Transcription

Hello, I'm phoning the ICO for the Data Protection Act at 15:24 on the 3rd of the 3rd 2021 because of David Kidnap's last email refusing to provide me with the underwriting for the insurance policy from DAC Beechcroft in regards to a claim against the Enfield Council. I'm just going to dial the number now 0303 123 1113 and I think we're going to have an answering machine for a bit and hopefully get back through to somebody.

Welcome to the Information Commissioner's office. If you want to use our Welsh language service, please press 9. If not, please hold. We don't audio record calls to this helpline. For information about what we do with personal data, please visit our website at ico.org.uk/privacy-notice Our helpline is for organisations, people who work for themselves and for members of the public. To help get you through to the right team, please select from the following three options.

If you know the extension number of the person you want to speak to, please press 1. If you're calling from an organisation, a small club or association, you're a sole trader or you work for yourself, please press 2. If you're a member of the public, please press 3. Here are your three options.

To discuss an enquiry or complaint you've already sent to us, please press 1.

To discuss a new enquiry or complaint with us, please press 2. If you're a whistleblower and could Professor Chee. We're now transferring you to a member of our team. We regularly update our websites with new advice and guidance. Please visit ico.org.uk and select 'Your Data Matters' to find out more about your personal data rights. This might just take a second to get through to them. If you're concerned about the way an organisation is handling your information, we expect the organisation to work with you to resolve the issue. You can use the template letter on our website to raise your concerns with them. Please visit ico.org.uk, select "Your data matters" and follow the link to "Your right to raise a concern".

We're sorry. It's taking us longer to answer your call than we'd like.

Hello, how are you doing? May I ask who I'm speaking to please? My name is Michael. How are you doing Michael? I'm Mr Cordell Simon Cordell.

I was just wondering if I could have a moment of your time and ask you a few questions around the Data Protection Act for some general advice. In a short scenario what's going on is I am a member of the public and I am making a claim, an insurance claim against a public liability against the Enfield Council which is in the London Borough. When speaking to the Enfield Council, the Enfield Council agreed to me that they will send me out a copy of the insurance policy and they did do so but they sent me just the front page of it saying how much they were covered for and their policy number and that. They never sent me the underwriting to the policy. Since then my claims got a bit further and basically Enfield Council decided to hire in an independent company called DAC Beechcroft that's basically full of solicitors and they're an independent part of the company now who will manage the insurance claim. I've been in contact with a gentleman in that company and I've been going through a lot of emails today with him. He seems to be trying to lead me astray from being successful in my claim, even though I have good grounds and I can evidence what's happened. Basically, today I've been speaking to him and in the emails and the

correspondence that's been going across, I have made a diary in short, well it's not in short, it's quite a lengthy diary but it covers a lot of years and what the diary covers is a lot of criminal mistakes made by the Enfield Council, what was done with intent and it also covers a lot of civil litigation. Now, when I was speaking to DAC Beechcroft today in the emails, I've sent him a copy of everything and he's saying to me that it seems to have a lot of criminal stuff that's inside of the thing and he can only deal with civil cases out of the civil purse. So a liability out of the civil purse. So I've looked on the internet and I've checked with other people and to my understanding you can claim off a public liability for criminal intent or what an employee causes. I.e. If a council employee comes into my house and he knocks a cup over by mistake he's knocked it over with negligence and you can claim off the public liability for that. If he later on you watch video evidence of your house that was recorded when it happened you see that he intentionally done it you can still claim. And the third example is if the council officer picks up the cup and puts it into his pocket and intentionally steals it and you can prove that you can sue them under the Public Liability Act for criminal offence or theft and earning proceedings so there's three scenarios there and criminal activity should be covered under the Addendity Act. Now I've explained this to this DAC Beechcroft and I said that him telling me that it's just civil cases leading me astray in any sense if he sends me out a copy I've requested under Disclosure Act under the Data Protection Act 1998 for him to give me a copy of the underwriting to the policy so I can make my own assumption under whether the policy does cover these aspects because normally in an indemnity policy it will say to them that if I can prove a criminal fraudulent or dishonest or something along the lines of that or misconduct, the insurance companies will normally pay out the person and then they can claw the money back over the policy holder for instance. Under these circumstances where there's criminal activity inside of it. So now I've explained that back to this David. Now David has sent me an email and I requested obviously the information. In short, what just basically happened is David said to me, I have read some of the transcribes of your telephone call to Kay Osborne who's the insurance handler for Enfield Council herself K is. I'm afraid it's not clear account of precisely what your claim is, almost certainly because K did not have the benefit of a letter of claim, which I gave them sufficient evidence and everything. There is also within the transcripts much that is irrelevant to any civil claim. So he's saying there's much that's irrelevant to it because a lot of it's criminal. So obviously I put my point across so I explain to you. It is not my role to try to work out what your claim is in particular when I'm paid from the limited public purse. Please could you serve a letter upon me failing to do so. I think there is no purpose served in continuing this dialogue. You will then have to proceed as you see fit. I'm sorry to have to write to you like this. I can only suggest that, again, that you take independent advice. So, you know what I'm saying? I'm trying to take independent advice. So, he's basically just said that he won't deal with any criminal aspect under identity. So, I sent him another letter. I sent him an email saying:

To David, I have read your email and taken on board what you have suggested. This led me to needing to understand more about the policy itself and therefore I request a copy of the insurance underwriting contained in the policy to be able to establish who is responsible for what aspect of law. Please can you provide the policy underwriting to myself by way of email and post and keep me updated in the progress of my request getting accomplished.

When reading about what public liability covers, I made aware that general acts of dishonesty or fraud or criminal conduct are covered by a public liability indemnity, and it's for the insurance company to claw back any loss of cash from their clients afterwards if possible. I supplied him a web link to it and a snippet of the writing. Then I continued and I said it is

important that I'm allowed to read the wording in the policy as I only have a copy of the liability policy cover front page. I would also like to mention that once read and understood, if the policy does not cover all the relevant aspects of law, then I will split the civil allegations and put them in the format you have requested.

Many thanks, Mr. Cordell.

Now, what's confused me? We've sent a few emails to each other and everything's been okay so far. You still with me? Yeah, yeah, yeah. Basically, he just sent me back like some... It feels like a bit of gibberish, to be honest. He says, Dear Mr. Cordell, I can answer this briefly. So what he says is he can answer it himself, not giving me the opportunity.

The extent of the insurance coverage...

So the extent could mean two things. The value of it or... Or whether it covers criminal law as well. The extent of the insurance coverage is irrelevant to your claim against the council. It's the whole prejudice of what my claim is set about. It's either a civil law or criminal law and what they're liable for. And the policy coverage is a commercial transaction between insurers and the council. All insurance companies are limited companies and there is always going to be a commercial transaction on their behalf But then he says, so in short, he says, I can answer this briefly. The extent of the insurance coverage is irrelevant to your claim against the council and the policy coverage is a commercial transaction between insurance and the council. Furthermore, the council has a large deductible before the operations of insurance cover. I'm afraid, therefore... I cannot disclose this information to you. So he's saying to me basically three points of law, four points he says to me. One, he can only answer it briefly and he's not going to give me the privilege of being able to oversee the policy underwriting itself. The extent of the insurance coverage is irrelevant to my claim. That sounds like gibberish. Whether the insurance policy covers me or not is a fundamental value to what's actually happening. And he also says the policy coverage is a commercial transaction between the insurers and the council which is always going to be the way even if it's between a civilian and a car crash or something it'd be a commercial transition on the insurance behalf and then vice versa and he says the council has a large deductible before the operations of insurance the large deductibles normally the insurance act 2015 relates to access, so like if you have to pay access on your insurance. I don't think none of these are valid reasons for him to refuse the access to the information and considering that I was already granted it by Enfield Council but they never fulfilled the requirements in complete, I feel that it's a breach of the Data Protection Act and...

Right. I'm just trying to find out if what I'm saying sounds correct and that I do have right to this information to be able to make my own view of whether this policy covers me for criminal and civil law and protects them or not.

You kind of owed a better answer, let's put it that way. I think this is actually, because it's sort of not your personal data that's involved in this, in the insurance policy. So it wouldn't be under the Data Protection Act that you might have a right to it, but it Yeah, 2000 or disclosure under, under, under, yeah, um, Freedom of Information Act 2000 or the Data Protection Act or you have disclosure under section like 1, 10, 18 and all the rest of it in criminal cases. So you recommend the 2000, sorry go on. So yeah, because it's not your personal data in that insurance policy then the, what might apply is the Freedom, well what does apply is the Freedom of Information Act. So if you make a request under the Freedom of

Information Act for a copy of that insurance policy, then the Enfield has two options. They can either give you that information within 20 days or come up, you know, give you an explanation, a clear explanation of why an exemption applies to that information. So you get one or the other. And it sounds like the response that you've had from these Beechcroft people is, about the information and it's not a clear explanation under the Freedom of Information Act that, you know, why they're not providing the info. The only thing is it can be, you sort of have to ask, under data protection law you can kind of ask things however you like, it can be a bit ramshackle. Under Freedom of Information Act you do have to sort of, you know, quite formally and say, and I'm sure you'll be more capable of this, but say, I'm asking for this information under the Freedom of Information Act. This is what I need. Just sort of limit it to the particular document that you want to see. And then they have, and you need to provide your name and your address and so on, or And they have 20 days to respond to that. And I think what might be worth doing is going directly to the council and asking for that. And you can sort of copy in this person, this lawyer, who you don't feel you have to. Because it's kind of, it's almost none of their business really, if I can put it that way. You either have a right to a copy of that insurance policy or a good explanation directly from Enfield Council why an exemption applies to it, if it does. If there's no exemption that applies, then they need to give you that document. And if an exemption does apply, then they need to explain that exemption. Can I ask a question? Just in short. So, basically, another way of looking at it, which is, okay, I understand that way what you're saying and that is correct and that's mostly the procedure I'm going to follow next. But another way that I look at it is... In the insurance policy itself, when you say I took a policy out of yourself, the insurance companies say that we're obliged to pass this information over when requested in the cause or the likelihood of an accident. So, normally, I don't know an insurance company that doesn't say that, that if you crash or something happens, you have to pass that information over by law. And there's a set time that they have to normally do it within the policy itself, or they're not in compliance of their own insurance. Is that correct in thinking like that as well? You're more of an expert on that than I am, because that's not specifically data protection law governing that. That's more sort of insurance rules and regulations. And from what you were saying about criminal versus civil, again, that's not something that's data protection matter, but it sounds like you know a lot about this stuff. So I wouldn't contradict you, what you're saying there, but just it wouldn't be a matter of DPA or GDHD or GHB. Yeah, yeah. Well, I appreciate your help today and your being with great assistance and I hope you have a good evening. Great. Well, good luck with it all. Thank you. And give us a call back if you have any more questions. Okay. Okay, thank you. Goodbye. Take care. Bye.