

**Privacy Laws & Business Privacy Officers Network  
Roundtable with Christopher Graham  
Information Commissioner**

**Thursday, 27<sup>th</sup> January 2011  
Host: Latham & Watkins, 99 Bishopsgate, London**

**Agenda**

**9.00. Registration and coffee**

**9.30. Welcome**

Gail Crawford, Partner, Latham & Watkins, London

**9.35. Introduction to the Privacy Officers Network**

Stewart Dresner, Chief Executive, Privacy Laws & Business

**9.45. Session 1: (Christopher Graham will not be at the morning session)**

Participants' experience of the issues to be covered and the context they provide to the questions to the Information Commissioner.

1. Greater independence of the Information Commissioner from the government
2. UK Data Protection Act

**11.15. Coffee**

**11.45.** Participants' experience of the issues to be covered and the context they provide to the questions to the Information Commissioner.

3. Freedom of Information Act's extension to the private sector
4. Changes ahead resulting from revision of the EU Data Protection Directive

**13.00. Buffet lunch (Christopher Graham invited)**

**14.00. Session 2 with Christopher Graham, Information Commissioner**

**Welcome to the Commissioner and some of the key issues from the morning session**

Gail Crawford, Partner, Latham & Watkins, London

**14.05. Greater independence of the Information Commissioner from the government**

The implications of greater independence for the Information Commissioner, including his ability in future to issue statutory guidance without the sign-off of the Secretary of State, the Justice Minister, announced on January 7th.

## UK Data Protection Act

1. The Information Commissioner's policy on deciding on the level of fines, known as civil monetary penalties (the first ones were imposed in November). Is ICO forecast of a few per year still correct?
2. Prospects for prison sentences for Data Protection Act offences?
3. Situations when organisations can expect an Information Commissioner's Office (ICO) request to sign an Undertaking, an Enforcement Notice, a substantial fine, a request to submit to a consensual audit or combination of these instruments
4. Data sharing between public and private sectors
5. Details of implementation of the European Union's e-Privacy Directive, required by May 2011
6. The conundrum that the Information Commissioner encourages your organisation to report any data breaches to the ICO on a voluntary basis but then you risk enforcement action
7. The advantages and disadvantages of inviting the ICO to conduct a consensual Data Protection Act audit, or agreeing to one as part of a settlement of a breach of the Data Protection Act
8. The ICO's approach to UK data protection law breaches by non-UK entities (in light of the recent EU Art. 29 Data Protection Working Party suggestion that European Union law should return to the country of origin principle, and suggestion that a greater association with an EEA Member State should be required, prior to local law binding a non-EEA entity)
9. The role of the ICO's new Technology Advisor.
10. The ICO's thoughts on issues arising where UK companies are requested to disclose personal data to US enforcement agencies (including under informal requests, i.e. not under subpoena), or to US group companies, who have been requested/subpoenaed to disclose data which is located in or controlled by a UK group entity.
11. Audit trends, for example:
  - Current statistics on number of audits in 2010 and plans for 2011 and 2012?
  - Types of organisations audited?
  - Typical reasons for consensual audits in the private sector and both consensual and non-consensual audits in the public sector?
  - Personnel in a typical ICO audit team (number and legal/IT skills)?
  - Opportunity for an organisation to discuss audit results before they are made public and, if necessary, make representations?
  - Any plans to outsource audit functions in some cases?
  - After withdrawal of original audit manual, any plans to publish a new version?

### 15.30. Tea

### 15.45. Session 2 (continued)

#### Freedom of Information Act's extension to the private sector

1. How companies can challenge requests for their commercially confidential information under the Freedom of Information Act and the Environmental Information Regulations

2. Extension of the Freedom of Information Act to companies carrying out public sector contracts
3. Extension of the Freedom of Information Act to companies owned by more than one public authority, announced on January 7th
4. Extension of the Freedom of Information Act to the Panel on Takeovers and Mergers, and in future to the Financial Ombudsman and the Advertising Standards Authority, both announced on January 7th. Timetable and implications for companies?

### **Changes ahead resulting from revision of the EU Data Protection Directive**

1. Expected changes to the UK's Data Protection Act resulting from revision of the European Union's Data Protection Directive, for example:

- the prospect of a private right of action in the form of collective (class) actions
- retaining the 'legitimate interests' basis for collecting personal data on the basis that consent is often a) not practicable or b) inappropriate

2. The likelihood of a UK data breach notification law being adopted and, if so, with which provisions, for example:

- when is a data breach notification law likely to be adopted?
- definition of a "data breach"?
- covering which sectors?
- criteria for deciding to inform the ICO of data breaches (eg. risk of identity theft)

3. Likely approach to new cookies laws requiring actual consent being implemented in the UK and in other EU Member States.

4. Other?

**17.00. Close of Information Commissioner's Session**

**17.00. Future plans for the Privacy Officers Network**

**17.30 Close**

Any suggested amendments to this agenda should be e-mailed to [stewart.dresner@privacylaws.com](mailto:stewart.dresner@privacylaws.com)

**Stewart Dresner, Chief Executive, Privacy Laws & Business, 12<sup>th</sup> January 2011**