

ICO: new powers, new funding - and a new Commissioner

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Information Commissioner

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What's up at the ICO?

- Context
- Conclusions
- Mission and Vision
- Learning and listening
- New powers
- New penalties

DATA PROTECTION UPDATE

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I am pleased to introduce this Newsletter Series. *Updates* will contain information about the Data Protection Act 1984. They will be of interest to individuals and to computer users who process personal information. Items will be short and incorporate news and general information and advice.

My office is also making available *Guidelines* and *Questions and Answers* concerning the Act and its operation. If you have any comments on the Newsletter or any of the other publications, I would be grateful to receive them.

This *Update* shows how you may contact my office for information and advice. Please bear with us if, on occasion, we need to seek further details from you to provide an answer — the Act is a fairly complex piece of legislation and we must take care not to mislead.

Sir John Moore

In this issue

The key dates for implementation of the Act.
Will you have to register? Where to start?
Inspecting the Register and raising grievances.
Finding out about the Act.



THE DATA PROTECTION REGISTRAR

25 years of the ICO

Data Protection
Registrar

Data Protection
Commissioner

Information
Commissioner

What's up? - Society

- 'Modern liberty' agenda
- Fear of surveillance
- Suspicion of 'the State', Big Brother
- But fear of terrorism, security agenda
- Media mood music
- End of deference
- Citizen power

What's up? - Technology

- The upside
 - online shopping, banking
 - online services delivery
 - communications
- The downside
 - invasions of privacy
 - identity theft
 - surveillance
- Neither up nor down
 - social networking
 - data sharing
 - behavioural marketing

What's up? – Economic outlook

- Recession
- Data Controllers under pressure
 - Commercial
 - Public sector
- Cuts in non-priority areas: compliance?
- Resistance to 'over-regulation'
- Squeeze on ICO resources

What's up? – Political agenda

- Run-up to a General Election
 - Cuts
 - Efficiency
- Govt agenda
 - DP 'spot checks'
 - FOI extension
- Next Govt's agenda?
 - Bonfire of Quangos ?
 - Efficiency drive
 - Cutting public expenditure
 - Anti-database state
- Parliamentary
 - Select Cttees
 - MPs' expenses

Conclusions

- The ICO has to be
 - Committed
 - More joined up
 - Better integrated
 - More focused
 - On the ball
 - Alert to the needs of our stakeholders
 - World class

Mission impossible ?

- Promoting access to official information

Mission impossible ?

- Promoting access to official information –
and

Mission impossible ?

- Promoting access to official information –
and
- Protecting your personal information

Our Mission

**The ICO's mission is
to uphold information rights
in the public interest,
promoting openness by public bodies
and
data privacy for individuals**

Our Vision

**By 2012, we will be recognised by our stakeholders
as the authoritative arbiter of information rights,
delivering high-quality, relevant and timely outcomes,
responsive and outward-looking in our approach,
and with committed and high-performing staff
– a model of good regulation
and a great place to work and develop.**

Learning and listening

- Outward looking
- Stakeholder focused
- Customer satisfaction
- Hampton principles
- Tell me what you think

Existing DP powers

- Punishment limited to criminal prosecution
 - Sec 55 offences
 - Failure to Notify
- Max £5k in magistrates court
- Unlimited fine in Crown Court
- Enforcement Notices
- Formal Undertakings
- Audits only with consent

Existing DP powers

- Aimed at changing practice
- Enforcement Notices to bring about changes, eg encryption of personal data
- Enforcement Notices and Formal Undertakings published
- ‘Spot Checks’ on Government Departments, eg DWP and DVLA

Construction workers blacklist

- Illegal database of blacklisted workers
- Only sanction was £5k fine for failing to Notify
- No punishment for construction companies themselves

New powers and penalties

Monetary penalties

- Expect introduction early 2010
- Criminal Justice and Immigration Act 2008
- Fines for serious breaches, with potential to cause damage or distress, committed knowingly
- MoJ consulting key stakeholders
- ICO favours fixed maximum
- Guidance will follow

Sec 55 breaches

- Need for a custodial penalty for serious breaches, eg abuse by private investigators
- *What Price Privacy?*
- Select Committee investigating
- ICO dossier

Assessment Notices

- Coroners and Justice Bill
- Power of audit in the absence of consent
- Government Departments – but could be extended to other public bodies and private sector
 - eg NHS Trusts

Assessment Notices

- ICO will aim for co-operation
- Recommendations aimed at helping
- Developing capability – staff and audit practice
- Question of publication to be addressed
- Spot Checks involve publication – but only after a Department's response to our recommendations

Our approach

- No ‘toothless bulldog’, but primary focus is education, awareness, good practice
- Strengthening public confidence by making it
 - easier for the majority of organisations who seek to handle personal information well
 - tougher for the minority who do not

Notification

- Tiered Notification fee wef 1 October
- £500pa for data controllers with:
 - turnover of £25.9M **and** 250 or more members of staff
 - public authorities with 250 or more members of staff
- All others £35pa unless they are exempt altogether
- Registered charities and small occupational pension schemes will not come into the higher-tier, regardless



Information Commissioner's Office

www.ico.gov.uk