Written evidence from Ian Kerr

My Background

1967-69 Primary school- teacher in Warley, West Midlands.

1969-93 the Economic League.

1993-2009 The Consulting Association.

I was never employed at any time in a police or security role.

Formation of The Consulting Association.

1. The Consulting Association (TCA) was started out of the Services Group (SG), operated by and within the Economic League (EL). A Steering Committee of key people in construction companies of the SG drafted a constitution. Key operating features of TCA were decided by representatives of the major construction companies, who were the original members. I was asked to become its salaried Chief Officer and I signed a Contract of Employment to this effect. I was employed from its inception in April 1993 until closure by the ICO in February 2009, to oversee the services its member companies wanted. I was not the owner of TCA and I never sold information.

2. TCA was originally funded by a £10,000 loan from Sir Robert McAlpine Ltd in 1993, later repaid out of TCA income.

3. It was agreed by TCA's original committee that payment should be made for the intellectual property (IP) relating to construction names which, up to its demise, was part of the EL's bank of names. The actual details of how this £10,000 was determined I do not know, except to say that I believe it would have been a matter between either EL and TCA's committee or between EL's liquidator and Caprim. A payment of £10,000 was made to the directors of Caprim funded by a further loan to TCA from Sir Robert McAlpine Ltd. The two directors of Caprim were the Ex Director General of EL and the Ex Director of Information and Research of EL. This loan was repaid by TCA when subscription income started to come in. I do not know what happened to the rest of the EL's IP. It was of no further interest to TCA.

4. TCA was a non-profit making, unincorporated trade association. It was funded by annual subscriptions paid by all member companies plus quarterly charges for an amount determined by the use each company, and their subsidiaries, made of the reference-checking part of the service. Over time, some companies ceased their membership while new companies joined. Prospective new companies were put forward by existing members and had to be approved by the remainder. At any given time there were approximately 20 member companies paying an annual subscription.

5. Membership of TCA enabled companies to access information held on their behalf. Information sources were the construction industry member companies themselves. Member companies were national contractors and used the service for checking potential employees applying to their major contracts. These ranged from airport runways, govt buildings such as Portcullis House, Admiralty, MOD Whitehall, GCHQ, also Power stations, Liquid Natural Gas terminals, The Jubilee Line, Millennium Dome, PFI Projects – Hospitals & Schools, 2012 Olympics, Road & Rail contracts, Shopping Precincts, Media Centres, Wembley Stadium, Army Barracks etc.

6. My role was to facilitate the exchange of the information between members that they themselves had provided. If TCA held information about a potential employee I simply read out over the phone what was on the reference card to one nominated senior representative of the enquiring company and recorded their employment decision which was either:

- Not employed.
- Employed but will take up references and monitor.
- Employed.

Reasons for decisions ranged from how serious the enquiring company viewed the reason for inclusion, how near to finishing the contract, how short the supply of skill in that trade was, the age of the information etc.

7. <u>The TCA services were threefold and complementary to each other</u>

   (i)   A central reference service, allowing member companies to access their own and other member's information.

The Consulting Association (TCA) acted as a central resource, which member companies could access via their unique reference number. Company directors and senior managers provided all the information that was recorded on the cards. I had no part in deciding what information was kept neither about individuals nor on the outcome of their job applications. Any inputs to the body of information were recorded exactly as the main contact dictated, with the co ref and main contact's initials to identify the person who inputted the information. Comments in the press quoting from reference cards were neither my comments nor were they judgements made by me.

The next time a name came up via another company's enquiry, I simply read out what was on the reference card, with neither interpretation nor additional comment to one nominated senior representative of the enquiring company and recorded their subsequent employment decision with their co ref number and main contact initials, and so on. This enabled member company's main contacts to refer directly to them if they wanted further or updated information that, for whatever reason, had not been communicated to me, in order to make a balanced decision regarding suitability for employment. Main contacts knew each other from TCA meeting forums and from numerous other industry platforms so would be able to gauge their colleagues' reasons for someone's inclusion into the system from their personal knowledge, track records and management styles.

The database was not a 'blacklist'. I would never have taken the job on if I had been required to run a system based just on a list of names of people not to be employed. Simply being

named on the database did not mean that an individual would automatically be denied employment. In an average year there would be between 38,000 and 40,000 names referred by member companies to TCA for checking. Of these about 100 would be 'positive', that is, information was known about them. In general, about half of these applicants would be employed and half would not. Employment decisions, together with the initials of the person who made the decision, were recorded on the card. The information held on behalf of the membership was weeded out on a rolling basis.

(ii) Meetings Platforms, specifically for

- General Industrial Relations Matters.
- Environmental Issues.
- Facilities Management.

These ran at eight per year, held in South East, North of England and South Midlands in the main and helped in a large part to foster and develop an effective network within the industry. These enabled managers to discuss trends in the construction industry such as new legislation, implementation of national wage negotiations, skilled labour shortages, health and safety matters and training. These agenda items came from main contacts. Only main contacts attended these and were senior managers or at director level. All had expertise and experience in industrial relations, human resources and union liaison.

(iii) Press Cutting Services

These covered, separately:

- General Industrial Relations.
- Environmental Matters.
- Facilities Management.

These were intended to enhance and expand on meeting discussion topics and were taken mainly from radical press publications and websites.

8. During the second meeting between me, the Chairman of TCA and the ICO I was served with a notice to cease trading or register with the ICO as a data controller. The Chairman told David Clancy of the ICO that TCA would stop trading immediately. David Clancy informed us that there would be a prosecution for failure to register under the Data Protection rules and he said that he had to fire this at someone. That someone turned out to be me. In the presence of the Chairman of TCA I signed a form accepting responsibility. I now believe I was the wrong person to prosecute.

9. Evidence from ICO to Scottish Affairs Committee.

The ICO returned copies of all the information they seized during the initial raid of TCA offices. After the Crown Court prosecution I burned everything. There has been speculation in the press that names are still circulating. I can categorically say that I am

in no way involved in whatever these may be. The ICO took all the lists. The 90-95% of what was left behind consisted of

- Construction Union cards detailing head and regional office addresses, names of officials and the area covered by each one – all public domain information.

- Organisations of interest to construction – all taken from public domain.

- The remaining information consisted of copies of previously sent mail outs, files relating to some key projects – all public domain information.

- Past Meetings files.

- Admin files per member company – copies of invoices.

- Admin files relating to office running costs.

- Stationery

- Some filing cabinet draws were empty.

TCA was set up, funded and controlled by construction companies for their own purposes. There would have been no point served by keeping information on other industries and this was not done.

10. Evidence from Alan Wainwright to SAC

       (i)   Initial meeting with him in Tarmac's Manchester Offices.

Mr Wainwright made an assumption that the example I showed him indicated that all the information was computerised. This was not the case. The computer was simply used as a word processor.

       (ii)   Mr Wainwright's time at Drake & Scull.

He telephoned TCA office to say he had just started at this company as HR Manager and he was going to recommend to his MD that the company became a TCA member. He needed to know membership charges and procedures for acceptance and after speaking he would get back to me. I undertook to ask the other members' main contacts for their approval (this was the procedure outlined in TCA Constitution). Mr Wainwright did not get back to me and I later heard that he had ceased employment with them.

       (iii)   Mr Wainwright's comments regarding other lists.

Mr Wainwright suggested that construction member companies might start compiling their own lists of names that were flagged up by TCA in order to save money. The suggestion was made by him that this would mean TCA would need to branch out into other industries in order to generate funds. This is incorrect. Even if companies were

compiling their own lists, it would have been cheaper and more efficient to send all names through their own system, TCA, rather than attempt to filter their lists themselves.

This statement is true and accurate to the best of my knowledge.

23 November 2012