

The role and functions of the ICO in Scotland

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Contents

- Our Roles & Responsibilities
- Delivering the message
- The Future

Our Roles & Responsibilities

External

- Promotion of the ICO in Scotland through engagement with all stakeholders
- Influencing policy development with public authorities and, in particular, the Scottish Government and the Scottish Parliament
- Provision of local enquiries service

Internal

- Raise awareness of regional policy issues and local sensitivities and needs
- Contribute to HO management functions as necessary

Delivering the message

The ICO DP Strategy

- Focus on what will cause detriment
- Real likelihood of serious harm
- Prevention better than cure
- Working in partnership

Awareness Raising

- Project Managers
- Risk Managers
- Local Authority Interest Groups
- Women's Aid
- Institute of Revenues, Rating & Valuation

Legislation

- Public Services Reform (Scotland) Bill
- Criminal Justice and Licensing (Scotland) Bill
- Housing (Scotland) Bill

Joint Working

- E-Care
- Census Steering Group
- Scot Xed
- Identity Assurance & Privacy Principles

Sectoral Forums

- ACPO(S)
- SOLAR
- NHS IG
- Scottish Privacy Forum

The Future

The King is Dead The King



Christopher Graham

The ICO

- Building on external successes with a more operational focus
- Less about DP or FOI, more about information rights
- Focus on greater efficiency and delivery of ICO functions
- Potential for internal changes to make external impact
- Reflected in a more practical vision and values

The ICO mission

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

New 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.

Current Powers & Penalties

Breaches

- Formal Undertakings
- Enforcement Notices
- Audits only with consent

Offences

- Sec 55 offence
- Failure to Notify
- Failure to follow Notice
- Max £5k in Sheriff Court
- Unlimited fine in High Court

Current Powers & Penalties

- Aimed at changing practice
- Enforcement Notices to bring about changes, e.g. encryption of personal data
- Enforcement Notices and Formal Undertakings published
- ‘Spot checks’ on government departments and agencies, e.g. DWP and DVLA

Monetary penalties

- 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
- Expect introduction early 2010
- Guidance will follow

Assessment Notices

- Coroners and Justice Act 2009
- Power of audit in the absence of consent
- Government Departments – but could be extended to other public bodies and private sector
- Statutory Code of Practice to follow

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

Proposed penalties

- Section 55 “blagging”
- MoJ consultation launched 15th Oct
- Maximum 12 months on summary conviction (and/or max fine of £5k)
- Maximum 24 months on indictment (and/or unlimited fine)

....and in Scotland

- Public commitment to the office
- Additional functions ?
- Implications of extension of FOISA



Information Commissioner's Office

www.ico.gov.uk