

**Annual Report to ISSC
Information Compliance Activities**

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Introduction

The calendar year 2010 was extremely eventful in regards information compliance at the University with the fallout of the 'Climategate' matter dominating not only the information compliance agenda but also attracting national and international attention.

Despite what some might regard as setbacks during the year, substantial progress on a number of fronts was made and both the policy and operational framework for information compliance work was enhanced and strengthened throughout the year.

I will briefly summarise activity in each functional area of my responsibility subdividing by legislative compliance regime.

Request administration

Freedom of Information / Environmental Information Regulations

The vast majority of work relating to request administration is under the Freedom of Information Act and the Environmental Information Regulations. In calendar 2010, the University received 146 requests under both pieces of legislation. This is a decrease from the high of 204 received in 2009 but it should be remembered that 60 requests were received in the period between 24 and 28 July 2009 as part of a coordinated campaign against the University. Subtract those 60 requests and the level of requests is very similar in 2010 to 2009.

Of the 146 requests received, 68, or fully 48%, were received from media outlets and 31 (21%) from the public, and 19 (13%) were classed as being of 'unknown' origin. No other category of requester is in double figures as these 3 categories made up 84% of the requests received.

Climategate attracted much attention in the last year and of the 146 requests received, 28, or 19%, related to CRU in some way. This is definitely a decrease from 2009 where 55% of the requests related to CRU.

It should be noted that 20 requests, or 14% of the total, were processed under the EIR. Given that the ICO has effectively widened the definition of 'environmental information' as a result of Decision Notices in 2010, and the continuing interest in climate research activities at UEA, I would expect this percentage to, at the very least, remain stable in the future.

In terms of the outcomes of the requests, 63 (43% of the total) requests were answered in full, 41 (28%) were answered in part, and only 13 (9%) were refused totally. In 8 cases, we did not hold the information. This is a contrast with 2009 in which 52 requests, or 26% were refused. This is likely less due to a difference in the attitude that we take to requests than to a difference in the nature and content of the requests.

It should also be noted that 3 requests are currently pending appeal, and another 9 are 'suspended' pending receipt of clarification of the request.

Eight requests received in 2010 were appealed. As noted above, 3 are pending, and in the other 5, in 3 cases the appeal was granted in part, and in 2 cases, the appeal was denied in full.

Timeliness of responses was satisfactory as in only 12 cases, or 8%, did we exceed the statutory limit for response. Twelve (12) requests took between 1 and 5 days to resolve, 26 took between 6 and 14 days, and 67 took between 15 and 20 days. The large number in this latter category reflect the time it takes to assemble information, draft a response, get comment on a response, and finalise a response. Of the requests that went 'overtime', 11 of the 12 were resolved within 24 days so the extent of the 'overrun' was limited.

During the year, request administration was improved substantially with the use of Raymond Scott to assist the Information Policy and Compliance Manager in the administration of requests. Fully 46, or 31% of requests were administered by Mr. Scott and this assisted greatly with the prompt processing of requests. Mr. Scott also made an active and valued contribution to editorial review of all responses and to the development of policy and procedures.

On the latter front, the FOI Policy document was reviewed and complete overhauled during 2010 to bring it in line with current ICO guidance and to better reflect the improved request administration procedures. Similarly an FOI Operations Manual has been drafted and is currently in final revisions. This document picks up where the general Policy leaves off and provides very specific guidance on the administration of requests. Work has also commenced on the production of an EIR Policy in line with our public commitment to the ICO to improve awareness and administration of requests under the Environmental Information Regulations 2004.

It would be impossible to review the year without mentioning 'Climategate'. The review by the The Independent Climate Change Email Review chaired by Sir Muir Russell, and by the Select Committee on Science and Technology, along with the investigation by the ICO of UEA FOIA/EIR administration held the administration of FOIA/EIR at this institution up to a scrutiny that is unprecedented in the Higher Education sector, if not in all of the public service in the United Kingdom.

Additionally, the ICO review and Decision Notice in one case led to the agreement between the University and ICO leading to an undertaking regarding FOIA/EIR administration, a first for the ICO and for any public authority in the UK.

On the whole, whilst all the reviews showed some faults with the administration of requests which have been acknowledged and rectified, the actual administration of requests were found to be robust. There was a finding that the training, awareness and culture of compliance within the University was wanting and this is being addressed. The ICO, in particular, found the administration of requests to be competent and professional and the undertaking focussed on culture, awareness, and email and records management.

It has been, without a doubt, an extremely challenging year. However, the administration of requests under FOIA/EIR is on a much more solid foundation at the end of the year than at the beginning and significant progress has been made.

Data Protection Act

The Data Protection Act provides a mechanism by which individuals can request personal data pertaining to themselves. In comparison to the FOIA/EIR area, the level of requesting is extremely small in this area. Additionally, because a fee is imposed and nothing provided until that fee is received, a large percentage of initial requests are never followed up by the requesters. For example, in 2010, there were

16 initial requests for personal data, and of that 16, only 9 proceeded to release of information.

Of those 9, in 4 cases, all the requested information was released; and in 5, some information was redacted prior to release. In all the latter cases, this was due to the need to redact the personal information of third parties to which the data subject had no right of access.

These requests often involve substantial amounts of information and therefore present challenges in reviewing the information. As a consequence, timeliness of response suffered and in 5 cases, we were over the statutory limit for timeliness of response. This is an area that will require attention and improvement in 2011.

Copyright

There is no formal request administration function in this area and activity in this area will be discussed elsewhere.

Inquiry administration

Overview

An area of activity often overlooked is the administration of internal inquiries regarding the practice, policy and process relating to information compliance. Historically, this activity has not been recorded nor commented on but it can absorb a significant amount of activity and time, particularly in the areas of data protection and copyright.

In an effort to better understand the nature and extent of this work, the Information Policy and Compliance Manager created in the fall of 2010 a database to hold and record inquiries from staff in his areas of responsibility. For the period of September to December 2010, 23 inquiries were logged. It should be noted, however, that due to workload, no inquiries were logged for December 2010 which is serious underreporting of activity. This has been noted and will be corrected.

Freedom of Information / Environmental Information Regulations

Most inquiries relating to FOI/EIR are very much centred around ongoing requests and are part of that process. However, given the increased scrutiny of our activities in this area, there is an increasing call for input into the development of FOIA/EIR policies and for advice regarding the impact of FOIA/EIR on UEA activities. This is particularly true in the area of research information where UEA is part of a UUK-ICO consultative body looking at the interaction of legislation with research activities.

The Information Policy and Compliance Manager has, and will continue to, provide advice and guidance when requested in these policy areas and it is anticipated that with the convergence of issues relating to records management, research information and process management, and information compliance, activity in this area will increase in 2011.

It is telling that for the period of September to December 2010, only 4 inquiries in the area of FOIA/EIR was recorded. This is very much due to the factors noted above and that 'inquiries' relate very much more to the development of strategy and are less questions of process or procedure. It is suspected that it is also due to teething problems with the recording of such inquiries, leading to an underreporting across the board of inquiries.

Data Protection

Data protection, by contrast, is an area where many requests are received regarding the legality or compliance of practices in relation to the processing of personal data. Of the 23 inquiries logged for 2010, 12 related to data protection. Interestingly, 10 of these 12 were from central administrative units as opposed to Faculties. This is positive to the extent that it indicates a level of interest and concern in central units regarding data protection, but conversely raises the issues of awareness in academic units.

Timeliness of response is good in that 9 of the 12 inquiries received a response within the day, and only 1 exceeded 3 days to respond.

Copyright

Copyright is also an area of activity in regards inquiries. Seven (7) of the 23 requests concerned copyright. Interestingly all 4 of the requests received from central units came from ISD itself, all relating to the scanning of material as part of the Library's digitisation service. Once again, timeliness was good as 6 of the 7 inquiries were answer within the day.

Training and awareness

Training and awareness activities were enhanced during 2010. The regular introductory courses offered under the auspices of CSED in the areas of FOI, DPA and copyright continued, being offered in both the spring and fall. The FOI and DPA courses were fully subscribed.

Additionally, in line with our undertaking to the ICO, an EIR introductory course was developed and delivered to ENV staff in December 2010.

Ad hoc training continued and expanded with general information compliance training delivered to all Heads of Department, and to all staff within the Planning Unit. A specialised session on data protection was provided for Library staff.

A major area of expansion is training and awareness in copyright and data protection for post-graduate students. Copyright training is now available to any PGR student in any Faculty as part of their professional development training. SCI and SSF PGRs are offered both FOIA & DPA training as well.

Basic information compliance information has been drafted for inclusion within induction material for new staff and advanced training has now been made mandatory for any employee with the role of FOIA/EIR Contact. There will also be an annual reminder given to staff of the importance and relevance of information compliance.

The difficulties experienced by the University this year have, no doubt, led to an increasing awareness and concern with information compliance and the challenge will be to continue and enhance this awareness in the coming year.