

Data Protection: Getting ready for the GDPR

BIC's New Trends in Publishing Seminar

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UK Data Protection Act 1998 or 'DPA'

Key concepts

- 'Personal data'
- 'Process' 'Processing'
- 'Data controllers'
- 'Data processors'
- 'Data subjects'



Data Protection Act 1998

The 8 'data protection principles'

- Principle 1: A data controller may only process a data subject's personal data fairly and lawfully
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European General Data Protection Regulation or 'GDPR'

- Direct effect in EU from 25 May 2018
- Sweeping reforms to data protection laws



— Extra-territorial scope

- DPA - data controllers established outside UK but using equipment in UK
- GDPR - data controllers and *processors* established outside EU but processing data in relation to:
 - Offering goods or services in EU
 - Monitoring behaviour in EU

— Strengthened rights of data subjects

- DPA - rights of access, rectification, object to processing for marketing
- GDPR - strengthens existing rights + right to erasure, right to restrict processing, right to data portability

— Accountability for compliance

- DPA - basic registration requirements
 - GDPR - no registration requirements but obligations throughout to demonstrate compliance (e.g. maintaining records of processing activities)
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— Increased requirements for consent

- *“any freely given, specific, informed and unambiguous indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to him being processed”*

— Data processors on the hook

- DPA - obligations only for data controllers
- GDPR - obligations and liability for data processors (DPOs, security, potentially accountable to data controllers and subjects)

— Significantly increased fines

- DPA - up to £500,000
 - GDPR - up to greater of €20 mil or 4% worldwide turnover
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Brexit?



Getting ready for May 2018

1. Compliance = Awareness

2. Demonstrating compliance = Admin

GDPR: 5 ways to get prepared

1. Raise awareness
 2. Data amnesty and data audit.
 3. Recording and reviewing your processing.
 4. Devise your policies.
 5. Implement policies and training programmes
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