
From: David Clancy
Sent: 20 January 2010 07:56
To: Joanne Stones
Subject: RE: UEA climate change emails - s.77 issues

Jo

I will have a go at this today

Dave

From: Joanne Stones
Sent: 19 January 2010 16:10
To: David Clancy
Subject: FW: UEA climate change emails - s.77 issues

Hi Dave,

Is this something you'd rather draft and send to Graham? I'm happy either way.

Jo

Joanne Stones
FOI Enforcement Manager
Information Commissioner's Office
Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Tel: 01625 545344

Email : joanne.stones@ico.gsi.gov.uk

www.ico.gov.uk

From: Steve Wood
Sent: 19 January 2010 15:01
To: Joanne Stones; David Clancy
Cc: Graham Smith (Deputy Commissioner)
Subject: UEA climate change emails - s.77 issues

Jo and Dave,

Thanks for the briefing on the current situation at the meeting yesterday. Just to follow up - can you send a brief update on the time barring s.77 issues to Graham before the MoJ liaison meeting on Friday.

Regards

Steve

Steve Wood

Assistant Commissioner (FOI Policy)

Information Commissioner's Office

Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

01625 545706

www.ico.gov.uk

From: [REDACTED]
Sent: 21 January 2010 15:05
To: 'mail@ico.gsi.gov.uk'
Cc: [REDACTED]@grayling.com'
Subject: The Sunday Times

Can you help with an inquiry about the University of East Anglia Climatic Research Unit?

There seem to be two issues:

- 1) The inquiry into who hacked or leaked the emails - currently being led by the police. Are you involved with that?
- 2) The question of whether the CRU researchers deliberately thwarted Fol inquiries when they should have been answered. This allegation appears to be supported by some of the hacked emails and is about to be highlighted in two new books, excerpts from which are attached.

Are you carrying out any kind of inquiry (or do you plan such an inquiry) into the apparent decision by CRU researchers to thwart any Fol inquiries seeking out the data underpinning the CRU's research into climate change?

[REDACTED]
[REDACTED]
The Sunday Times (Readership 3.5m)
1 Pennington Street
Wapping London E98 1ST
Email: [REDACTED]@sunday-times.co.uk
Landline: +44 20 [REDACTED]
Mobile: +44 [REDACTED]
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From: Graham Smith (Deputy Commissioner)
Sent: 29 January 2010 09:18
To: Susan Fox
Subject: RE: CRU Hack - parliamentary inquiry

Thanks. Rob forwarded it to me yesterday.

Graham

From: Susan Fox
Sent: 29 January 2010 09:16
To: Graham Smith (Deputy Commissioner)
Subject: FW: CRU Hack - parliamentary inquiry

In case you're not aware of this, Sue

From: [REDACTED] [mailto:[REDACTED]@grayling.com]
Sent: 28 January 2010 16:15
To: Leake, Jonathan
Cc: ICO Press Office; Susan Fox; Helena Szehidewicz; Robert Parker
Subject: RE: CRU Hack - parliamentary inquiry

Hi [REDACTED]

As you can imagine we have had questions on this area a few times today. We have previously sought advice from counsel on this issue and have been advised that a prosecution is not possible. I will check the specific details you raise and come back to you on Friday.

Many thanks
[REDACTED]

From: [REDACTED] [mailto:[REDACTED]@sunday-times.co.uk]
Sent: 28 January 2010 16:02
To: [REDACTED]
Cc: ICO Press Office; susan.fox@ico.gsi.gov.uk; helena.szehidewicz@ico.gsi.gov.uk
Subject: RE: CRU Hack - parliamentary inquiry

Hi [REDACTED]

Many thanks for your help last week.

I did look at Section 77 of the FoI Act but it does not say anything about a six month time limit for prosecutions. Where does this come from?

Is it Section 127 of the Magistrates Court Act of 1980? If so then I'd query the ruling because:

a) The act says:

From: [REDACTED] [mailto:[REDACTED]@grayling.com]

Sent: 28 January 2010 17:27

To: Graham Smith (Deputy Commissioner)

Cc: Mick Gorrill; David Clancy; Robert Parker; Susan Fox; Helena Szehidewicz; [REDACTED]

Subject: FW: CRU Hack - parliamentary inquiry

Hi Graham

We have had a number of queries today relating to the six month issue. We have been able to deal with most by explaining the difference between when a matter arose and when we became aware of it. I am not sure if [REDACTED] (please see his email below) is correct in citing the Magistrates Court Act in relation to the six month issue or indeed the Criminal Law Act when raising the conspiracy point. You may have the answers on this, but if not I suspect we will need further legal advice.

Thanks

[REDACTED]

From: [REDACTED] [mailto:[REDACTED]@sunday-times.co.uk]

Sent: 28 January 2010 16:02

To: James Ford

Cc: ICO Press Office; susan.fox@ico.gsi.gov.uk; helena.szehidewicz@ico.gsi.gov.uk

Subject: RE: CRU Hack - parliamentary inquiry

Hi [REDACTED]

Many thanks for your help last week.

I did look at Section 77 of the FoI Act but it does not say anything about a six month time limit for prosecutions. Where does this come from?

Is it Section 127 of the Magistrates Court Act of 1980? If so then I'd query the ruling because:

a) The act says:

Limitation of time

(1) Except as otherwise expressly provided by any enactment and subject to subsection (2) below, a magistrates' court shall not try an information or hear a complaint unless the information was laid, or the complaint made, within 6 months from the time when the offence was committed, or the matter of complaint arose.

So if the offence was only discovered in November it is still within six months since "the matter arose".

b) Where there is a time bar a court can be asked to lift it because of special circumstances.

c) Also, even if Section 77 is time limited, the point about the CRU researchers is that they conspired to break the rules on disclosures. And conspiracy seems not to be time limited.

Section 1(1) of the Criminal Law Act 1977 provides:

**"...if a person agrees with any other person or persons that a course of conduct shall be pursued which, if the agreement is carried out in accordance with their intentions, either -
(a) will necessarily amount to or involve the commission of any offence or offences by one or more of the parties to the agreement, or
(b) would do so but for the existence of facts which render the commission of the offence or any of the offences impossible, [added by S.5 Criminal Attempts Act 1981]
he is guilty of conspiracy to commit the offence or offences in question."**

Thanks for your help.

[REDACTED]
The Sunday Times (Readership 3.5m)
1 Pennington Street, London E98 1ST
Email: [REDACTED]@sunday-times.co.uk
Landline: +44 20 [REDACTED]
Mobile: +44 [REDACTED]
See my articles at www.timesonline.co.uk

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From: [REDACTED] [mailto:[REDACTED]@grayling.com]
Sent: 22 January 2010 19:44
To: [REDACTED]
Cc: ICO Press Office
Subject: Re: CRU Hack - parliamentary inquiry

[REDACTED]
The six months is in the legislation so prosecution is not possible but we will see what action can be taken once the inquiries report. The relevant section is Sec 77 of the Freedom of Information Act.

From: [REDACTED] <[REDACTED]@sunday-times.co.uk>
To: ICO Press Office

Sent: Fri Jan 22 17:39:11 2010
Subject: RE: CRU Hack - parliamentary inquiry

**But does the ICO have discretionary powers? Can it choose to investigate outside the 6 month deadline or in other circumstances?
What is the relevant legislation? What section of it controls the ICOs power to investigate?**

[REDACTED]
The Sunday Times (Readership 3.5m)
1 Pennington Street, London E98 1ST
Email: [REDACTED]@sunday-times.co.uk
Landline: +44 20 [REDACTED]
Mobile: +44 [REDACTED]

See my articles at www.timesonline.co.uk

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From: ICO Press Office [mailto:icopressoffice@grayling.com]
Sent: 22 January 2010 17:22
To: [REDACTED]; ICO Press Office
Cc: helena.szehidewicz@ico.gsi.gov.uk
Subject: RE: CRU Hack - parliamentary inquiry

[REDACTED]

It's too early to say what we will do. We will look at the evidence (as per the last line of the statement) from the inquiries already underway and decide what action is then appropriate. I would emphasise that we are providing assistance to the police. We are not going to speculate about action/outcomes at this stage.

If I can help further, please just let me know either by email or on [REDACTED].

Thanks
[REDACTED]

ICO press office
020 7025 7580

From: [REDACTED] [mailto:[REDACTED]@sunday-times.co.uk]
Sent: 22 January 2010 15:44
To: ICO Press Office
Cc: helena.szehidewicz@ico.gsi.gov.uk
Subject: RE: CRU Hack - parliamentary inquiry

Thank you for this.

Are you saying that the ICO has no discretionary powers to act in such cases as the CRU ? After all, there is nothing to stop you carrying out an inquiry and then issuing a report even if you cannot force disclosure or impose penalties.

Or is this effectively what you are doing?

[REDACTED]

The Sunday Times (Readership 3.5m)

1 Pennington Street, London E98 1ST

Email: [REDACTED]@sunday-times.co.uk

Landline: +44 20 [REDACTED]

Mobile: +44 [REDACTED]

See my articles at www.timesonline.co.uk

The contents of this email, plus any attachments, are confidential and should not be published in any format without prior agreement.

-----Original Message-----

From: ICO Press Office [<mailto:icopressoffice@grayling.com>]

Sent: 22 January 2010 15:18

To: [REDACTED]

Cc: ICO Press Office

Subject: RE: CRU Hack - parliamentary inquiry

[REDACTED]

As discussed with [REDACTED], please find our statement below:

Graham Smith, Deputy Commissioner, said:

"Norfolk Police are investigating how private emails have become public. The Information Commissioner's Office is assisting the police investigation with advice on data protection and freedom of information.

The emails which are now public reveal that Mr Holland's requests under the Freedom of Information Act were not dealt with as they should have been under the legislation.

Section 77 of the Freedom of Information Act makes it an offence for public authorities to act so as to prevent intentionally the disclosure of requested information. Mr Holland's FOI requests were submitted in 2007/8, but it has only recently come to light that they were not dealt with in accordance with the Act.

The legislation requires action within six months of the offence taking place, so by the time the action taken came to light the opportunity to consider a prosecution was long gone. The ICO is gathering evidence from this and other time-barred cases to support the case for a change in the law. It is important to note that the ICO enforces the law as it stands

- we do not make it.

It is for government and Parliament to consider whether this aspect of the legislation should be strengthened to deter this type of activity in future. We will be advising the University about the importance of effective records management and their legal obligations in respect of future requests for information. We will also be studying the investigation reports (by Lord Russell and Norfolk Police), and we will then consider what regulatory action, if any, should then be taken under the Data Protection Act."

If you need anything further please contact us.

Kind regards,


ICO Press Office
020 7025 7580
icopressoffice@grayling.com
www.ico.gov.uk

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-----Original Message-----

From:  [mailto:@sunday-times.co.uk]

Sent: 22 January 2010 14:51

To: 

Subject: CRU Hack - parliamentary inquiry

SCIENCE & TECHNOLOGY COMMITTEE
Select Committee Announcement

22 January 2010

NEW INQUIRY

THE DISCLOSURE OF CLIMATE DATA FROM THE CLIMATIC RESEARCH UNIT AT THE
UNIVERSITY OF EAST ANGLIA

The Science and Technology Committee today announces an inquiry into the unauthorised publication of data, emails and documents relating to the work of the Climatic Research Unit (CRU) at the University of East Anglia (UEA). The Committee has agreed to examine and invite written submissions on three questions:

- What are the implications of the disclosures for the integrity of scientific research?
- Are the terms of reference and scope of the Independent Review announced on 3 December 2009 by UEA adequate (see below)?
- How independent are the other two international data sets? (footnote 1)

The Committee intends to hold an oral evidence session in March 2010.

Background

On 1 December 2009 Phil Willis, Chairman of the Science and Technology Committee, wrote to Professor Edward Acton, Vice-Chancellor of UEA following the considerable press coverage of the

data, emails and documents relating to the work of the Climatic Research Unit (CRU). The coverage alleged that data may have been manipulated or deleted in order to produce evidence on global warming. On 3 December the UEA announced an Independent Review into the allegations to be headed by Sir Muir Russell.

The Independent Review will:

1. Examine the hacked e-mail exchanges, other relevant e-mail exchanges and any other information held at CRU to determine whether there is any evidence of the manipulation or suppression of data which is at odds with acceptable scientific practice and may therefore call into question any of the research outcomes.
2. Review CRU's policies and practices for acquiring, assembling, subjecting to peer review and disseminating data and research findings, and their compliance or otherwise with best scientific practice.
3. Review CRU's compliance or otherwise with the University's policies and practices regarding requests under the Freedom of Information Act ('the FOIA') and the Environmental Information Regulations ('the EIR') for the release of data.
4. Review and make recommendations as to the appropriate management, governance and security structures for CRU and the security, integrity and release of the data it holds. (footnote 2)

Submissions

The Committee invites written submissions from interested parties on the three questions set out above by noon on Wednesday 10 February:

Each submission should:

- a) be no more than 3,000 words in length
- b) be in Word format (no later than 2003) with as little use of colour or logos as possible
- c) have numbered paragraphs
- d) include a declaration of interests.

A copy of the submission should be sent by e-mail to scitechcom@parliament.uk and marked "Climatic Research Unit". An additional paper copy should be sent to:

The Clerk
Science and Technology Committee House of Commons
7 Millbank
London SW1P 3JA

It would be helpful, for Data Protection purposes, if individuals submitting written evidence send their contact details separately in a covering letter. You should be aware that there may be circumstances in which the House of Commons will be required to communicate information to third parties on request, in order to comply with its obligations under the Freedom of Information Act 2000.

Please supply a postal address so a copy of the Committee's report can be sent to you upon publication.

A guide for written submissions to Select Committees may be found on the parliamentary website at: www.parliament.uk/commons/selcom/witguide.htm

Please also note that:

- Material already published elsewhere should not form the basis of a submission, but may be referred to within a proposed memorandum, in which case a hard copy of the published work should be included.

- Memoranda submitted must be kept confidential until published by the Committee, unless publication by the person or organisation submitting it is specifically authorised.

- Once submitted, evidence is the property of the Committee. The Committee normally, though not always, chooses to make public the written evidence it receives, by publishing it on the internet (where it will be searchable), by printing it or by making it available through the Parliamentary Archives. If there is any information you believe to be sensitive you should highlight it and explain what harm you believe would result from its disclosure. The Committee will take this into account in deciding whether to publish or further disclose the evidence.

- Select Committees are unable to investigate individual cases.

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Footnotes

1. The National Climatic Data Center (NCDC) of the National Oceanographic and Atmospheric Administration (NOAA) in Asheville, NC, USA and the Goddard Institute of Space Studies (GISS), part of the National Aeronautic and Space Administration (NASA) in New York; mentioned in the CRU's statement of 24 November 2009, see <http://www.uea.ac.uk/mac/comm/media/press/2009>
<http://www.uea.ac.uk/mac/comm/media/press/2009/dec/CRUreview/nov/CRUupdate>

2. <http://www.uea.ac.uk/mac/comm/media/press/2009/dec/CRUreview>

Rebecca Jones

House of Commons Select Committee Media Officer Children, Schools & Families; Health; Science & Technology; Northern Ireland; Scotland; Wales

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