

ICO – Higher profile? Stronger powers? More effective?

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Information Commissioner

RSA Conference Europe 2008

29 October 2008

Historically...

- Poor reputation
- Begrudging governmental interest
- Low commercial priority
- Public / media hostility
- Complex, vague, legalistic, academic / theological rules and guidance
- The ICO = High Priests?
- Data protection and the ICO marginalised

Climate Change

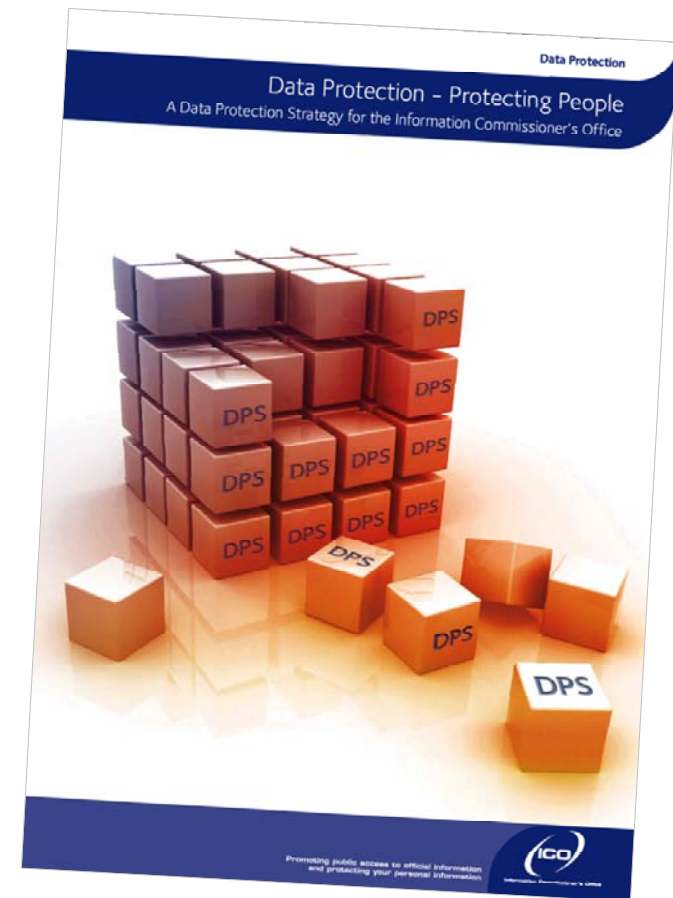
- Data protection and freedom of information issues and cases setting the news agenda
- Data protection currently 'enjoying' a high profile
- Freedom of information mainstreamed and high profile
- Priority for information rights



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ICO Data Protection Strategy

- Building public confidence
- Minimising data protection *risk*
- Compliance with law not an end in itself – focus on *detriment* to individuals and society
- Being *selective to be effective*
- ‘Carrot and stick’ approach
- Maximising influence and impact



Prime Minister's Liberty Speech

October 2007 (pre-HMRC data loss)

“If Governments do not insist on accountability where people's data is concerned – and are not held independently to account – then we risk losing people's trust which is fundamental....”

“The challenge is both to be able to use the opportunities of new technology in pursuit of security or justice – and simultaneously to put in place proper standards and oversight to protect liberty.”

Drivers for change

- Technology – more and cheaper
- A Surveillance Society?
- Public sector reforms
 - Freedom of information
 - “Transforming” public services
 - Law enforcement
- Security / liberty tensions
- Globalisation
- Public, media and political concerns
- Changes in the ICO
- Data losses

Security Breaches

- ICO Annual Report – July 2007
- Her Majesty's Revenue and Customs
- BERR /PricewaterhouseCoopers survey
- Financial Services Authority report
- Driving Standards Agency
- Ministry of Defence
- Home Office
- Banks

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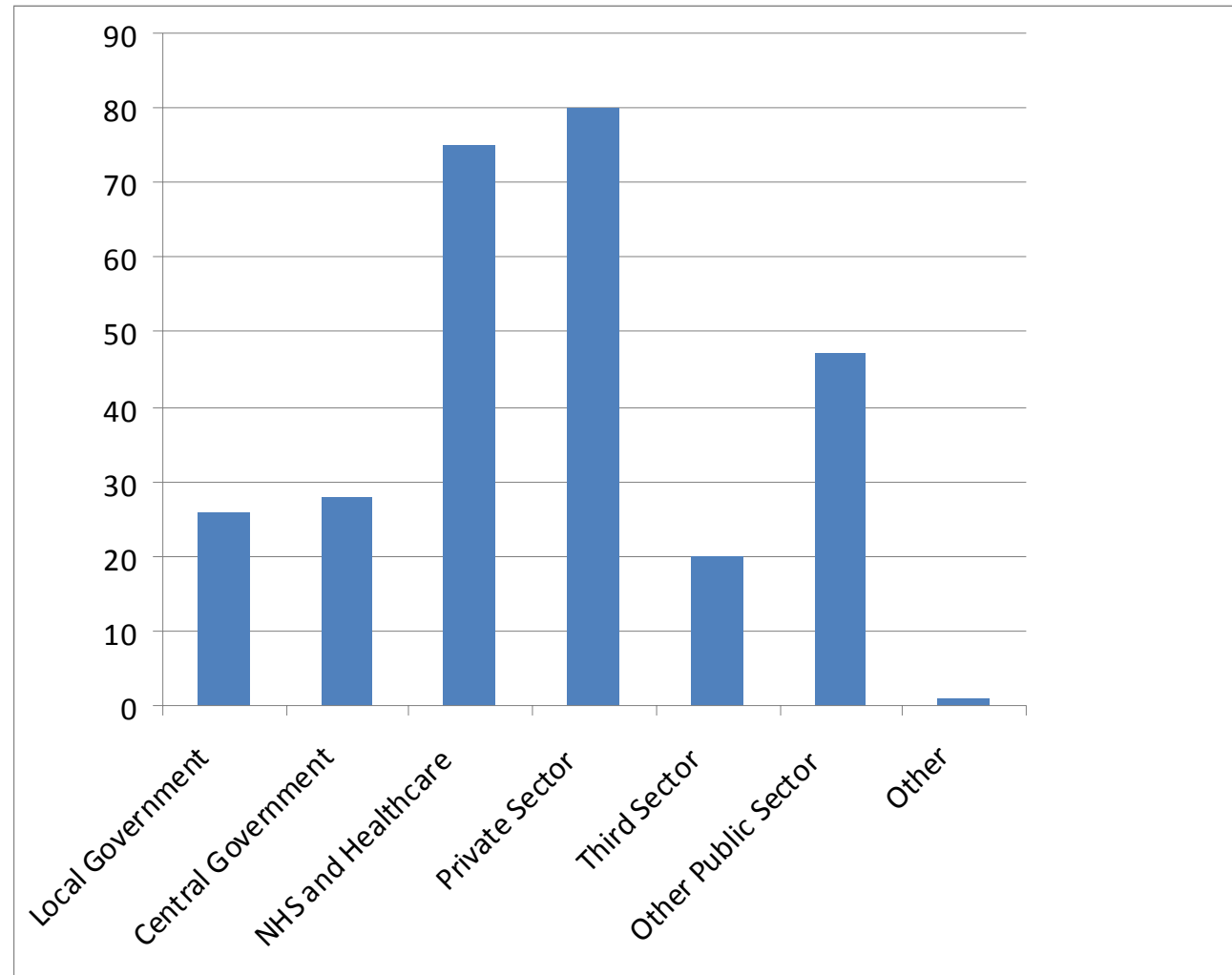


Breaches reported since Nov 07

	Email error	Postal error	Loss or theft of computer or laptop	Inappropriate disclosure of information	Website security issues	Loss of paper records	Loss of removable media or disks	Other	Total
Local Gov't		2	4	5	2	3	4	6	26
Central Gov't		7	7		1	5	6	2	28
NHS & Health	1	2	27	5	1	14	18	7	75
Private Sector	6	7	18	13	6	4	17	9	80
Third sector	1	3	4			4	4	4	20
Other Public Sector		5	7	11	4	4	13	3	47
Other		1							1
Total	8	27	67	34	14	34	62	31	277

Breaches reported since Nov 07

By sector



Data protection: Risk assessment and management

Information = Toxic = Liability

- Risks to organisation, individuals and society
- Not just about security
- Mistaken identity, inaccuracies, excessive retention, profiling/stigmatisation, excessive intrusion etc.

A Plethora of Reports

- **A Surveillance Society?** - Home Affairs Select Committee
- **Her Majesty's Revenue and Customs**
– Kieran Poynter (PricewaterhouseCoopers) and the Independent Police Complaints Commission
- **Ministry of Defence** – Sir Edmund Burton
- **Data Handling in Government** – Sir Gus O'Donnell, Cabinet Secretary
- **Data Sharing** – Thomas / Walport
- **Criminality Information** – Sir Ian Magee

Sources of Good Practice guidance

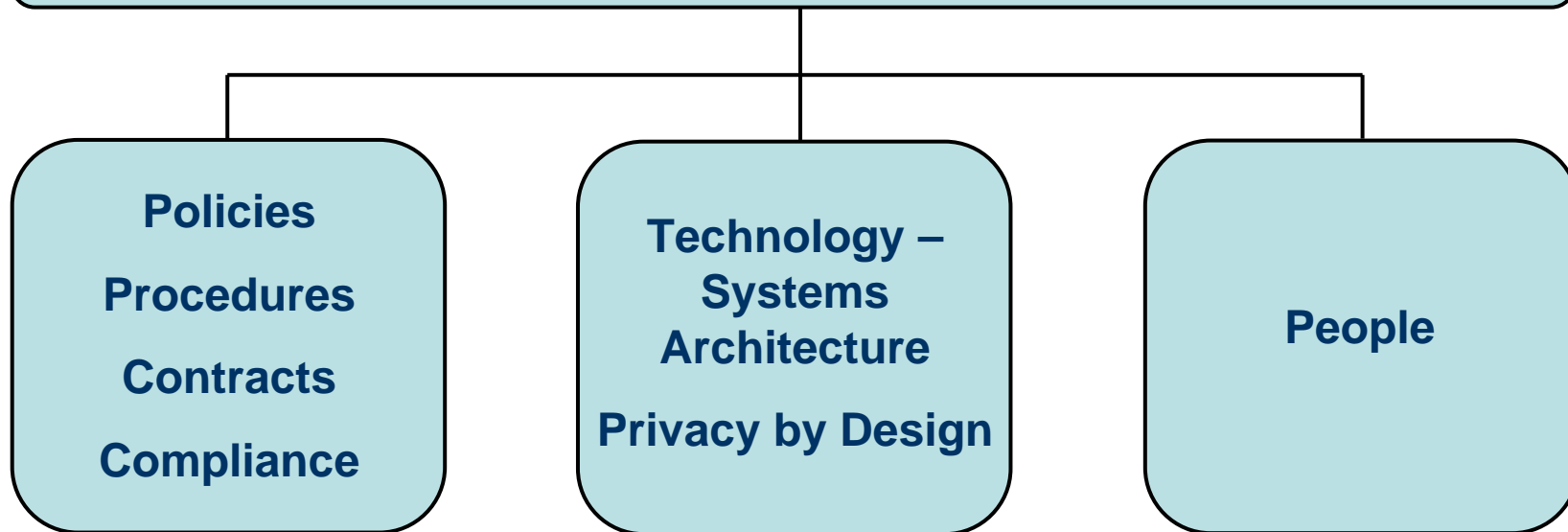
- ICO website
- ICO staff
- ICO Privacy Impact Assessments handbook
- Managing Information Risk – Her Majesty's Government
- Directors' Guides to Managing Information Risk – Information Assurance Advisory Council, Information Security Awareness Forum, British Telecom
- Data Handling in Government

Data Minimisation

- Clarity of purpose
- Transparency
- Proportionality
- Checks and balances – dangers of aggregation

Reputation and regulation matters for the Board

Governance and Accountability



Regulatory changes in prospect

- Awareness-raising and cultural impact
- ICO - civil penalties
- ICO - spot checks and inspection powers
- ICO resources

Civil penalties

Criminal Justice and Immigration Act 2008

- **Substantial civil penalties** for deliberate or reckless breaches of data protection principles which are serious and could cause substantial damage or distress
- **Cross-party support** - a consensus on importance of effective data protection
- **Strong deterrent** to ensure organisations take their data protection obligations more seriously
- Clear signal that data protection must be a **priority**
- Awaiting regulations

ICO powers and resources

Ministry of Justice consultation paper, July 2008

- Followed Thomas / Walport report
- Near-universal support
- Inspections without need for consent
- Tiered notification fees to increase ICO resources
- Queen's Speech: 3 December 2008
- Law Reform, Victims and Witnesses Bill 2008/09

ICO review of EU data protection law

- Time for a new debate
- Contract awarded to RAND Europe
- Strengths and weakness
- Promising avenues for improvement to provide effective protection, whilst minimising burdens
- European Commission's study will be complementary
- To be launched April 2009

Hot DP topics in the meantime

- 100k phone calls and 25,000 written complaints
- Guidance programme
- Codes of Practice on CCTV and information-sharing
- Section 55 penalties for blagging
- ICO enforcement activity
- ID cards and National Identity Register
- Connecting for Health (electronic health records)
- ContactPoint (children's database)
- Social networking
- Tribunal case on data retention by police forces
- ANPR cameras and road charging
- Crime mapping
- Communications Database
- Article 29 Opinions on personal data and search engines
- International transfers and Binding Corporate Rules
- London Initiative – effective Commissioners

The new landscape

- Data protection has come in from the cold
- Wider awareness of risks of getting things wrong and benefits of getting things right
- Need for focus on fundamentals of governance and accountability
- The global agenda
- The ICO is ready for the new challenges
- An effective ICO



Information Commissioner's Office

www.ico.gov.uk