Information Commissioner's Office

[redacted] Section 40 (2)
Senior Data Manager
MIAP
By Email

15 February 2010

Dear [redacted] Section 40 (2)

Thank you for visiting our office last week with your colleagues to discuss the work of MIAP generally and in particular around the Unique Learner Number (ULN). This letter is to confirm what we understood and agreed as a result of the meeting.

The legal opinion provided by [redacted] Section 40 (2) was useful for us and we noted that a pragmatic approach had been taken given the complexities of the project. We were reassured by the safeguards in place. These included the design of the Learner Registration Service (LRS) to ensure that the provision of possible matches is set to ten maximum and that even though authorised users of the service may be provided with information about other learners/individuals (through attempts to identify whether an individual already has a ULN) it was likely that the potential matches that appear will have no connection or relationship with that authorised user/organisation. We also considered that the fact that Learner Registration Bodies (LRBs) sign a contractually binding organisation agreement specifying conditions of use and access to the data was reassuring and certainly reduced any potential risks that we could foresee.

You then explained what had been implemented to ensure that the system would be likely to comply with the Data Protection Act 1998 (DPA98). We found it helpful to talk through the volumes of transactions where more than one record was accessible to an authorised user and it was reassuring that those figures reduced dramatically after six matches and actually, overall, the number of cases where more than six records were displayed was relatively low. We were initially concerned about the need to go beyond six potential matches being displayed however given the very low number of occasions when this occurred we were reassured that this was fairly rare and that this was therefore reasonable to go to ten maximum if required to produce a match. It was also noted that learners have a reasonable expectation that a minimum level of searching would be undertaken for their ULN if required.

The fact that learners themselves have access to their information was appropriate and that there are processes in place to challenge accuracy were also reassuring as this links in with the requirements of the fourth principle of the DPA98 in that personal information must be accurate and up to date.

It was useful to go over the forecast volumes of searches being carried out, the designs integrated into the service to minimise sharing of data and also the development of the service for the protection of sensitive and vulnerable learners. You helpfully clarified some additional points such as what arrangements are in place for providing privacy notices in schools by confirming that you are working with the DCSF in relation to this and thank you for sharing your policy around sensitive and vulnerable learners.

As MIAP is a large system the issue of governance is important especially as the database contains information about individuals who may be vulnerable for a variety of reasons. It was therefore reassuring to note the controls provided by MIAP to be sure that only appropriate access to and use of the information is maintained. We were pleased to see that MIAP uses a contract to cover the terms and conditions of participation and that there is a contractual obligation for organisations to submit to central monitoring. We were also encouraged by the use of a central oversight of system activity which includes monitoring to check and detect suspicious patterns of usage. No system of governance is complete without sanctions and we note that MIAP can remove users from the system where infringement is detected and can also visit sites where misuse of information seems to be serious or recurring.

To summarise, and as we agreed in the meeting, MIAP's approach is indeed reasonable and is likely to comply with the DPA98. We are pleased to see that the design of the system means that even with the matching information being supplied it is unlikely that there would be a direct relationship between the record supplied and the centre/organisation checking the data. Also, given the logistics of the numbers involved in the process it is our view that there are appropriate safeguards in place. All angles have been covered in particular the privacy notices, the bilateral organisational level agreements, organisational agreements/contracts and your access policy.

We were impressed with the work that MIAP has done to link in with best practice of other organisations. We also acknowledge the MIAP has involved the ICO throughout the process and in particular in the initial stages when the PIA was undertaken.

Please feel free to share this with those who attended the meeting and any relevant stakeholders. We will also be sharing this letter with our Welsh regional office as colleagues there are working with the Welsh Assembly on MIAP's introduction into Welsh schools.

If you have any queries please contact either myself or Lynne Shackley.

Yours sincerely

Meagan Mirza
Head of Data Protection Practice - Public Sector
Ph: 01625 545621
Email: meagan.mirza@ico.gsi.gov.uk