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IS 2018
COMING...

GENERAL DATA PROTECTION REGULATION 2016 (GDPR)

Organisations that deal with personal data have until 25 May 2018 to be compliant with the new regime. The UK government have confirmed that the GDPR will apply in the UK in full despite Brexit. This represents a seismic change in the data protection landscape so organisations, whatever their size, should start preparing now.

What will change?

Increased enforcement powers

The current maximum fine for a breach of data protection law in the UK is £500,000. This will increase under the new rules to €20 million or 4% of worldwide turnover, whichever is higher.

Consent harder to obtain

No more implied consent. This will have a drastic effect on the majority of businesses who collect customer data for marketing purposes, particularly online.

“Privacy by default”

There will be a requirement to implement data protection by design, not tagged on at the end of a project, and to conduct Privacy Impact Assessments for all new projects.

Pseudonymisation provisions

This will catch businesses that think they deal in anonymous data. The encoding key to the identifiers must be kept separately and securely.

Data subject rights are paramount

New rights include the Right to be Forgotten, the Right to Object to Profiling and the Right to Data Portability, as well as existing rights such as Subject Access Requests and the right to withdraw consent.

How will it affect my business?

The GDPR will have a big impact and require the majority of businesses to audit their existing data protection processes and change the way they collect, store, use and share data.

Businesses should conduct a full Data Protection Audit of all of their processes, systems and the way they interact with customers. Data protection will need to be at the heart of every project.

Most importantly, businesses need to think about all data protection implications of the business including employee data, supplier data, customer data and all historic data that they may have on their systems. Identifying where data is kept, what suppliers do with data and having robust security provisions will be crucial.

WHAT SHOULD YOU DO NOW?

Staying on top of data protection

The changes will impact almost all businesses in some way. Below are some top tips on what you can do now to prepare...

Internally:

- 1 Have a Privacy Impact Assessment process in place for use on new projects
- 2 Conduct a data mapping exercise:
 - what data do you have now?
 - how do you collect data (online and offline)?
 - how do you store data (hard and soft copy)?
 - how do you use data (internally and externally)?
- 3 Keep up to date with the latest developments around E-Privacy Directive, Security Directive and latest regulator guidance – we can keep you updated on all of this
- 4 Get expert legal advice to create a GDPR preparation strategy for your business

With suppliers:

- 5 Talk to your suppliers about whether they are ready for the GDPR
- 6 Review your security provisions and contracts with suppliers
- 7 If you are a supplier, talk to a lawyer about updating your terms and conditions to cover data protection and the GDPR

With customers:

- 8 Review your terms and conditions of sale to ensure you are compliant with data protection and ready for GDPR
- 9 Make sure you have relevant Privacy Policies and Privacy Notices and that you comply with them in practice

With employees:

- 10 Make sure you have a Data Protection Policy
- 11 Ensure your employees are trained in data protection and can explain the protections to customers
- 12 Regularly update employees with training on GDPR

How we can help

Developing policies and processes

We have already started working with many businesses to review their current policies and make preparations for the GDPR. We can be as involved as our clients require from acting as an advisor to creating a timeline for implementation to drafting policies, creating templates and contracts.

Data mapping and audit

We can work with you to conduct a data health check and understand where your danger points are. This can then be used to create your action plan for ensuring that you are compliant.

Training

For all legal changes, ensuring your employees are up to speed can be critical to remaining compliant. Our data protection team works with clients and their employees to help everyone understand their role in keeping data secure and avoiding breaches of the new regulation.

Ongoing support

For many businesses, the changes will take place over a period of time. We work closely with clients to provide ongoing support, delivering expert legal advice at every stage of the process. This includes regularly reviewing and drafting policies to reflect new business processes, carrying out Data Protection Impact Assessments, advising on marketing campaigns, and contracts with third parties.

Crisis management

Working with an experienced law firm early will help to avoid any breaches. However if the worst should happen our experienced team can provide practical advice on SARs and complaints by individuals. Our clients benefit from the wider Intellectual Property and IT Team who support on the crucial area of brand protection and reputation management.

Get in touch with our data protection team

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