

MAZARS DATA PROTECTION NEWSLETTER

Issue 6

Just when organisations were getting to grips with GDPR, there are further regulatory changes and challenges to consider. We have provided a summary view of the potential impact on organisations in this newsletter.

Guidance on Data Protection by Design and Default (DPbDD)

- European Data Protection Board released [guidance](#) for public consultation, now closed.
- Controllers must demonstrate they have implemented technical and organisational measures; and safeguards under Article 25. Not to be confused with Article 32 which is security alone

KEY POINTS

- **Financial burden cannot** be used as an **excuse** for **lack of implementation**
- Controllers need to be able to **demonstrate current measures** and safeguards are **effective**
- Controllers should **regularly review** the measures and safeguards
- Risk assessments should **focus** on the **risk to data subjects** not business
- DPbDD **implemented** as **early** as possible in the **decision process**, at the time of the processing itself and throughout the lifecycle of the processing
- **Regular reviews** should be carried out on the **effectiveness**



Digital Assistants

- DPC attended the Oireachtas Joint Committee on Communications, Climate Action and Environment to discuss digital assistants
- Introduced a submission to digital assistants, an overview of the data protection issues raised by the same and what measures organisations may take to address the same.
- [Outlined](#) the work being done by DPC in relation to digital assistants

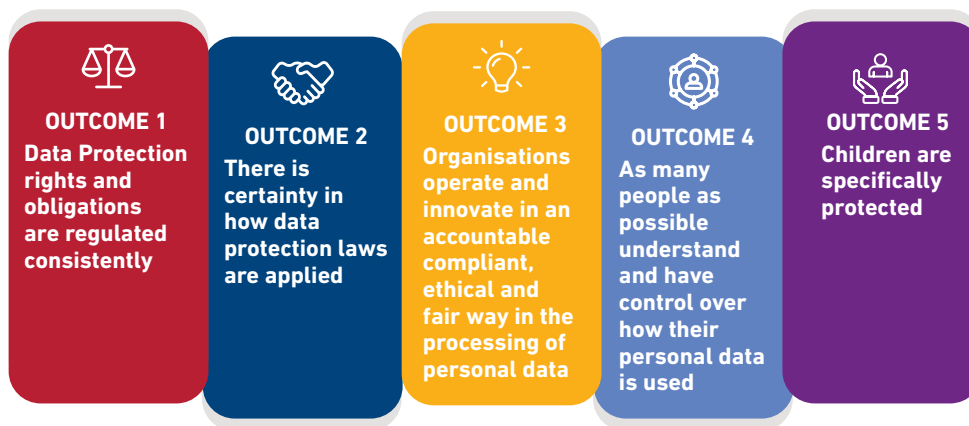
Artificial Intelligence (AI) Regulation

- Policy-makers globally are looking at **tackling** the **risks** associated with AI.
- In 2019, EU published its [guidelines on ethics in AI](#)
- There is a **growing demand** for more government oversight of AI as opposed to current self-regulatory nature
- European Commission President, Ursula von der Leyen since 1st Dec, stated that legislation would be put forward in her first 100 days in office

The Network and Information Systems Directive Requirements

- Distinguishes 2 types of entities: Operators of Essential Services (OES) and Digital Service Providers (DSP).
- OES: energy, transport, health and banking amongst others. DSP: limited to those who offer online marketplaces, online search engines and cloud computing services
- Must take “**appropriate and proportionate technical and organisational measures to manage the risks** posed to the **security** of network and information systems”
- Required to **self-assess** their **exposure**, and their clients, to develop its **strategy**
- **Reporting** of incidents/ breaches, adequate **continuity planning** and management, **monitoring** and **testing**.
- Created **framework** for **penalties** and convictions for the **infringement** or **noncompliance** with above requirements.

Public Consultation on the DPC’s Regulatory Strategy 2020-2025



- The DPC is currently preparing its new Regulatory Strategy for 2020 to 2025
- Overall aim of regulating “with clear purpose”.
- DPC will complete 2 rounds of open [public consultation](#) on its Target Outcomes
- DPC has identified 5 target outcomes for public consultation.

Quantum Computing

- Google researchers claimed to have achieved a milestone known as quantum supremacy.
- Google device completed a mathematical calculation in 3 minutes 20 seconds vs 10,000 years for a regular computer.
- Venture capitalists have [invested](#) more than \$450 million into start-ups exploring the technology.
- Modern **encryption** schemes mostly rely on an inability to factor large numbers in a reasonable time – this could **make existing commercial encryption defunct**.



China Uses DNA to Create Human Facial Images

- Officials in Tumxuk, China, have gathered blood samples from hundreds of Muslim detainees.
- Scientists attempt to use a DNA sample to create an image of a person’s face to potentially use to narrow a manhunt or eliminate suspects.
- Scientists use DNA to analyse genes for traits like eye colour, known as phenotyping
- **Concerns** regarding the **effectiveness** of this and **potential** for **mass surveillance**.



ePrivacy and Cookies— Where are we?

- **Draft e-Privacy Regulation rejected** by the Permanent Representatives Committee, see [Progress Report](#)
- European Commission to present a **revised ePrivacy proposal** as part of the Croatian Presidency of the EU
- A primary challenge, raised as a result of further delays, is the issue around **handling cookies** largely attributed to the **inconsistencies** between the existing **e-Privacy Directive** and the **GDPR**, highlighted in the case of "[Planet49](#)".
- The IAPP have summarised the convergence and divergence of the cookie guidelines [here](#)

German DP Authority's GDPR Assessment

Many of issues identified reflect challenges experienced when putting the legislation into operation.

- **Impractical transparency obligations**
- **Employee SARs**
- **Breach report thresholds**



Data Subject Access Requests –DPC FAQs

- One of the **most common challenges** experienced by organisations is the handling of **Subject Access Requests**.
- DPC have issued its [FAQ](#) to address the most common issues, including the scope of a request, validation of a request, time and format of response as well as any exemptions to fulfilling the request.



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