICO e-newsletter](#). Universities UK will circulate amongst its members. The Research Information Network has put a link to the guidance on its website, and CP said she would circulate around members of the Association of University Legal Practitioners.

### **UCL research project – FOI and the HE sector**

GB from UCL's Constitution Unit introduced her new

research project on FOI and higher education. The project will examine the impact of FOI on UK universities by analysing FOI requests made and the effect of FOI on academic research. The project will also ask how academics have used FOI as a research tool, and will aim to produce a good practice guide for academic users of FOI. The project will continue for the next nine months and will involve the collection of information from FOI officers, disclosure logs at five HEIs, and academics who frequently use FOI, as well as from those who have made FOI requests to HE institutions. Interested parties can contact Gabrielle about the project on [g.bourke@ucl.ac.uk](mailto:g.bourke@ucl.ac.uk).

### **Update from the ICO on HE sector publication scheme monitoring**

VC gave an update of progress on the ICO's university publication scheme monitoring. As mentioned in the last meeting, the ICO has been monitoring the publication schemes of universities in England and Wales, as a piece of desk-based research involving searching university websites. Findings had been mixed – about 16 institutions appeared not to be operating a publication scheme in compliance with section 19 of the FOIA. In August the ICO sent letters to those universities asking them to confirm the status of their publication scheme. Most have now replied, several of which were operating a pre-2009 scheme which is now invalid – and most have committed to adopt the current model scheme. However, a number are yet to reply. The ICO will write to them again, and is likely to publish a report once they have had an opportunity to respond.

VC also informed the panel that the ICO was going to launch a [consultation on the revision of its model publication scheme](#) and that panel members, in addition to the planned work of the panel on updating the [definition document for universities](#), were encouraged to respond.

### **Publication schemes – updating of the ICO definition document for universities**

DM introduced the ICO's plan to update the definition document for universities by first giving a recap of

publication schemes in general.

The ICO developed the current model publication scheme, which should have been adopted by all public authorities from January 2009. The model is a commitment document / charter and is very high-level. It sets out seven commitments, one of which is the commitment to providing a guide to information. Information in the guide to information should be available online and for free in most cases. Where this is not possible (for example if the information is not held in an online format), there should be a link for individuals to 'contact us' to obtain the information in another format, or in exceptional circumstances, to arrange to view information which cannot be provided.

The model publication scheme sets out seven classes of information which specify the minimum information which should be available in the guide to information.

The guide to information should be produced using either the ICO definition documents or template guides to information (the latter have been produced for smaller authorities such as schools). Universities have a definition document which contains the minimum information which, if held, should be proactively provided by universities in their guide to information. The aim of this session, and ongoing work, will be the consideration of the information currently included in the definition document for universities – whether it is fulfilling the needs of the sector and those wishing to obtain information from it, and whether any types of information need adding to the document, or removing from it. It is vital that input is obtained from the sector as the resulting updated definition document will oblige universities to make that information available if they hold it. It was noted that any requirements emerging from the right to data or open data initiatives may also have to be incorporated into the updated definition document.

Some discussion was had about how well understood publication schemes were within the sector and the general feeling was that whereas FOI officers understand fairly well, this is not necessarily the case more widely

across HEIs.

It was commented that the existence of a publication scheme does not necessarily reduce the number of FOI requests received; in fact it can even increase requests – however they tend to be more targeted which can be helpful.

How the guide to information is presented created some discussion. It was noted that websites are the marketing tools of HEIs and as such, HEI marketing teams want homepages to focus on recruitment, teaching and learning, and research excellence. The guide to information is often 'buried'. DM suggested that the guide to information could be a marketing tool – it does include policies regarding recruitment and research, and information which prospective students and their parents often want to see to inform their choice of university. It is good customer service, providing the information customers want – a living document of what the HEI does.

Nonetheless it was commented that it can be difficult to adapt the guide to information to ensure that marketers are happy and that the HEI is compliant. DM commented that the scheme does not prescribe that the guide to information must be published together in its entirety – and can be placed across different parts of the website. Caution should be exercised though as ICO monitoring exercises have shown that this can make it difficult to find the information – which of course is one of the aims of the scheme.

With regard to the updating of the definition document, DM confirmed that the classes of information are not necessarily in line for updating at this time – workshop feedback showed that they were generally sound. What is up for discussion with the sector panel at this time is what information sits under each class.

Comments regarding the definition document included:

**Introduction**

- The interpretation of 'archived' was discussed. The

intention of the definition document is to highlight that the scheme does not require a commitment to the disclosure of information that is not publicly accessible or easy to access. Concerns were raised that in a research environment, archive has a technical meaning, and this creates some confusion. It would therefore be useful to clarify the meaning in the definition document that this refers to archiving as part of a records management strategy / retention schedule.

**Who we are and what we do**

- It should specify that organograms are required if held. This may go further in the future as currently open data requires that government departments provide them.
- Below a certain level of seniority it may be acceptable not to publish named contact details. Job titles and contact details may be appropriate in some cases rather than names.
- Lists of organisations the university works in partnership with caused some discussion. Researchers have lists of contacts they work in partnership with – perhaps this could relate to organisations above a certain size? Again it was noted that open data is more prescriptive and if widened this may affect what universities are required to disclose.
- It was also noted that there can be a point in a partnership where it may be too early / sensitive to disclose, and that consideration could be given to the maturity of relationships.
- The point was made that the Students' Union is a separate entity and not subject to FOI – reference to it needs to be revisited
- Sometimes there is a split between governance and operations – decision making goes through committee governance structure, which is very different to the organisational structure – to consider whether these structures should be included.

**What we spend and how we spend it**

- Staff pay and grading was discussed. ICO guidance

states that the salary scales should usually be published as a matter of routine and that disclosure should only be to the extent necessary to fulfil a legitimate public interest. This may involve narrowing down advertised scales, for example to the nearest £5000. Only in exceptional circumstances is disclosure of exact pay likely to be justified.

- It was noted that academic staff pay can vary greatly and it may be easy to identify individuals such as professors so perhaps this should be looked at further.
- With regard to procurement and contracts, it was noted that universities are in receipt of more private funding than previously so this may need to be revisited.
- It is possible that contracts over a certain amount should be published as a minimum requirement. Open data is likely to introduce new requirements to go further in the publication of information about contracts bearing in mind the requirement for local government to publish details of all contracts over £500.
- As HEIs are in competition, some information about future projects and planned spend may be commercial in nature or provided in confidence, and therefore may be exempt from disclosure under the Act. If of course an exemption does apply, then information does not have to be included in the scheme, but blanket assumptions should not be made.

### **What our priorities are and how we are doing**

- It was suggested the teaching and learning strategy, research strategy and enterprise strategy should all be included in this class, not in policies and procedures as is the case currently.

### **How we make decisions**

- A general point was made about granularity of decision making. It would be useful to set out to what level of detail minutes should be published – for example should course committee meeting minutes be published or is this not deemed to be making key decisions about the university?

<p><b>Our policies and procedures</b></p> <ul style="list-style-type: none"> <li>- It was noted that these are often out of date.</li> <li>- Universities should have up to date policies in place – other bodies such as the Quality Assurance Agency often require this.</li> <li>- It was suggested that carbon reduction policies and corporate social responsibility policies should be listed here, as should other policies that are required by other bodies as mentioned before.</li> </ul> <p><b>Lists and registers</b></p> <ul style="list-style-type: none"> <li>- Disclosure logs were discussed. These are mandatory for government departments, and may well be for local authorities at some stage under the open data initiative. Currently for universities, there is no requirement to proactively produce a log.</li> <li>- It was noted that a past JISC / JIG project aimed to provide links to disclosure logs, and found that very few HEIs had one.</li> <li>- With regard to the register of gifts, it was suggested that gifts and hospitality provided <b>by</b> senior personnel as well as provided to them should be included. It was further suggested that the Bribery Act may have some bearing here and that perhaps this information should be published with regard to all personnel, not just senior staff.</li> <li>- With regard to the register of interests, the point was made that there may be a data protection issue for staff with interests such as small trusteeships, and redaction may be necessary.</li> </ul> <p><b>AOB</b></p> <p>Universities UK brought the panel's attention to the Higher Education Better Regulation Group's work on a survey of the current non-HE regulatory landscape and its impact on HEIs. This will include FOI, and a report is due to be delivered by November.</p>	
<p><b>Any other comments:</b></p>	<p><b>The next main sector panel meeting will be held in</b></p>

	<b>January, at the same venue</b>
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