'Promoting public access to official information and protecting your personal information'
What does the ICO do?

The Information Commissioner’s Office regulates

- The Data Protection Act 1998
- The Freedom of Information Act 2000
- The Environmental Information Regulations 2004
  - And other secondary legislation
ICO Role

To ensure compliance through

- Promotion / awareness raising
- Good Practice – advice and promotion
- Providing general advice and guidance
- Enforcement

- Role in respect of FoIA and EIR – exactly the same
- EIR imports enforcement aspects of FoIA
Good Practice

• FoIA
  - s.45 Code of Practice (on discharge of PA’s functions)
  - s.46 Code of Practice (Records Management)
• EIR
  - Code of Practice and FoIA s.46 Code

• Do not have statutory basis
• Departure from Codes of Practice can lead to …
Practice Recommendations (s.48)

- Issued if a public authority (PA) departs from Codes of Practice
  - In writing
  - Refer to particular provisions of Code
  - Specify steps the ICO think are necessary for PA to take to comply with Code(s)
  - Not binding on PA
Provide Assistance and Guidance

• Publish awareness guidance
  − General
  − Procedural and exemption/exception guidance
  − Sector specific (in preparation)
• Advice on lifecycle of request
• Advice on fees
• Audit function to assess if PA complying
  − PA invites ICO to do this
Refusal Notices

• If PA believes information exempt from release, they must
  - Issue a refusal notice within time limit
  - Explain the exemption/exception applied
  - Explain the public interest test (if applicable)

Justification – Explanation

• Right to internal review
Enforcement

- s.50 and r.18 – **Right to Complain** to Commissioner

ICO generally will not deal with complaint, unless

- Exhausted PA complaints procedure

or if,

- Undue delay
- Frivolous or vexatious
- Application withdrawn/ abandoned
What can you complain about?

- Failure to respond
  - Within 20 days
  - Failure to explain when an time extension is required
- Failure to give proper advice and help
- Failure to give information requested
  - In the form requested
- Failure to give adequate reasons why request refused
- Incorrect charges
Information Notices (s.51)

ICO can require more information if

- Received an application/complaint under s.50/r.18
- Reasonably requires the information (including unrecorded information)
- Must specify in writing
  - Information required
  - Time limit
  - Right of appeal under s.57 (Information Tribunal – 28 days)
Enforcement

ICO must – in writing:

- Notify complainant and PA of ICO’s decision - Decision Notice

If PA has failed to comply ICO must:

- Specify steps PA must take to comply
- Time should comply within
- Right of appeal under s.57 (Information Tribunal – 28 days)
- Subject to executive override s.53
Enforcement Notices (s.52)

(e.g. systemic or repeated non-compliance, whistleblowers)

- PA fails to comply ICO can issue an enforcement notice in writing and it must state
  - Steps to be taken to comply
  - Time limit
  - Right of appeal under s.57
  - Subject to executive override s.53
Failure to comply with notice (s.54)

- If PA fails to comply with a decision notice, information notice or enforcement notice the Commissioner can:
  - Inform the High Court
  - Possible contempt of court
  - Up to two years in prison
s.77 offence

- Request for information made and PA or an individual
  - Alters, defaces, blocks, erases, destroys, conceals the information
  - With the intention of preventing its disclosure
  - Criminal offence – fine up to £5,000
How to Complain to ICO

As soon as possible

• Write to the ICO – include
  – Cover letter detailing complaint
  – Details of original request
  – Copy of Refusal Notice
  – Copy of complaint (internal review)
  – Copy of the PA’s response to complaint
  – Any other relevant information
  – Contact details
What will ICO do?

• Upon receiving complaint ICO will
  − Send an acknowledgement
  − Allocate your complaint to a caseworker

• We will try to resolve complaint informally if possible

• If we cannot deal with your complaint we will explain why
Success Stories

- Large amount of information released
- For example
  - CAP subsidies
  - Food hygiene reports
  - Discharges and losses of radioactive material
  - CJD contracted from contaminated meat
  - Cost of second runway at Stansted
More Information

• ICO Decision Notices published on website

• Information Tribunal
  www.informationtribunal.gov.uk
Contact Us

- Want advice?
- **Helpline** 01625 545745
- **Email**
  - foi-enquiries@ico.gsi.gov.uk
- **Website** [www.ico.gov.uk](http://www.ico.gov.uk)