

# Dr Ken Macdonald

## Head of ICO Regions

Integrating Ireland's Data Protection Law Into  
Everyday Business

Thursday 9 May 2019

**ico.**

Information Commissioner's Office

# Assessing the penalty – the ICO approach



Information Commissioner's Office



# Legislative and Regulatory Reform Act 2006

## PART 2

### REGULATORS

#### *Exercise of regulatory functions*

#### **21 Principles**

- (1) Any person exercising a regulatory function to which this section applies must have regard to the principles in subsection (2) in the exercise of the function.
- (2) Those principles are that—
  - (a) regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent;
  - (b) regulatory activities should be targeted only at cases in which action is needed.
- (3) The duty in subsection (1) is subject to any other requirement affecting the exercise of the regulatory function.

## **Objective 1**

To respond swiftly and effectively to breaches of legislation which fall within the ICO's remit, focussing on (i) those involving highly sensitive information, (ii) those adversely affecting large groups of individuals, and/or (iii) those impacting vulnerable individuals.

## **Objective 2**

To be effective, proportionate, dissuasive and consistent in our application of sanctions, targeting our most significant powers (i) for organisations and individuals suspected of repeated or wilful misconduct or serious failures to take proper steps to protect personal data, and (ii) where formal regulatory action serves as an important deterrent to those who risk non compliance with the law

# Regulatory Action Policy

# Civil

Assessment Notices

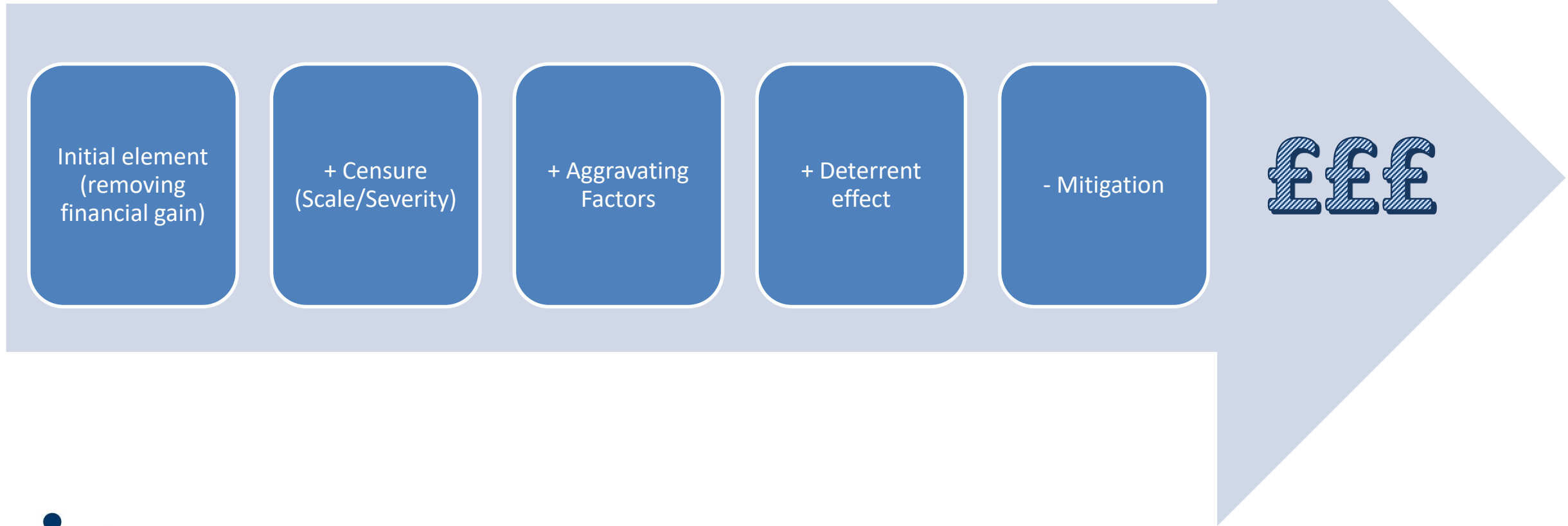
Enforcement Notices

Penalty Notices

# Criminal

Prosecution  
(not Scotland)

# Setting the fine



# Factors to consider

- Seriousness and/or duration of offence
- Intentional or negligent?
- Steps taken to mitigate damage
- Degree of responsibility
- Previous infringements
- Cooperation with supervisory authority
- Categories of personal data affected
- Manner in which supervisory authority was notified
- Level of compliance where measures previously ordered
- Adherence to codes of conduct/ certification
- Any other aggravating or mitigating factors

# ... + £? reputational damage

The screenshot shows the BBC News website interface. At the top, there is a navigation bar with the BBC logo, a 'Sign in' button, a notification bell, and menu items for News, Sport, Weather, iPlayer, Sounds, and More. A search bar is located on the right. Below this is a red banner with the word 'NEWS' in white. Underneath the banner is a secondary navigation bar with links for Home, UK, World, Business, Politics, Tech, Science, Health, Family & Education, Entertainment & Arts, Stories, and More. The 'Tech' link is highlighted. Below the navigation, the word 'Technology' is underlined. The main headline reads 'Bounty pregnancy club fined £400,000 over data handling'. Below the headline is the date '12 April 2019' and a row of social sharing icons for Facebook, Messenger, Twitter, Email, and a 'Share' button. To the right of the main article is a 'Top Stories' section with a sub-headline 'Debenhams names 22 stores to close' and a brief description: 'The struggling department store chain plans to close the shops next year.'



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# Our office in Belfast

Information Commissioner's Office  
3<sup>rd</sup> Floor, 14 Cromac Place, Belfast

**T:** +44 303 123 1114

**E:** [ni@ico.org.uk](mailto:ni@ico.org.uk)