

GDPR - What we have seen in the first 4 months

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- Client Compliance Activities
- Enforcement Guidance
- ICO Enforcement Activity
- Breach Reporting
- Data Protection Act 2018
- Other Developments
- Brexit

- Frantic activity up to 25 May
- Noticeable drop-off since then
- Continued roll-out of:
 - Contract terms
 - Fair processing notices
 - Policies
 - Training

- New ICO Enforcement Guidance
 - Revised draft Regulatory Action Policy – August 2018
 - ICO will focus on
 - issues of general public concern
 - novel/intrusive nature of activity
 - complaints received
 - other concerns identified in course of activities
 - ICO Prosecution Policy

- New ICO Enforcement Guidance
 - ICO Monetary Penalty Guidance – higher fines for:
 - vulnerable individuals or critical national infrastructure are affected
 - deliberate action for financial or personal gain
 - advice, guidance, recommendations or warnings (including those from a data protection officer or the ICO) have been ignored or not acted upon
 - high degree of intrusion into the privacy of a data subject
 - failure to cooperate with an ICO investigation or enforcement notice
 - pattern of poor regulatory history by the target of the investigation
- Supplements Art 29 WP Administrative Fines Guidance

- Increased level & frequency of fines under DPA 1998
 - Heathrow – Lost USB stick £120k
 - BUPA – Systemic security failures following employee data theft £175k
 - Equifax – Cyber attack compromised 15m records £500k
 - Oaklands Assist – Nuisance marketing calls £150k
 - Lifecycle Marketing – Unlawful processing of mothers’ data for Labour Party - £140,000

- 1st Formal GDPR enforcement action
 - AggregateIQ

- NB Note: FCA fines too – Tesco Bank fined £16.4m

- ICO Breach Notifications
 - 2,565 in whole of 2016/17
 - 657 May 2018
 - 1,792 June 2018

- Helpline Calls
 - 80,000 calls in last quarter of 2017/18
 - Over 500 calls a week - 1/3rd decided not to notify

- Significant increase in client queries

Amongst other things covers:

- Extension to law enforcement & security services
- Exemptions
 - Crime, law & public protection
 - Regulation, parliament & judiciary
 - Health, social work, education, exams & child abuse
 - Finance, management & negotiations
 - References
 - Rights of other individuals
- Special category data policy/records
- Criminal offences

- Continued Increase in use of DSARs & other individual rights
- Proliferation of Data Processing Agreements
 - Controller-Processor Confusion
 - Radically different approaches
 - No current market practice on liabilities
- Transparency being pushed up/down the chain
- Messy Biometrics

And finally...what if there's a no-deal Brexit?

- UK Government view
 - No change in UK
 - Transfers to EEA permitted
- EU view
 - UK to become a Third Country
 - No automatic adequacy finding
- Problems with transfers from some non-EEA countries

Contact Information



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