

Justice Sub-Committee on Policing

Police Scotland's proposed use of digital device triage systems (cyber-kiosks)

Written submission from the Information Commissioner's Office

Further to the email from the clerks of 26 October, I am writing to update the Sub-Committee on the ICO's work related to the digital device triage systems as it relates to Police Scotland, and more broadly.

To date, the ICO has had no input into the preparation of the various documents listed. The first time Police Scotland sent any of the documentation relating to cyber kiosks directly to the ICO was on Wednesday 24 October. The ICO is in the process of reviewing the documents in advance of the Cyber Kiosks External Reference Group meeting on 30 October.

As mentioned in our oral evidence to the Sub-Committee, the ICO wishes to understand the lawful authority for obtaining evidence held on digital devices. We will therefore be asking Police Scotland to share the views of Crown Counsel with us at the earliest opportunity.

The ICO has also requested a demonstration of the cyber kiosk system used by Police Scotland. Prior commitments of the relevant Police Scotland officers and ICO staff mean this is likely to be in December 2018.

The ICO does not have a view on whether Police Scotland's timescale for roll-out of the cyber kiosks is achievable. We are concerned that the collection and use of personal data by the kiosks is compliant with data protection law.

The Information Commissioner has a general duty to make organisations aware of their obligations under data protection law. There is no requirement for an organisation to seek the Commissioner's approval to begin processing personal data in a particular way unless a DPIA identifies high risks which the organisation cannot mitigate. Should the DPIA indicate that the risks do not require a formal consultation with the Commissioner prior to the processing, that does not preclude the Commissioner from taking regulatory action in the future if warranted.

The ICO would like to reiterate to the Sub-Committee that Police Scotland's work on this project is forming part of our wider investigation into the data protection issues associated with the use of this technology by all territorial police forces in the UK. This work is expected to continue into early 2019 and so will not be concluded by this November.

I trust this answers the Sub-Committee's questions but please contact me if any clarification is required, or further questions arise.

David Freeland
Senior Policy Officer
29 October 2018