COMP1205 Week 8

Professional Development

Legal, professional and ethical perspectives

Dr Su White

http://www.edshare.soton.ac.uk/13596/

guidance

OVERVIEW, PRINCIPLES

High Level Objectives

Why we are here

- To produce the best informed most widely educated CS and IT graduates in the country!
- To help you learn how to argue and express yourself with informed insight on current professional and legal issues
- To help you better understand how you address 'fuzzy' tasks which complement your technical skills
- Make it a worthwhile use of your time
(for you and me!)

Work smarter not harder

- Intellectually
  - Understand your motivations
- Imaginatively
  - Develop and use your creativity and imagination
  - Make your tasks enjoyable
- Intuitively
  - Learn to know what works for you

Approaches

- Pareto principle
  - 20% of the effort produces 80% of the result
  - … but think about it logically, rationally
- One touch
  - Capture all the necessary information in a single touch

Work smarter not harder

Follow up: Dan Pink – RSA Animate, see refs and links

Legal & professional

- Why does it matter?
  - Your degree is accredited
  - Employers expect awareness
  - Choose the workplace which suits you
  - Think forward
- NOTE
- You are not expected to
  - be a lawyer
- You are expected to
  - demonstrate and awareness of laws which impact on the workplace

How you will know, how we will know

- Self check
  - Confidence
  - "I have watched the videos"
  - "I have read the notes"
  - "I have tackled the tasks"
  - "I have worked out how it is relevant to my plans"
  - "I have prepared for the exam"
- Online exam
- Multiple choice questions

Legal & professional

professional and legal issues might include

Take ownership

- What do you want to do?
- What CS/IT areas really interest you?
- Identify the topics where you plan to be an expert

Professional Issues: Perspectives indicative list and categorisation - some topics are listed under more than one heading

Legal contexts and awareness

Libel and defamation
Crime online/ cyber-security
Pornography
Fraud
Hacking
Green ICT
Legislation in workplace contexts

Global responsibilities/ civic Responsibilities

Environment
Digital divide
E government
Globalisation
Social enterprise
Think global act local
Responsibilities
Freedom of information
Outsourcing
Public awareness of science
Globalisation

Workplace contexts and equality

Organisations/business models
Codes of conduct
Data Protection Act
Computer crime
Whistleblowing
Good practice
Employment rights and law
Health and safety
Industrial tribunals
Discrimination
Accessibility
Inclusivity

Technology watch/ Digital futures

Open data
Open source
Augmentation
Web 3.0/Semantic Web
Linked Data
E-commerce
Emerging Business Models

Digital Rights and Wrongs

Copyright
Copyleft
Creative commons
File sharing
Intellectual property
Digital rights management
Privacy/security
Ethical Computing

Personal ethics/Rights and responsibilities

Academic ethics
Civic duty
Censorship
Freedom of speech
Defamation
Whistleblowing
Ethics
Surveillance
Professionalism
Codes of conduct
Professional bodies
Professional practice
Trades unions

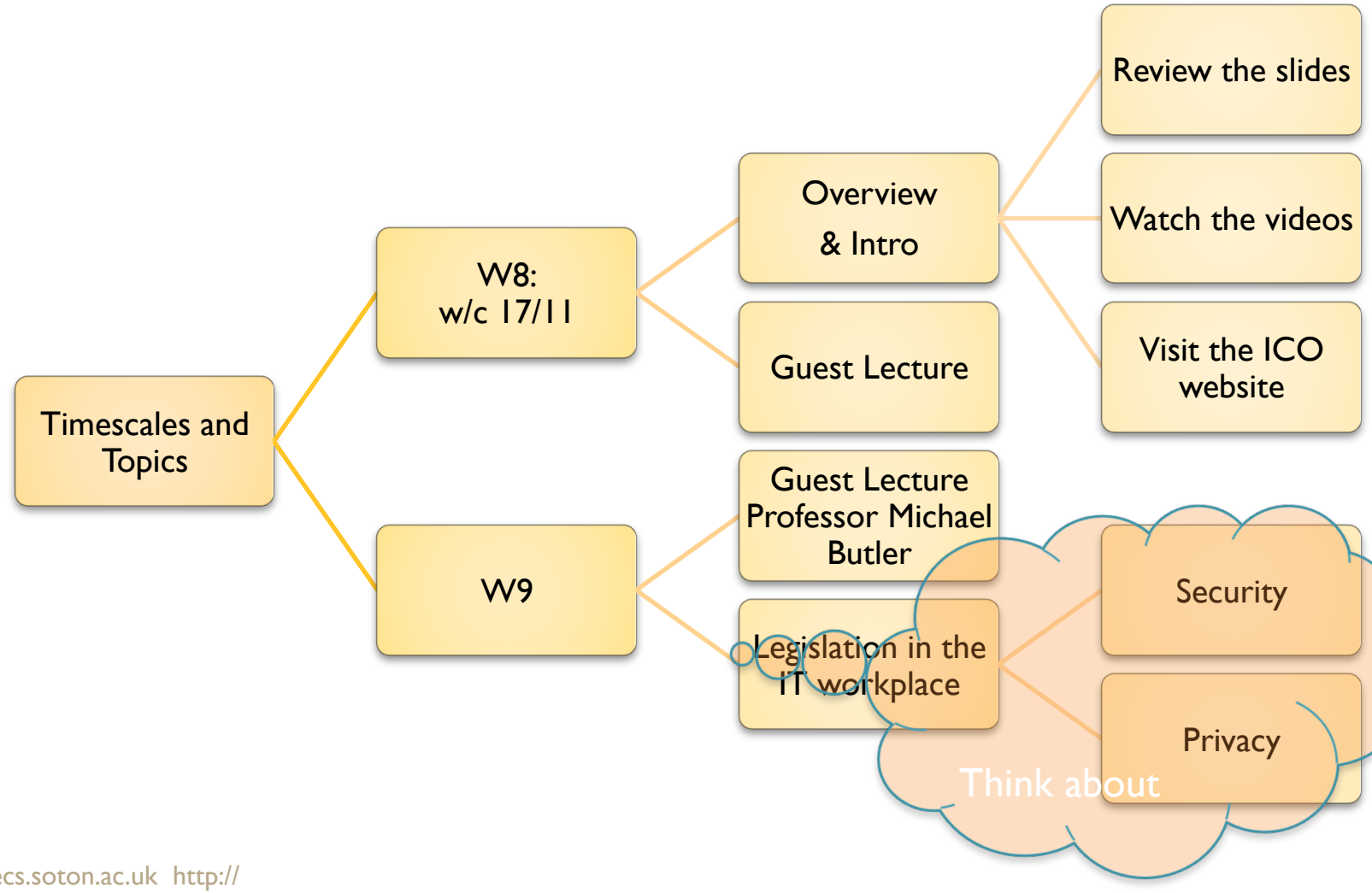
Reminder: rationale of the structure

Guidance and prompting
Plus… directing you to a realistic/sustainable approach

This is not the same as coding, maths or other 'hard' subject areas
But it is **very relevant** to your degree…
… and the approach is relevant to future study and work

- Find out, think about, re-present
- Work in groups
- Find your strengths
- Overcome your weaknesses
- Enjoy yourselves

This week… and next



You are not learning to be a lawyer

But with this module

- develop some legal awareness
- think about your rights
- think about your responsibilities

Legal 1

Data, Information and Life in a Connected World

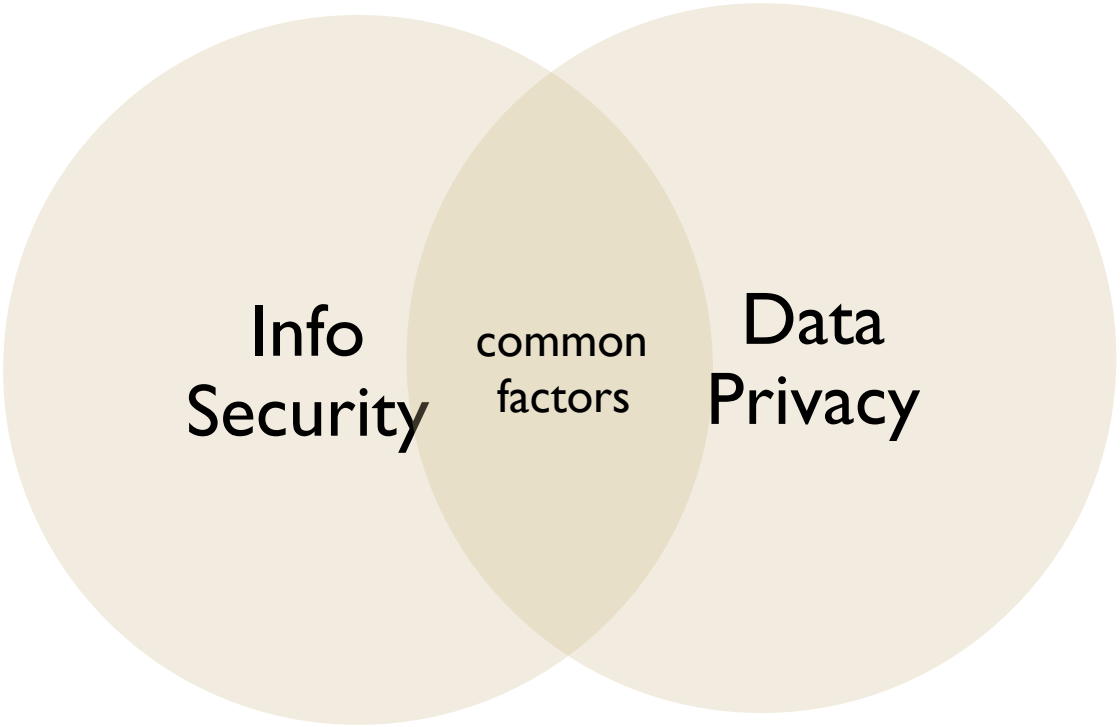
Legal 2

Law in the (IT) workplace

NB: you will find legal 1 topics in the workplace!

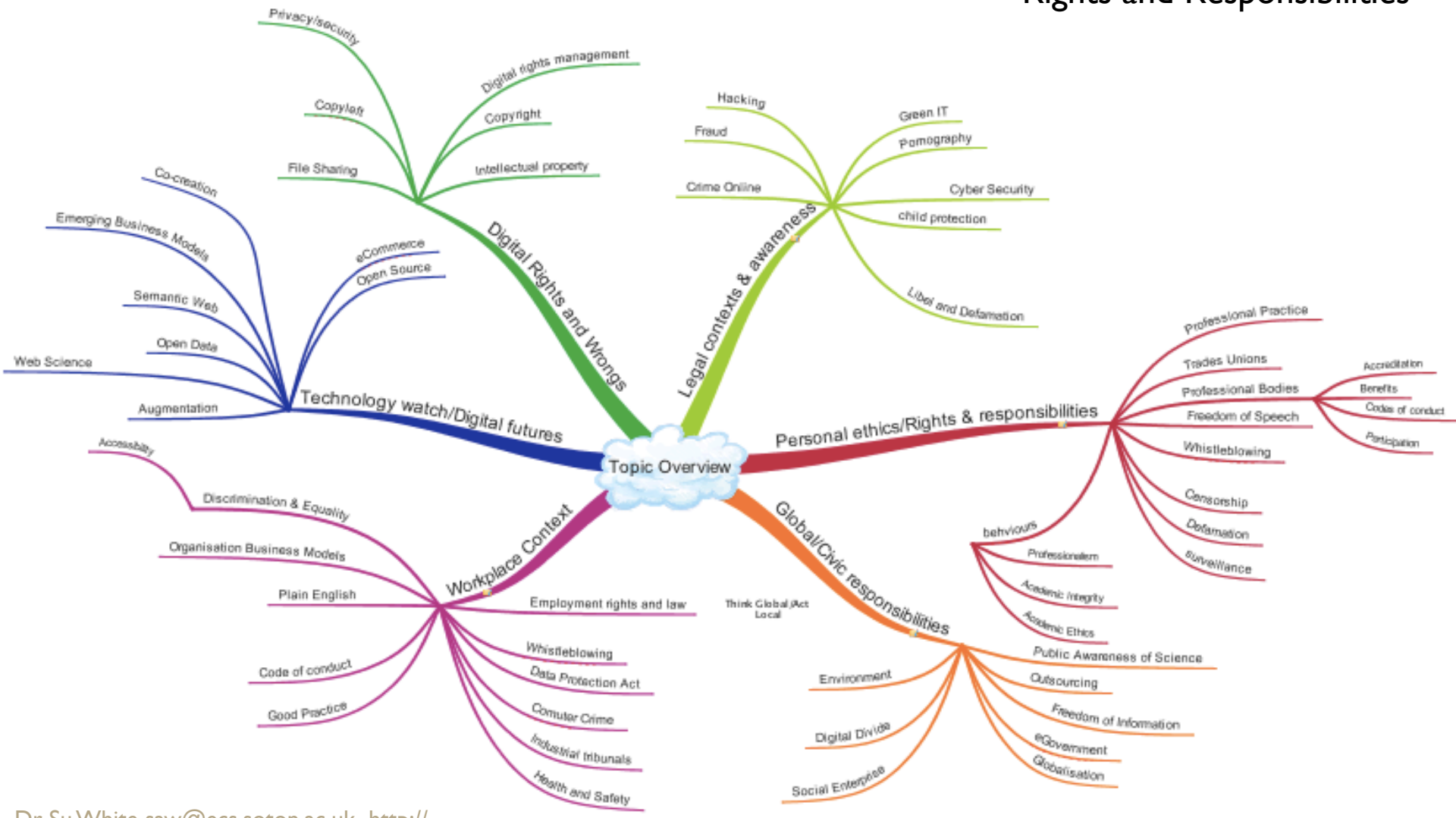
Understand the extent of the area

Example: power & responsibility



Legal areas

Workplace perspectives: Rights and Responsibilities



Key topics for legislation

- Privacy
- Security
- Slander, Libel and Defamation
- Digital rights and ownership
- Intellectual Property

Possible Perspectives

- As an individual professional
- As an employee
- As an individual
- As a citizen

You may have personal ethical views
or have accepted/committed to to legal and ethical responsibilities

Part of the big picture

TYPES OF LAW IN THE UK

Overview: Types of law in the UK

- Statute law
- Common law
- International law

UK: Statute Law

Statute law

- Made by government
- legislation.gov.uk
- Context
  - UK does not have a constitution
- Contraints
  - International treaties
  - EU law

Acts of Parliament

- Debated
  - House of Commons
  - House of Lords
- Enacted
  - Royal Consent

Statutes are made by parliament

www.parliament.uk

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You are here: Parliament home page > Parliamentary business > Bills & legislation

Bills & legislation

Bills and Legislation sets out the proposals for new laws, and plans to change existing laws, that are presented for debate before Parliament.

Keep up to date with the progress of current and draft Bills before Parliament; read the full texts of Acts of Parliament, and find out the details of delegated legislation that change laws under existing Acts.

Bills before Parliament

Full text of Public, Private and Hybrid Bills, plus their progress through Parliament; includes Acts passed this session

- Bills before Parliament
- Bills in previous sessions
- Progress of Public Bills this session

Draft Bills before Parliament

The Government publishes a number of Bills each session in draft form to enable consultation before a Bill is issued formally

- Draft Bills before Parliament
- Draft Bills in previous sessions

Secondary Legislation

Delegated legislation allows the Government to make changes to the law using powers conferred by an Act of Parliament

- Statutory Instruments
- Church Measures
- Special Procedure Orders
- Hybrid instruments

Acts of Parliament

Learn more about the full text of Public General Acts from 1988 and all Local (Private) Acts from 1991 as they were originally enacted

How does a Bill become law?

Our Passage of a Bill guide shows a Bill's journey through Parliament – find out what happens at each stage.

Bills v Acts

A Bill is a draft law; it becomes an Act if it is approved by a majority in the House of Commons and House of Lords, and formally agreed to by the reigning monarch (known as Royal Assent). An Act of Parliament is a law, enforced in all areas of the UK where it is applicable.

- More about Bills
- More on Acts

Example Digital Economies Act 2010

UK: Common Law aka Case Law

Common Law

- Precedent of cases
- Made by judges
- Judgments and interpretation of statute law

Historical roots

- In addition to what is covered by statute
- Judges rôle
  - Interpret statutes
  - Follow precedent
  - Rule on 'points of law'
  - Cannot create new areas of law

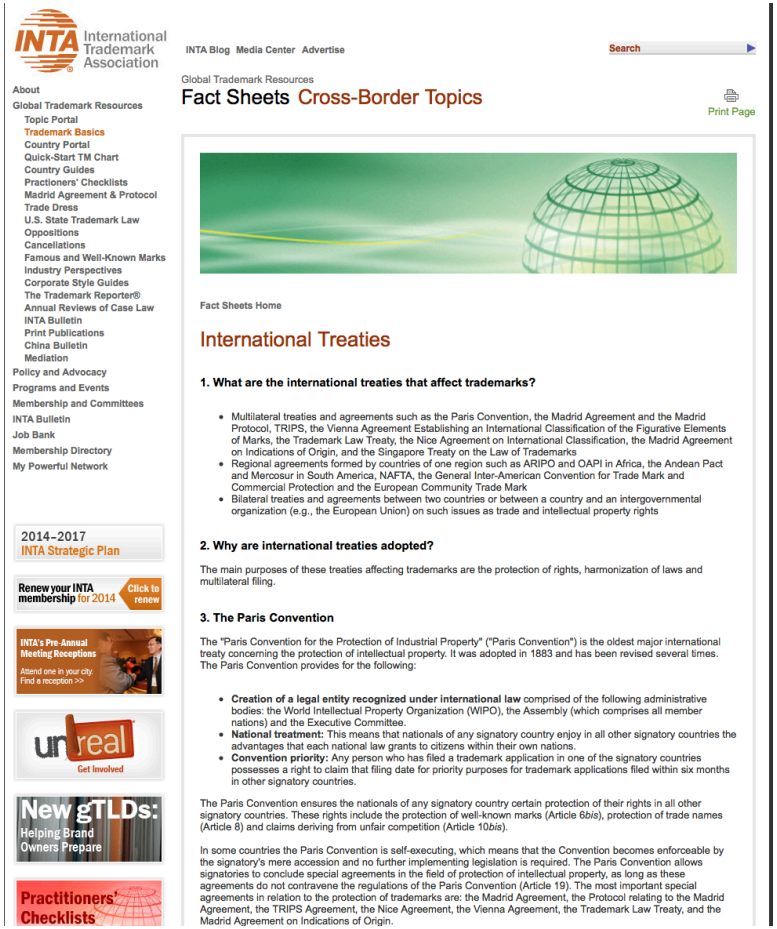
Common law examples

Where no statute exists

- Confidentiality
  - Employees have duty of confidentiality to their employers
  - Extends beyond end of employment
- Precedent established in previous court cases

International law: treaties

- Government treaties
- For example, trademarks, IP



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unreal Get Involved

New gTLDs: Helping Brand Owners Prepare

Practitioners' Checklists

Global Trademark Resources

Fact Sheets Cross-Border Topics

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Fact Sheets Home

International Treaties

1. What are the international treaties that affect trademarks?

- Multilateral treaties and agreements such as the Paris Convention, the Madrid Agreement and the Madrid Protocol, TRIPS, the Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks, the Trademark Law Treaty, the Nice Agreement on International Classification, the Madrid Agreement on Indications of Origin, and the Singapore Treaty on the Law of Trademarks
- Regional agreements formed by countries of one region such as ARIPO and OAPI in Africa, the Andean Pact and Mercosur in South America, NAFTA, the General Inter-American Convention for Trade Mark and Commercial Protection and the European Community Trade Mark
- Bilateral treaties and agreements between two countries or between a country and an intergovernmental organization (e.g., the European Union) on such issues as trade and intellectual property rights

2. Why are international treaties adopted?

The main purposes of these treaties affecting trademarks are the protection of rights, harmonization of laws and multilateral filing.

3. The Paris Convention

The "Paris Convention for the Protection of Industrial Property" ("Paris Convention") is the oldest major international treaty concerning the protection of intellectual property. It was adopted in 1883 and has been revised several times. The Paris Convention provides for the following:

- **Creation of a legal entity recognized under international law** comprised of the following administrative bodies: the World Intellectual Property Organization (WIPO), the Assembly (which comprises all member nations) and the Executive Committee.
- **National treatment:** This means that nationals of any signatory country enjoy in all other signatory countries the advantages that each national law grants to citizens within their own nations.
- **Convention priority:** Any person who has filed a trademark application in one of the signatory countries possesses a right to claim that filing date for priority purposes for trademark applications filed within six months in other signatory countries.

The Paris Convention ensures the nationals of any signatory country certain protection of their rights in all other signatory countries. These rights include the protection of well-known marks (Article 6*bis*), protection of trade names (Article 8) and claims deriving from unfair competition (Article 10*bis*).

In some countries the Paris Convention is self-executing, which means that the Convention becomes enforceable by the signatory's mere accession and no further implementing legislation is required. The Paris Convention allows signatories to conclude special agreements in the field of protection of intellectual property, as long as these agreements do not contravene the regulations of the Paris Convention (Article 19). The most important special agreements in relation to the protection of trademarks are: the Madrid Agreement, the Protocol relating to the Madrid Agreement, the TRIPS Agreement, the Nice Agreement, the Vienna Agreement, the Trademark Law Treaty, and the Madrid Agreement on Indications of Origin.

European Legislation

- Directives
- Instruments
- Regulations

Directives

- Member states must update laws
- Specifies outcome, not implementation
- Can be implemented in parts

Example areas

- Modernisation of professional qualifications
- Restriction of hazardous substances
- Energy efficiency/ green IT
- Packaging and packaging waste

Focus: criminal vs civil

Criminal law

- Behaviour forbidden/ outlawed by state
- In case law it can be identified as

R versus xxxxx

Civil law

- Rights & obligations
- Business contracts
- Implied contracts
- Product liability
- Vicarious liability
  - Employers may be liable for acts by empoyees e.g. slander, defamation, libel

Civil and criminal law can both be relevant

Historically information was not regarded as property

But…

Scanning a book and publishing it on the internet?

Are the author's and publishers right

- Criminal?
- Civil?

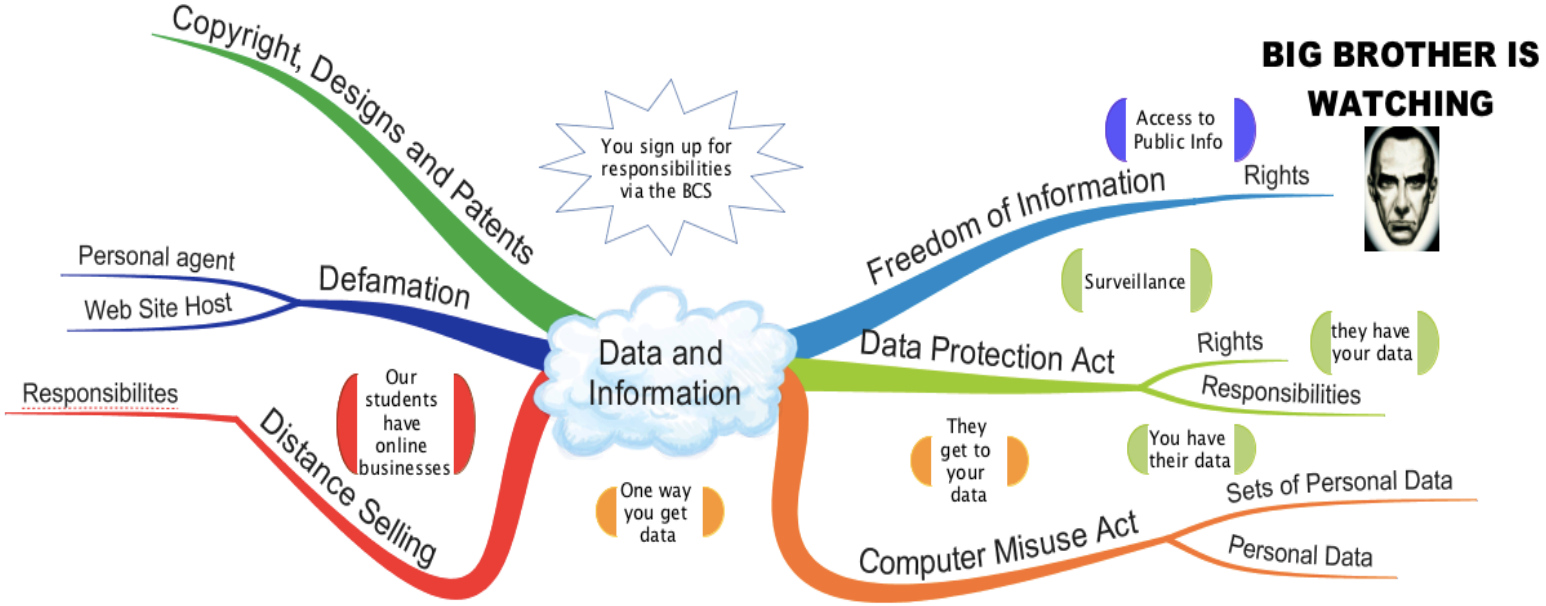
Key Areas

- Communications Act 2003 section 127 (Came into force 25th July 2003 replaced s43 Telecommunications Act 1984)
- Computer Misuse Act 1990
- Copyright design and patents 1988
- Data Protection Act 1998
- Defamation Act 1996
- Disabilities Discrimination Act
- Digital economy act 2010
- Electronic Commerce (EC Directive) Regulations 2002
- Electronic waste disposal
- Equalities Act 2010
- Health and Safety at work 1974
- Harassment protection act 1997
- Human rights act 1998
- Malicious Communications Act 1988 section 1
- Postal Services Act 2000 section 85 (commenced 26th March 2001)
- Regulation of Investigatory Powers Act 2000

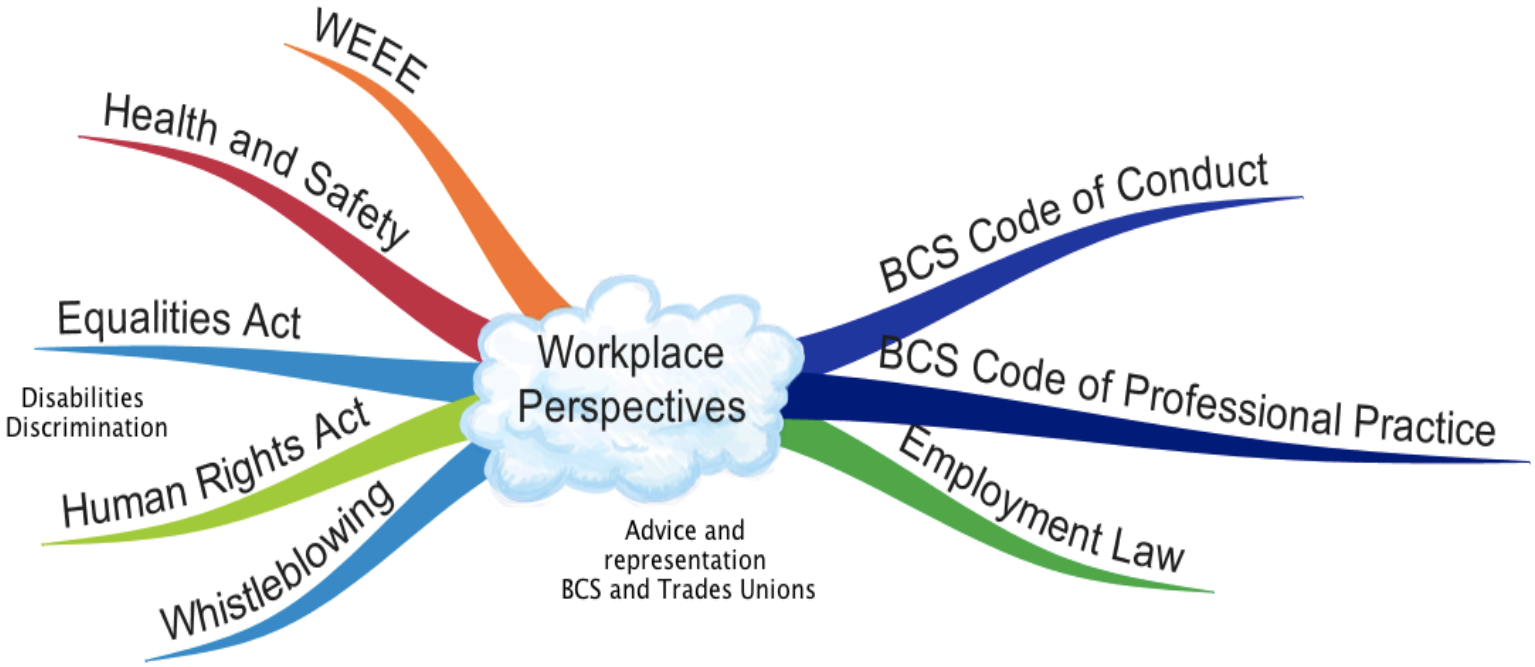
The focus for this module

WAYS OF LOOKING AT UK LAW AS AN IT PROFESSIONAL

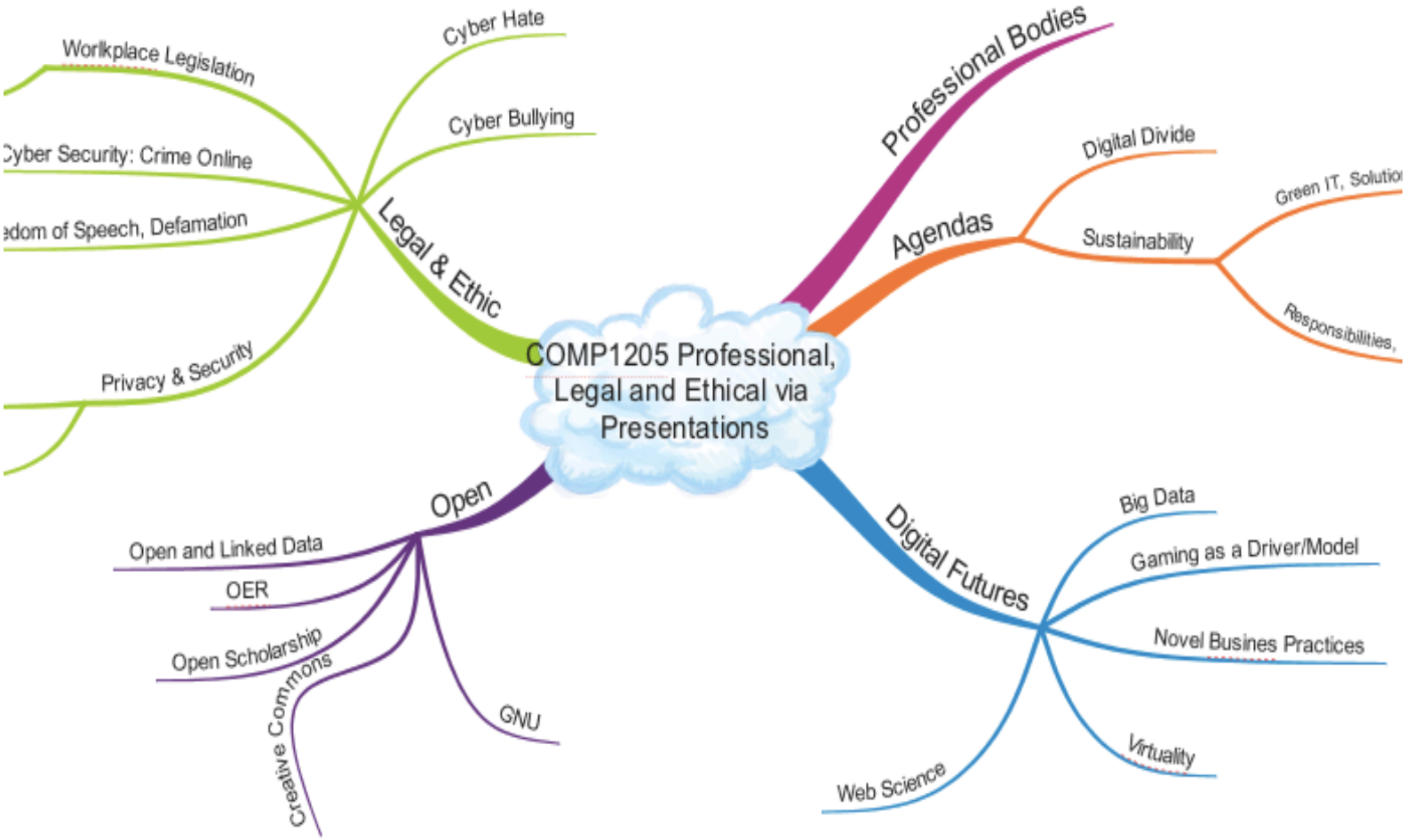
Data and Information perspectives



Workplace Perspectives



Via the presentations…



You provide references, you research topics, relevant in different ways

You will have to study independently

Topics:

Hacking (see also privacy, security)
Communications Act 2003 section 127 (Came into force 25th July 2003 replaced s43 Telecommunications Act 1984)
Computer Misuse Act 1990

Copyright, Digital Rights Management and IPR
Copyright design and patents Act1988
Digital economy Act 2010

Green IT
Waste Electrical and Electronic Equipment (WEEE) Regulations

Freedom of Information
Freedom of Information Act 2000

Freedom of Speech
Human rights act 1998

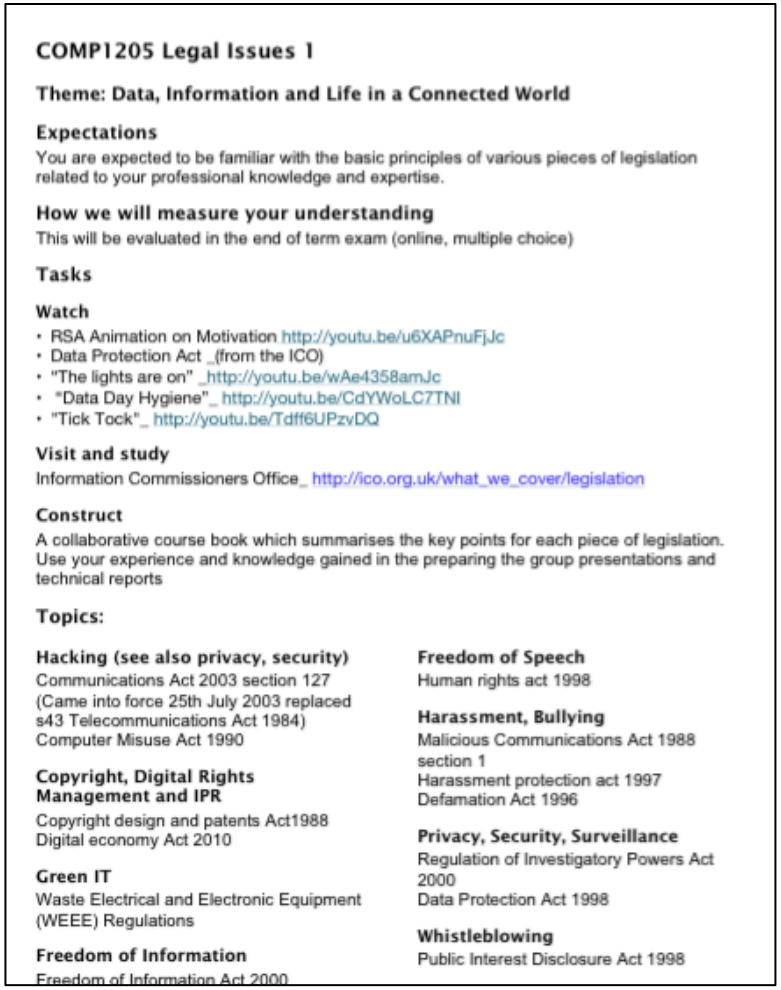
Harassment, Bullying
Malicious Communications Act 1988 section 1
Harassment protection act 1997
Defamation Act 1996

Privacy, Security, Surveillance
Regulation of Investigatory Powers Act 2000
Data Protection Act 1998

Whistleblowing
Public Interest Disclosure Act 1998

These are topics for Legal 1

Follow the task instructions



COMP1205 Legal Issues 1

Theme: Data, Information and Life in a Connected World

Expectations

You are expected to be familiar with the basic principles of various pieces of legislation related to your professional knowledge and expertise.

How we will measure your understanding

This will be evaluated in the end of term exam (online, multiple choice)

Tasks

Watch

- RSA Animation on Motivation http://youtu.be/u6XAPnuFjJc
- Data Protection Act _(from the ICO)
- "The lights are on" _http://youtu.be/wAe4358amJc
- "Data Day Hygiene"_ http://youtu.be/CdYWoLC7TNI
- "Tick Tock"_ http://youtu.be/Tdff6UPzvDQ

Visit and study

Information Commissioners Office_ http://ico.org.uk/what_we_cover/legislation

Construct

A collaborative course book which summarises the key points for each piece of legislation. Use your experience and knowledge gained in the preparing the group presentations and technical reports

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Data Protection Act 1998

Whistleblowing
Public Interest Disclosure Act 1998

Work collaboratively

- Use the wiki
- Or any other chosen shared space

Creating the notes will help you learn

You might curate links using social media sites

- Compare the task to computer labs work ;-)
- The DPA notes (later) provide a model for you working method

Walkthough some new areas

TAKING AN IT PERSPECTIVE

IT contexts

UK criminal law

- By statute
- examples
  - Digital Economies Act 2010
  - Computer Misuse Act 1990
  - Design Copyright and Patents Act 1988

- UK Civil law
- By case history
- Issues:
  - buggy software
- Rights:
  - when purchased software fails
  - when purchased software makes me lose money

New technologies -> 'disruption'

Existing legislation

- Was not prepared for new contexts

But…

- Are there actually new crimes?
- or …are there just new ways of committing old crimes

New legislation due to:

- Moral panic

May need refinement

- Appeals, civil action to augment legislation
- Examples
  - Malicious hacking
  - Technological attack (viruses)
  - Perceived social threat

Legislation as response to change

Computer misuse act 1990

- Fraud, hacking, viruses
- other computer-related crime
- Motivation
  - Overcome loopholes in existing legislation

Principles

- Conduct which is criminal remains criminal when enabled by new means
  e.g. computer technology

Conduct which is not generally considered to be criminal does not become criminal because of the computer context

There are widespread criticisms of UK IT legislation – see for example Policing in an Information Age Demos Report

Computer misuse Act 1990

- Causing an computer to perform any function **with intent** to secure access to any program or data held within a computer
- The **access** intended to be secured is unauthorised
- The act is performed with knowledge lack of authorisation at the time of the alleged crime

Further offence

- If (having gained unauthorised access) facilitate the commission of an offence

It is Illegal to use a computer to help set up a crime

- Either by yourself
- Or by any other person

Computer misuse act

A person is guilty of an offence if….

- The commit any act which causes the unauthorised modification of the contents of a computer

At the time of the act they have

- the requisite intent

  and

- the requisite knowledge

Computer fraud

Fraud

- Gaining financial gain by deception

Theft

- Taking with intent to permanently deprive

- Using a computer to obtain money illegally is fraud
- Computer fraud often conducted by insiders
  - Acting without authorisation

Over to you….

- The following slides are designed to be read and used as a model for preparing your notes on each of the further legal 1 topics

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Thank you ;-)

Su White

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- http://www.ecs.soton.ac.uk/~saw

Not shown during the lecture

FOLLOWING SLIDES FOR INDEPENDENT STUDY

Anticipating independent study

DATA PROTECTION ACT

DPA videos: http://www.edshare.soton.ac.uk/10483/

Use this as a model for the way you approach any of the legal topics

FIRST CALIBRATE YOUR EXISTING KNOWLEDGE…

Who?

According to the Data Protection Act (1998) "a person who (either alone or jointly or in common with other persons) determines the purposes for which and the manner in which any personal data are, or are to be, processed" is the definition of:

1) A data subject
2) A data processor
3) A data controller
4) The Data Protection Commissioner

What?

- In the Data Protection Act, processing is defined as _____ information.

1) Obtaining
2) Recording
3) Holding
4) Carry out any operation on
5) all of the above
6) None of the above

Rights

Which of the following rights does an individual NOT have under the Data Protection Act (1998)?

1) The right to prevent data about the individual being used for direct marketing
2) The right to have inaccurate data corrected or erased
3) The right to prevent data about the individual being held
4) The right to find out what data is being held about the individual

Why questions?

- To evaluate your knowledge and understanding
- To remind you about the exam
- To focus you on the topic under discussion ☺
- You might want to find out the answers to these questions

Where to find the answers…

DATA PROTECTION ACT (1998)

Where? …basics

Government Legislation

- Data Protection Act

Read and understand

Set book (library)

- Bott Chapter 14:
- Data Protection,
- Privacy
- Freedom of Information

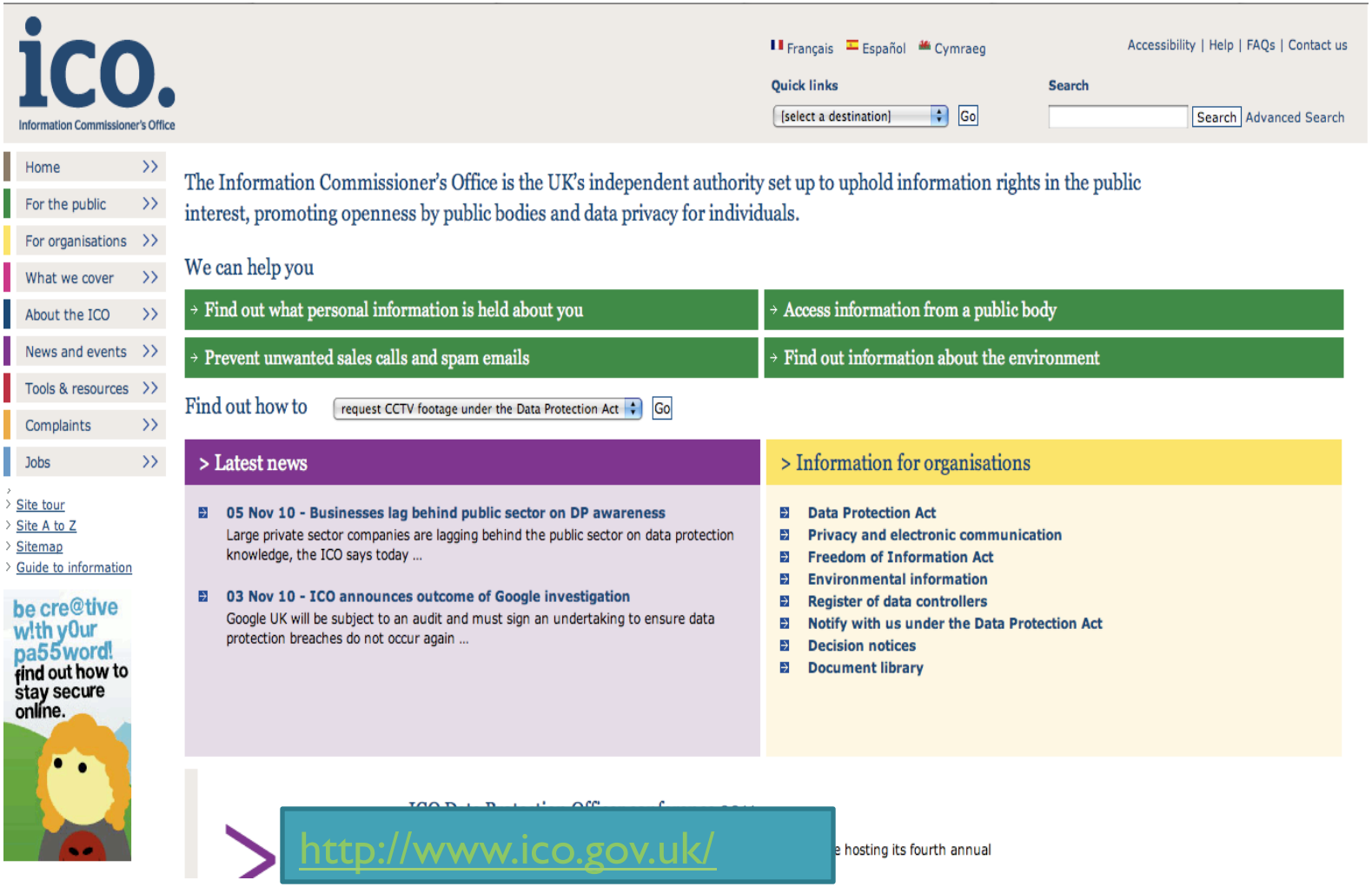
Other Sources

➔ **Information Commissioners Office**

➔ **.gov.uk**

Data Protection Act 1998

ICO web site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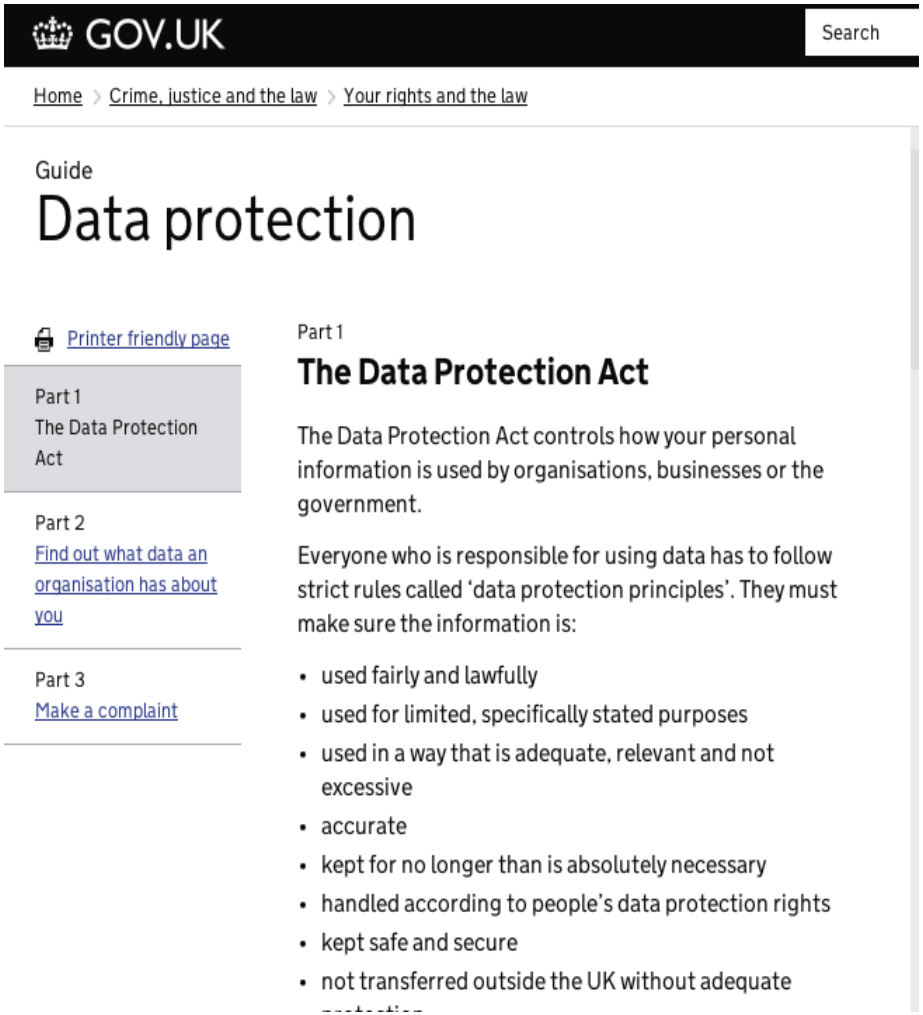
05 Nov 10 - Businesses lag behind public sector on DP awareness
Large private sector companies are lagging behind the public sector on data protection knowledge, the ICO says today ...
03 Nov 10 - ICO announces outcome of Google investigation
Google UK will be subject to an audit and must sign an undertaking to ensure data protection breaches do not occur again ...
> Information for organisations
Data Protection Act
Privacy and electronic communication
Freedom of Information Act
Environmental information
Register of data controllers
Notify with us under the Data Protection Act
Decision notices
Document library
http://www.ico.gov.uk/
hosting its fourth annual

Gov.uk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Data protection
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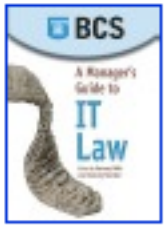
Part 1
The Data Protection Act
Part 2
Find out what data an organisation has about you
Part 3
Make a complaint
Part 1
The Data Protection Act
The Data Protection Act controls how your personal information is used by organisations, businesses or the government.
Everyone who is responsible for using data has to follow strict rules called 'data protection principles'. They must make sure the information is:
used fairly and lawfully
used for limited, specifically stated purposes
used in a way that is adequate, relevant and not excessive
accurate
kept for no longer than is absolutely necessary
handled according to people's data protection rights
kept safe and secure
not transferred outside the UK without adequate

Further sources?

- Search youtube data protection act (sort of ironic?), copyright would be more so…
- See also Holt and Newton (2004) for more background



A Manager's **Guide** to It **Law**
Jeremy Holt, Jean Morgan, Sarah Ellacott, Andrew Katz, Jeremy Newton - Computers - 2004 - 156 pages
This comprehensive guide for management professionals discusses the IT-related legal issues faced by business and their staff on a daily basis.
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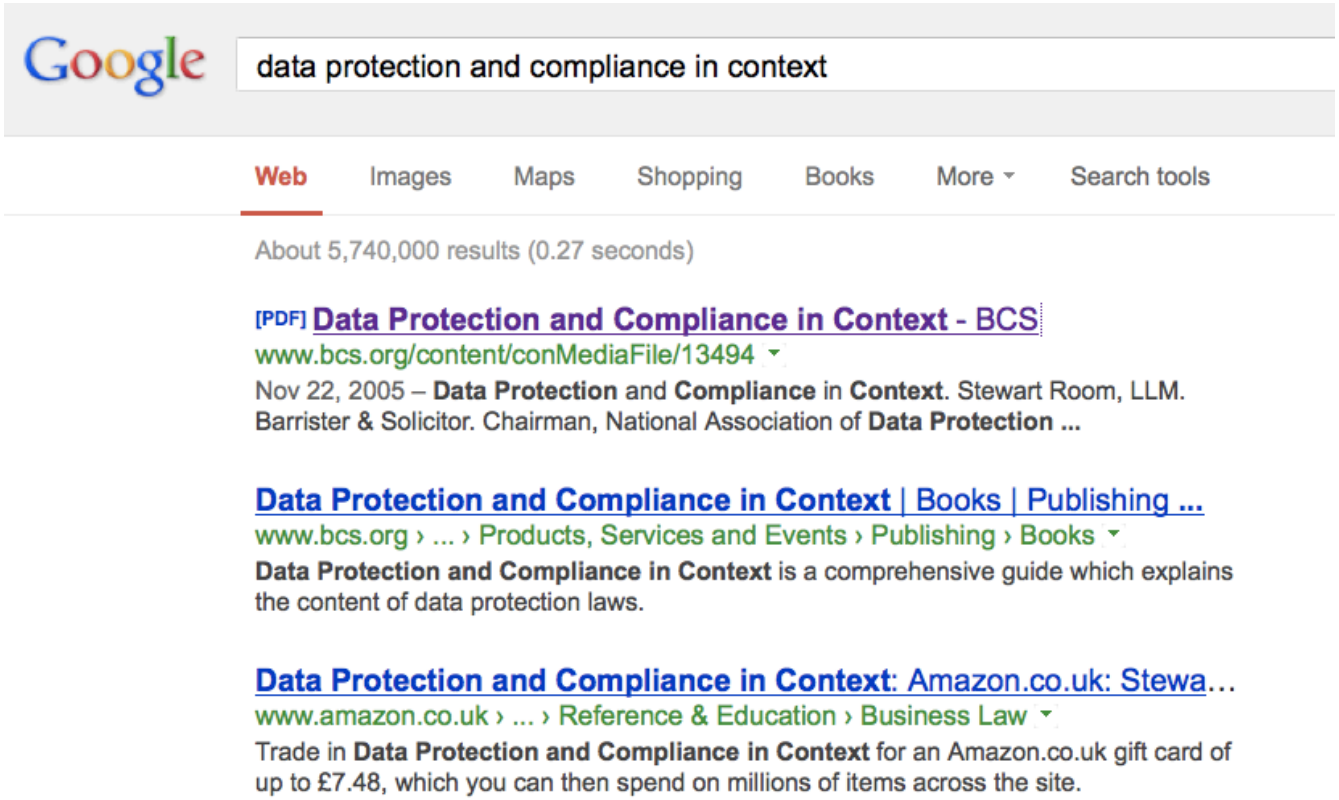
http://bit.ly/9DHj2c

BCS – book details + download

Google it!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Nov 22, 2005 – Data Protection and Compliance in Context. Stewart Room, LLM. Barrister & Solicitor. Chairman, National Association of Data Protection ...
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Data Protection and Compliance in Context is a comprehensive guide which explains the content of data protection laws.
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DPA - extent

"Data protection law protects what is known very generally as information privacy: the right to control what is know about you.

The type of information protected is differently defined in different countries and it is not always clear but typically includes 'personal data' such as

name, address, date of birth, contact details, financial, medical, and social work details, history of psychiatric treatment, photographs, genetic, racial and ethnic details, school records, domestic situation and so forth.

From Edwards and Rodrigues, The right to privacy and confidentiality for children: the law and current challenges (2008)

Checklist (from ICO)

- Do I really need this information about an individual?
  - Do I know what I'm going to use it for?
- Do the people whose information I hold know that I've got it, and are they likely to understand what it will be used for?
- If I'm asked to pass on personal information, would the people about whom I hold information expect me to do this?
- Am I satisfied the information is being held securely, whether it's on paper or on computer?
  - And what about my website? Is it secure?

Checklist continued

Is access to personal information limited to those with a strict need to know?

Am I sure the personal information is accurate and up to date?

Do I delete or destroy personal information as soon as I have no more need for it?

Have I trained my staff in their duties and responsibilities under the Data Protection Act, and are they putting them into practice?

Do I need to notify the Information Commissioner and if so is my notification up to date?

Data must be

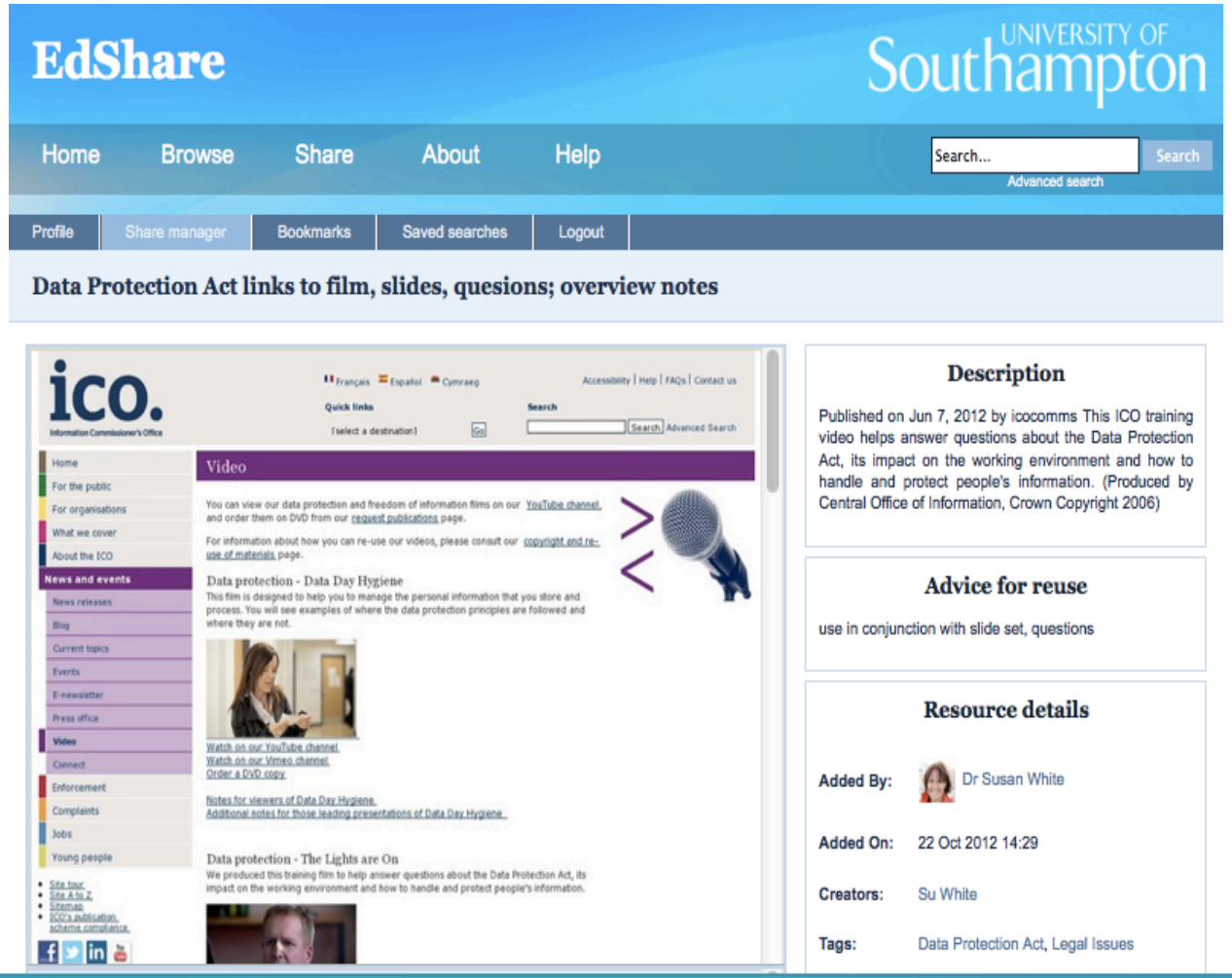
* Fairly and lawfully processed
* Processed for limited purposes
* Adequate, relevant and not excessive
* Accurate and up to date
* Not kept for longer than is necessary
* Processed in line with your rights
* Secure
* Not transferred to other countries without adequate protection

Think about these pointers

- Sources
  - Via a library search
  - Through selective searching (government and official sites)
  - Through popular sources/feeds
- Use this approach
  - For private study
  - For group preparation

you may be expected to demonstrate familiarity with sources of information in the exam

There are some related resources in EdShare

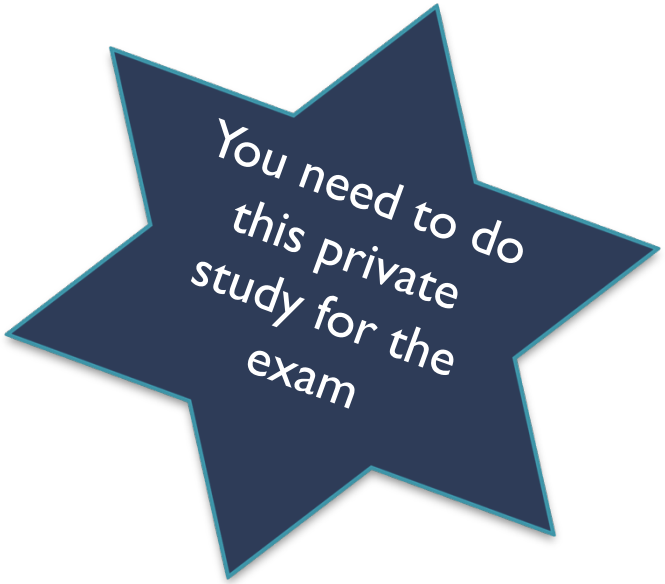


http://www.edshare.soton.ac.uk/9625

Related topics…

- Privacy and Ownership
  - Privacy
    - DPA ✓
    - Surveillance
    - Freedom of Information
    - Human Rights Act

Pointers plus private study



Use the DPA example/model

- This class has identified four topics which come within the frame of privacy
- Use the range of sources shown for the DPA
  - identify information on each topic
    - Surveillance
    - Freedom of Information
    - Human Rights Act

- Questions
- Books
- Guidance from official web sites – e.g. .gov.uk
- The source legislation – http://legislation.gov.uk from the national archive
- Business advice – business link – http://www.businesslink.gov.uk/
- Public Services Portal – http://www.direct.gov.uk/
- Library Searches http://www.soton.ac.uk/library/
- YouTube searches http://www.youtube.com/
- Professional bodies – e.g. British Computer Society http://www.bcs.org/

Conducting private study

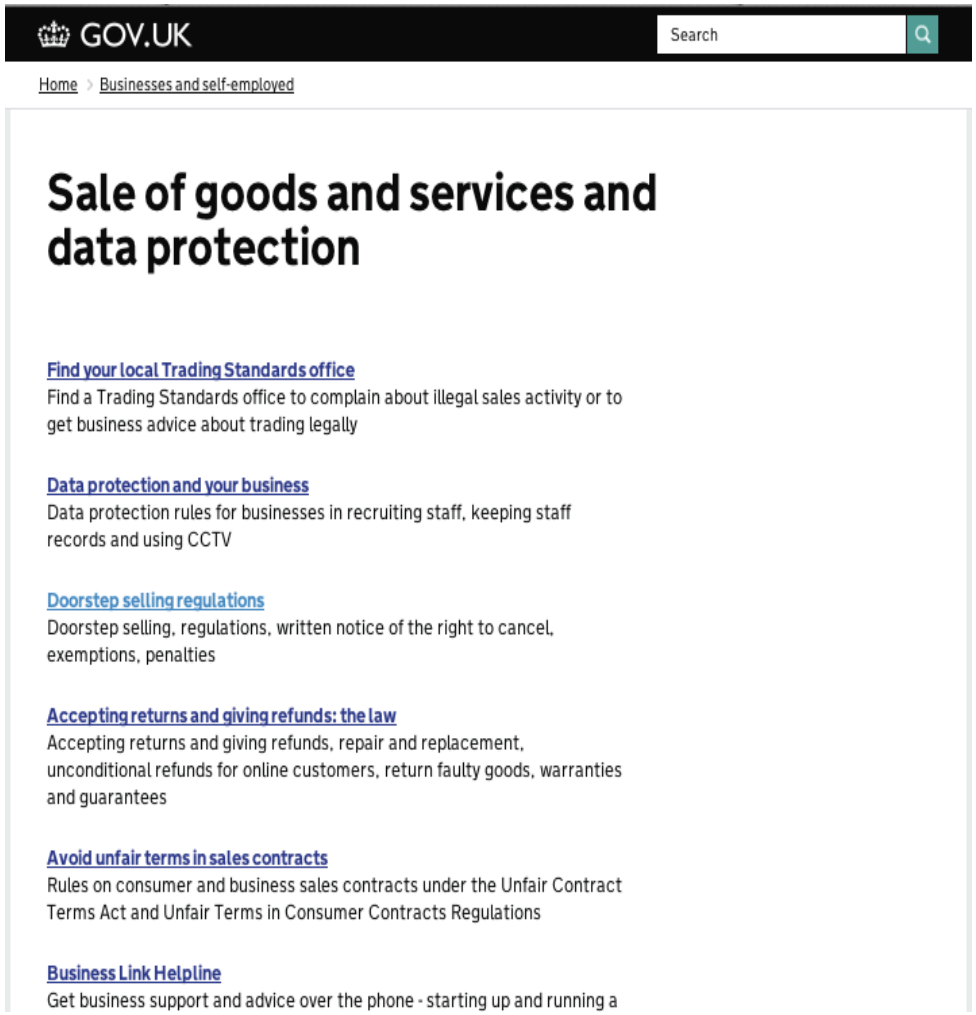
Find Information

- Google searches for orientation
  - Keywords
  - Keywords + 'tutorial'
  - Keywords + 'quiz'
  - Keywords + 'ac.uk' | '.edu'
- Critical reading of responses
- Targeted searches to gather information
- Further work to organise information

Organise/review

- You might want to work alone
- You might like to work together
  - Study groups
  - Revision groups
  - Student wiki

Think about a bigger picture…



Starting points

ico.
Information Commissioner's Office

The UK's independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals.

- Home
- For the public
- **For organisations**
  - Data protection
  - Privacy and electronic communications
  - **Freedom of information**
    - The Guide
    - ICO specialist guidance
  - Environmental information
  - INSPIRE Regulations
  - Sector guides
  - Guidance index
  - Training materials

Freedom of Information Act

Your responsibilities and obligations to freedom of information

If you are a public authority you have a legal obligation to provide information through an approved publication scheme and in response to requests. Find out what you need to do under the Freedom of Information Act 2000.

Guide to Freedom of Information

The Guide to Freedom of Information explains your obligations under the Act, answers many frequently asked questions and gives practical examples to illustrate how to apply the Act in practice.

Guidance index

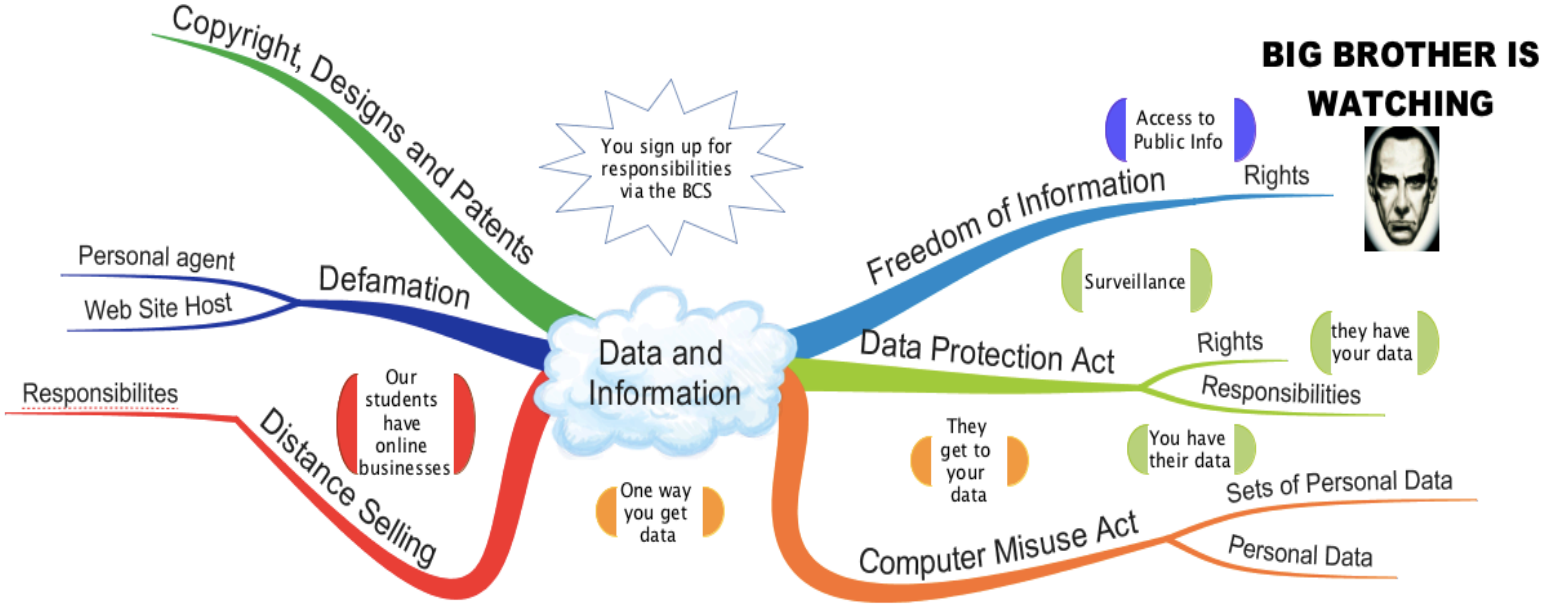
View a full list of our freedom of information guidance.

Specialist guidance

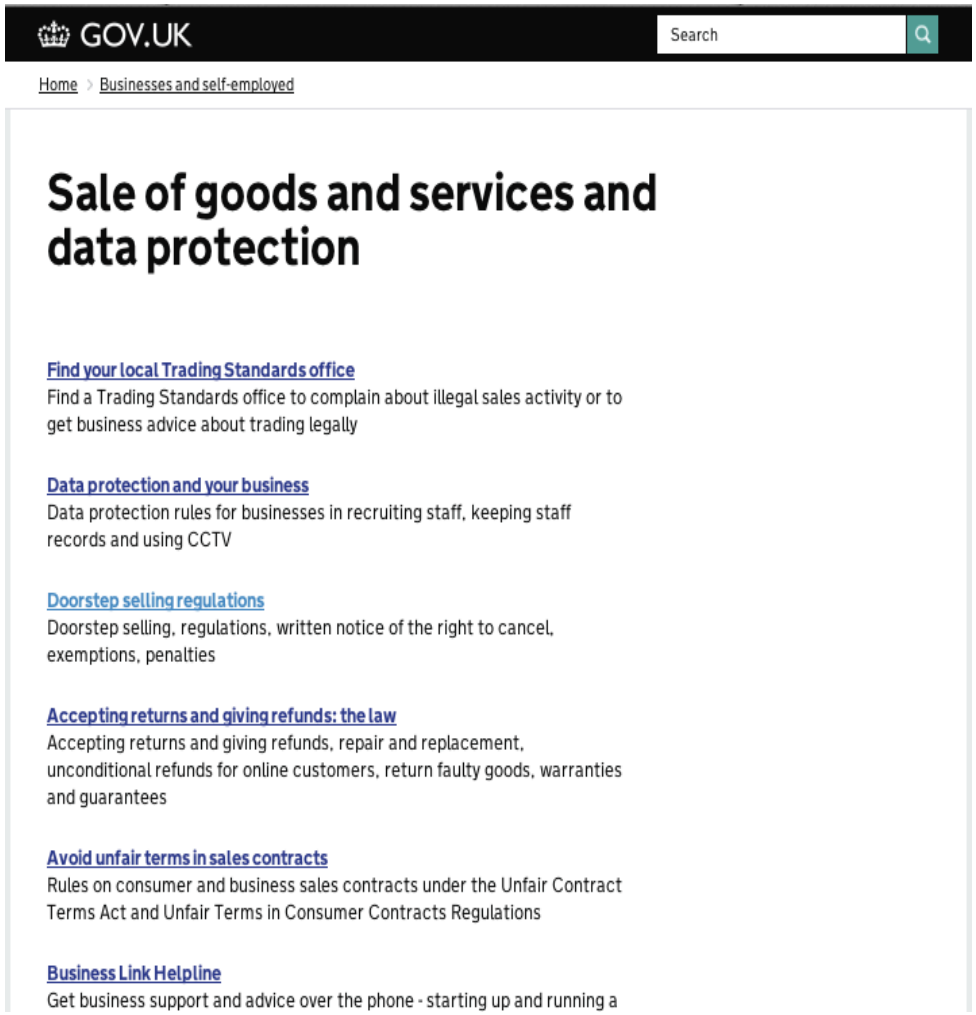
We have published specialist guidance, including our detailed knowledge base, an internal resource which gives the ICO's position on many of the issues we deal with, and sample questions we ask public authorities.

Starting points

Data and Information



Think about a bigger picture…



Build up your knowledge step by step

REMINDERS: MODULE OVERVIEW

Work smarter not harder

- Intellectually
  - Understand your motivations
- Imaginatively
  - Develop and use your creativity and imagination
  - Make your tasks enjoyable
- Intuitively
  - Learn to know what works for you

Approaches

- Pareto principle
  - 20% of the effort produces 80% of the result
  - … but think about it logically, rationally
- One touch
  - Capture all the necessary information in a single touch

Work smarter not harder

Follow up: Dan Pink – RSA Animate, see refs and links

The presentation topics relate to the syllabus..

You will become a specialist

- Use your presentation to understand content, context and perspectives as well as develop skills
- Many of the other presentations will have content which relates to the exam topics, pay attention ☺

Overview: working method

Formal/timetabled

- Lecture
  - The big picture
  - Pacing
- Notes/EdShare
  - Links and references

Informal/un-timetables

- Out of class
  - Watch videos
  - Read overviews
  - Work through tasks
  - Think and discuss
  - Prepare for examination

Objective:
knowledge, skills and understanding

Reminder: rationale of the structure

Guidance and prompting
Plus… directing you to a realistic/sustainable approach

This is not the same as coding, maths or other 'hard' subject areas
But it is **very relevant** to your degree…
… and the approach is relevant to future study and work

- Find out, think about, re-present
- Work in groups
- Find your strengths
- Overcome your weaknesses
- Enjoy yourselves

Tasks: Other key areas

Copyright Design and Patents Act

Review the slides, make notes

- Related slides – rights and ownership online
  http://www.edshare.soton.ac.uk/9939/

Independent Study

- Watch
  - RSA Animation on Motivation
    - http://youtu.be/u6XAPnuFjJc
  - Data Protection Act (from the ICO)
    - "The lights are on" http://youtu.be/wAe4358amJc
    - "Data Day Hygiene" http://youtu.be/CdYWoLC7TNI
    - Tick Tock http://youtu.be/Tdff6UPzvDQ
    - Visit and study
  - Information Commissioners Office http://ico.org.uk/what_we_cover/legislation

    Review

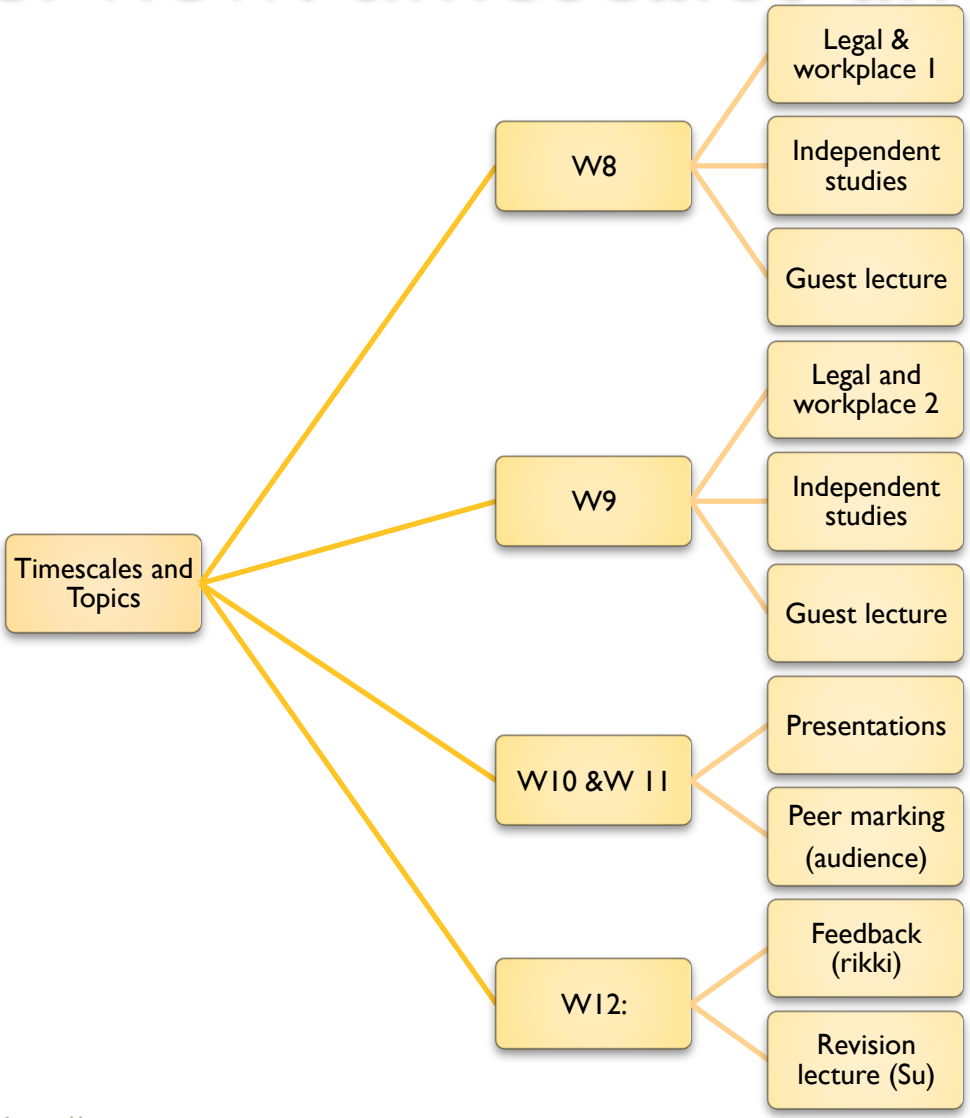
  This week's slides and instructions

Watch, visit, study, review

Before next week

Use your judgment to decide how carefully you work on a video, reading or task remember keeping up to date makes it more likely you will pass the exam

Overview: timescales and topics



Overview of entire module by multiple choice exam