

## 5. The law and the privacy of users

### Introduction

This section provides an overview of important statutory provision and some of the key bodies responsible for its implementation. This should not be taken to constitute legal advice. CILIP members are strongly advised to recommend that their organisations take appropriate legal advice when necessary. This section may help you to identify those times when such advice is needed, the questions that need to be raised and appreciate some of the complexities that may be involved.

### 5.1 The key legislation

#### **Equality Act 2010**

An Act which provides a new cross-cutting legislative framework to protect the rights of individuals and advance equality of opportunity for all; to update, simplify and strengthen the previous legislation; and to deliver a simple, modern and accessible framework of discrimination law which protects individuals from unfair treatment and promotes a fair and more equal society.

#### **Human Rights Act 1998**

The European Convention of Human Rights is now enforceable through the British courts as a result of the passing of the Human Rights Act. It includes the right to respect for private and family life. The Equalities & Human Rights Commission has responsibility to promote its effective implementation.

#### **Data Protection Act 1998**

This Act is the main UK legislation ensuring the responsible use of personal data by organisations and is therefore a key piece of legislation underpinning the right to privacy and family life. It sets out the eight data



protection principles and its implementation is overseen by the Information Commissioner's Office.

### **Regulation of Investigatory Powers Act 2000**

This Act seeks to ensure investigatory powers are consistent with human rights. It covers the interception of communications, the acquisition of communications data, surveillance and access to encrypted data.

### **Terrorism Act 2006**

This Act creates offences relating to the encouragement of acts of terrorism, and to the dissemination of terrorist publications. It also makes specific provision about how these two new offences are to apply to those providing and using the internet and other electronic services.

### **Privacy and Electronic Communications (EC Directive) Regulations 2003<sup>ix</sup>**

This mainly covers tele and e-marketing. It also covers the use of calling-line identification, 'cookies' and directories. Its implementation is overseen by the Information Commissioner's Office.

### **Public Interest Disclosure Act 1998**

An Act to protect individuals who make certain disclosures of information in the public interest; to allow such individuals to bring action in respect of victimisation and for connected purposes. It sets out a framework for public interest whistleblowing and covers workers in all sectors, although some (e.g. volunteers) are not covered.

## 5.2 Statutory bodies

### **Equalities & Human Rights Commission (EHRC)**

The EHRC has responsibility for overseeing the effective implementation of the Human Rights Act 1998. This includes right to respect for private and family life.

### **Information Commissioner's Office (ICO)**

The ICO has responsibility for the implementation of the Data Protection Act 1998 and the Privacy and Electronic Communications Regulations 2003 across the whole of the UK. It also has responsibility for the implementation of the Freedom of Information Act 2000 in England, Wales and Northern Ireland. Scotland has a separate **Scottish Information Commissioner** dealing with the Freedom of Information (Scotland) Act 2002.

The ICO website includes sections on the rights of individuals and the responsibilities of organisations. The ICO provides an enquiry service but ask that the FAQ section on their website is checked first.

## 5.3 Other bodies providing advice and information

### **JISC Legal Information Service**

"JISC Legal is a free information service offering high quality legal information to further and higher education relating to the use of information and communications technologies" (JISC website). Although its intended audience is higher education and further education staff, most of the information is relevant beyond those sectors.

### **Public Concern at Work**

Public Concern at Work (PCaW) is an independent body on public interest whistleblowing. It offers a free confidential telephone advice service to those with whistleblowing dilemmas.

<sup>ix</sup> Link is to the original full text of the statutory instrument, not updated version

## 6. CILIP's Ethics Panel

If you are looking for confidential advice on any matters raised in these guidelines or on any other professional issue you are facing, then why not contact CILIP's Ethics Panel: [ethics@cilip.org.uk](mailto:ethics@cilip.org.uk)

See [CILIP's website](#) for further information about CILIP and professional ethics and the Ethics Panel.

