

Privacy & Data Protection

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Headlines

- ICO defends fining policy and indicates what fines lie ahead, p.17
- Maltese hunters press charges against German spies, p.19
- Regulator develops tool to help cookies, p. 20

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Working Party chimes in on Regulation's shortcomings

The Article 29 Working Party has adopted an Opinion (01/2012) on the European Commission's draft Data Protection Regulation published on 25th January.

The Working Party welcomes the proposals on privacy impact assessments, privacy by design, privacy by default, new responsibility and accountability requirements that apply throughout the information life cycle, the legal recognition of Binding Corporate Rules, and specific security measures for data processors.

However, the Opinion

also provides a number of suggestions for clarifying and improving certain aspects of the Regulation.

For example, the Opinion states that there should be a general requirement for organisations to 'anonymise or pseudonymise' personal data when processing the information if it is 'feasible and proportionate' to do so.

The Working Party thinks that the breach notification obligation should include a two-step process in which an initial, simple, notification is made within the proposed 24 hours following discovery of

the breach, followed by a more complete notification when the entity has more information. The obligation should also exclude notifications for minor breaches that are unlikely to adversely affect individuals and would therefore unnecessarily burden the national data protection authorities ('DPAs').

Derogations from the legal basis for data transfers (for example, consent) should be narrowed, says the Opinion, to ensure that they will not be used for massive and frequent

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Explosion in requirement for DPOs

The impending EU data protection reform is set to usher in a new era for Data Protection Officers, whose role will be elevated to unprecedented levels of importance within organisations.

The European Commission has announced that it will make it a requirement for all companies with over 250 employees, and all public sector bodies of whatever size, to appoint a Data Protec-

tion Officer. This will require an army of DPOs to be trained up in preparation for the coming into force of the new measures. Pondering this aspect of the new rules in a blog, Google's Global Privacy Council, Peter Fleischer, said "the universe of privacy professionals is still quite small, today. There simply aren't enough experienced DPOs to fill the imminent legal requirements."

Mr Fleischer added that since many thousands of companies operating in Europe will soon be looking to appoint DPOs to meet legal obligations, and since there is no available pool of such people, companies need to start thinking now about how to recruit qualified DPOs.

Fleischer advises organisations to decide if their data processing is simple
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