Data Protection

(in practice)

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Aims of this workshop

- The GDPR – a brief summary of the main changes
- Basic requirements for data protection compliance
- Front line staff - data protection in practice

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General Data Protection Regulation

Effective from 25 May 2018. Much is the same. However:

- You must be able to demonstrate **how** you comply with the GDPR
- There must be a binding contract with third party data processors
- There is some expansion to an individual's rights
- The privacy notice contains more information
- There are specific special category information requirements
- Privacy Impact Assessments need to be considered for new activities

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GDPR Article 5: The principles of data protection

Data shall be:

a)Processed lawfully, fairly and in a transparent manner

b) Collected for specified, explicit and legitimate purposes and not processed for other purposes.

c) Adequate, relevant, and limited to what is necessary in relation to the purposes it is processed

d) Accurate and kept up to date. Every reasonable step must be taken to rectify or erase inaccurate data without delay

e) Kept in a form that allows identification of an individual for no longer than is necessary for the purposes of processing that data.

f) Processed in a manner that ensures appropriate security of personal data

The data controller is responsible for and able to demonstrate compliance with these principles.

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Personal data is:

- An individual's details
- Identifiable – allows us to work out who the person is
- About a living person
- Held on a system

This includes name, addresses, email addresses, bank details, place of work, photographs, video footage, telephone numbers, I.P. addresses…

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Special categories is any sort of data that is held that can be used to identify-

- an individuals racial or ethnic origin,
- political opinions, including trade union membership
- religious beliefs or philosophical beliefs,
- biometric data,
- genetic information
- physical or mental health or condition,
- sexual life/sexual orientation,

There are specific additional grounds to satisfy in order to process this type of information:

- The extra grounds are in Article 9 of the GDPR (we are using **explicit consent** of the data subject. This is in addition to the fair processing notice that provides the lawful basis for processing information)

Consent under GDPR

Must be:

- Freely given
- Specific
- Informed and unambiguous
- Involve clear affirmative action to agree consent
- Easily withdrawn by data subject

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GDPR – the individual's rights

- the right to be informed;
- the right of access;
- the right to rectification;
- the right to erasure;
- the right to restrict processing;
- the right to data portability;
- the right to object; and
- the right not to be subject to automated decision-making including profiling.

Anything in green is not new, but may have changed slightly

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Data protection – the basics

- Privacy Policy (model available)
- Fair Processing Notice (models available)
- Consent forms and authority to act forms
- Breach of Data Protection Procedure
- Subject Access Request Procedure
- Written processes for data handling
- Information available for data subjects (website)
- Designated staff contact(s) and responsibility
- Staff awareness training from induction onwards

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Data sharing – the basics for all staff

Key questions to ask before you share:

- Can someone be identified from the data you share?
- Is there a clear & legitimate purpose to the request?
- Is the sharing covered in the fair processing notice? If not – is there data subject permission?
- Is the information special category?
- Will it be shared appropriately and securely?
- Is the sharing being recorded on your system?

Remember always make sure you confirm who you are talking to and why they need the information before disclosing any personal data.

If in doubt, check.

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Breach of Data Protection

This means a breach of security leading to the destruction, loss, alteration, unauthorised disclosure of, or access to personal data.

(Your I.T security set up is critical for compliance)

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How to avoid a breach in practice:

- Clear desk, locked files and cupboards
- Lock your P.C. when away from desk
- Confirming identity prior to disclosure
- Authority to act/consent in place?
- Data Retention Schedule followed
- Dispose of information correctly
- Do not travel with unprotected personal data
- Be careful about discussing cases – who is listening?

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Breach procedure – a basic approach

In the event of a breach:

- Inform the designated responsible staff as soon as you are aware of the issue (there is a new 72 hour reporting rule)
- Take all reasonable steps to resolve the breach quickly
- Contact all the individuals affected explaining the situation
- Analyse the situation to ensure steps are taken to avoid a repeat incident – have a checklist in your paperwork

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Subject Access Request

The Right of Access has been in place since 1998.
The GDPR changes the rules:

- You can no longer charge for the information unless the request is manifestly unfounded or excessive
- There is less time to comply – one month instead of 40 working days

Staff awareness of the procedure is vital so they give appropriate advice by telephone and get the request recorded on your system

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Written processes

This is an important element of how you demonstrate compliance with the GDPR.

- Data mapping shows the flow of data through the organisation (there are templates available)
- Have filing protocols in place for everything (and follow them!)
- Retention systems documented with clear responsibilities
- Periodic internal checks built in to these processes

This is the information you will hand over to the Information Commissioner's Office if they need to look into your data protection practice

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Data Protection – key staff

- Data Controller
- Central point of contact or a Data Protection Officer (DPO)
- Line Managers are there for advice/support
- All staff are legally responsible as data processors

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Privacy impact assessment (PIA)

Does this activity involve the collection of information about individuals?
Does this activity require individuals to provide information about themselves?
Will the information be used to make a decision or take action that could have a significant impact on them?
Is the information that is being used likely to raise privacy concerns or expectations?
Does this activity involve you contacting individuals in ways that they may find intrusive?
If this is a new activity is the information going to be used for a purpose that it is not currently used for?

Excerpt of our PIA form: questions to ask to check if you need to do a PIA

- Checklist approach – is this a high risk activity?
- Test the new activity against each of the DP principles
- Find a weakness? Fix it if you can
- Can't fix it? Advise the ICO if you still want to go ahead

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