

## **Independent Review Team – UEA/CRU**

### **Formal Record**

#### **Notes of Interviews with Mike Gorrill (Head of Enforcement) and David Clancy – of the Information Commissioner’s Office (ICO)**

**Interviewers Sir Muir Russell & Prof. Jim Norton**

**Interview carried out at UEA on 27<sup>th</sup> January 2010**

#### Introduction

1. Sir Muir set the scene by reiterating the objectives of the Independent Review and detailing the members of the Review Team. He explained the purpose of the meeting to ensure good co-ordination between the ongoing ICO inquiry and the Independent Review – avoiding duplication of effort. Both ICO representatives are ex-police officers and they were present during the interview with the Norfolk Constabulary team. Similarly the Constabulary team were present during this interview.

#### ICO investigation

2. The ICO team explained that they had four areas of investigation:
  - a. whether requests under FoI for access to climate change data and information on the process data analysis and peer review had been incorrectly processed;
  - b. whether information had been knowingly deleted or withheld to avoid release under access legislation, the Data Protection Act, Freedom of Information Act and the Environmental Information Regulations;
  - c. whether requests for access to personal information and personal references in correspondence held about the person making the request had been properly complied with; and
  - d. whether adequate steps had been taken by the University/CRU to safeguard personal information held.
3. The ICO team have reached a finding under item ‘b’ above that from their analysis of the information it was reasonable to conclude that an offence under Section 77 (knowingly withholding data to avoid of the DPA,) may have been committed however the offence lies outside the window (six months) for prosecution. (Post meeting note: The ICO released a statement to this effect on the day after this meeting. We were given no warning that such a statement would issue).
4. They are also fairly confident, from their analysis of the information that an offense may have been committed under item ‘c’ as personal data relating to a complaint is evident in the allegedly hacked e-mails and this had not been released under DPA when requested. It should be noted that the University FoI

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team will argue that their original response was correct as they were unaware of the backup server where all these e-mails were aggregated.

5. The ICO team confirmed that they were not carrying out a broader investigation into the more general data protection practices of the University as a whole.

#### Complainants to the ICO

6. The ICO team reference two specific complainants:
  - Complainant A who had made a 52 page submission seeking access to personal data held about him and about information processing and peer review; and
  - Complainant B who sought access to emails prior to 2005, he had been told the UEA did not hold emails from the period prior to 2005 when emails posted on the Internet also included some from that time.
7. The ICO team agreed to send copies of both complaints to the Independent Review Team. It was noted that Complainant A had also made similar requests for information to the former Department of the Environment, to DEFRA and to the Met. Office.

#### Next steps

8. The ICO team gave the impression that they would now await the results of the Independent Review and the separate Police inquiry before taking further action on their areas of investigation 'a', 'c' & 'd'.

#### File FOI 2009

9. The way in which the allegedly hacked e-mails were packaged in the file FOI 2009 (placed on the Tomsk FTP Server amongst others) was discussed. The ICO team advised that the way in which some personal information had been withheld from the e-mails was suggestive of seeking to avoid liability regarding unauthorised release of personal information under the DPA. This could be indicative of a "whistle-blower" looking to limit their own liability if traced...

Jim Norton

25<sup>th</sup> February 2009