

From: Steve Wood
Date: Wed, 21 Apr 2010 08:37:35 +0100
To: Jim Norton
Cc: Mick Gorrill
Subject: RE: Notes from our meeting on 24th March

Dear Jim,

Mick has passed this over to me as I'm now the main point of contact on UEA issues.

The issue you've raised would be addressed in the following way:

- Neither FOI or EIR make a distinction as to whether a public body is a primary or secondary source of information or data. The point is simply whether they hold the information for the purposes of the legislation. The position on information held is set out in section 3(2) of FOIA and Regulation 3(2) EIR. The legal position taken by both us and the Information Tribunal is that information will be held if it is held by a public body to any extent for its own purposes. This case law can be seen in the Information Tribunal decision *McBride v ICO EA/2007/0105*. If they hold the information they must provide it or rely on a provision in the legislation to refuse the request. If use but also hold the data they still have obligations under the Act. Using data from a remote internet service may be different and it is more likely this data would be classed as not held.

There is also guidance on our website

http://www.ico.gov.uk/upload/documents/library/freedom_of_information/detailed_specialist_guides/information_held_on_behalf_of_another_v1.pdf

- If a request is received and the information requested is publicly available and reasonably accessible the public body can rely on either section 21 FOIA or Regulation 6 EIR and point the requester to these sources. Reasonably accessible will normally mean the information is published or available on demand. There is no obligation for the public body to apply section 21 or Regulation 6 the public body can choose to supply the data.

Hope this helps, happy to explain further or discuss by phone if needed

Regards

Steve

Steve Wood Head of Policy Delivery
Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow,
Cheshire SK9 5AF
www.ico.gov.uk

Please consider the environment before printing this email

From: Jim Norton

[[Hide details](#)]

[[Add to Address Book](#)]

[[Create Group](#)]

20/04/2010 14:50

To: "Mick Gorrill"

Cc: "ALASTAIRMUIR RUSSELL"Peter Clarke", "will_50@ "

Sent: [20/04/2010 14:50] 20/04/2010 14:50

Subject: Re: Notes from our meeting on 24th March

Dear Mick,

Many thanks for this and for our conversation at the end of last week.
Could I please just check a further point that we touched on but that I did
not record in the notes?

Would it be correct for us to say in our Report that if UEA is not the
primary source of specific primary data requested under FOIA/EIR, but had
merely been a user of such data, then the appropriate action is to refer the
requestor to the primary provider (or providers)? Would there be any
obligation on UEA to act as a secondary source? My recollection is that we
discussed this and the sense was that there was no obligation for UEA to act
as a secondary source when the data was more properly available from primary
providers? Is that correct please?

All the very best.

Jim

--

Prof. M. J. Norton D.Eng
Chartered Director, Chartered Engineer & Chartered IT Professional
FIOD, FIET, FBCS