Message

PCC File RJT 50

Phil Jones

From: Phil Jones
Sent: 20 April 2004 14:50
To: 'Tim Toulmin'
Subject: RE:

Tim

Thanks for letting me have sight of your redraft. I think it very largely addresses the points that I made and I welcome, in particular, the fact that you counsel seeking legal advice before assuming that any of the s55 defences will apply.

There are only two aspects of the revised advice that I still have reservations about though I do entirely recognise that you have to seek an approprate balance between urging due caution on the one hand and being unduly restrictive on the other.

First, s32 can only be relied upon where there is a reasonable belief that compliance with a particular provision/particular provisions would be incompatible with the special purposes. I think there is a case for amending the final sentence of the last paragraph on the first page by deleting "journalists and others" - journalists will not normally be data controllers - and replacing it with "publishers" (even newspapers/magazines ?), deleting "by any person" and perhaps "literary or artistic material", and adding "where this would prejudice journalism".

Second, I have two reservations about the sentence "A court would have to decide ... afforded by the Act". First, it's not just the importance of the info that would be relevant but also, for example, whether the info could be obtained legally, would be made publicly available shortly etc. Further, and this, I concede, is very much a matter of tone, I would prefer a more robust version of what you cover by ""to override the protection afforded by the Act" to emphasise that there needs to be a very strong justification to sanction obtaining which would otherwise be criminal. I would therefore prefer that sentence to be recast along the lines of "A court would have to decide whether, in the circumstances, obtaining the information dishonestly/ without the agreement of the organisation concerned, was justified/warranted".

Best Wishes

Phil

-----Original Message-----
From: Tim Toulmin [redacted]
Sent: 20 April 2004 11:03
To: Phil Jones
Subject:

Phil
Many thanks for your letter of 6th April with helpful suggestions for the amendment of our note on Data Protection.
I have attached another draft. Does this address your points? It certainly has the virtue of being shorter in some areas. I will have to strike a balance between urging caution and sounding too restrictive – something the newspaper people involved have been concerned about. I will also have to run past any changes past them but thought I would save time by seeing if you are happy with this draft first. It then might be easier to sell to them.

I look forward to hearing from you.

Best wishes

20/04/2004

Message

Tim

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20/04/2004