



Compliance



Aspire

Business Partnership



1 Understand

On 25th May 2018 The General Data Protection Regulation (GDPR) will be enforced in all European Member States. GDPR will replace existing European Data Protection Directive 95/46 EC and in the UK, the Data Protection Act 1998 will be replaced by new legislation (The Data Protection Act 2018) to encompass the content of the European Legislation.

Some principles of the current Data Protection Act will continue, yet there are additional requirements. There have been significant changes in the submission, possession and transmission of data with the explosion in electronic communication and this legislation seeks to address the relevant issues and impose much higher penalties for data protection failures.

What is Personal Data?

Personal data is all data which can identify a living individual, either in its own right or in conjunction with other data which is in your possession, or likely to come into your possession.

There are additional requirements in regard to sensitive personal data which includes data relevant to racial or ethnic origin, political opinions, religious beliefs, membership of a trade union, physical or mental health, sexual life, commission or alleged commission of any offence or any proceedings for any offence committed or alleged to have been committed.

The Six Principles of Data Protection

GDPR and The Data Protection Act 2018 will introduce six principles;

1. Processing must be lawful and fair
2. Purposes of processing must be specified, explicit and legitimate
3. Personal data must be adequate, relevant and not excessive
4. Personal data must be accurate and up-to-date
5. Personal data be kept for no longer than needed
6. Personal data must be processed securely

2 Evaluate

The scale of work to be done will depend upon your current compliance level. The legislation includes increased enforcement powers and fines based on a two-tier system;

1. Violations relating to internal record keeping, data processor contracts, data security and breach notification, data protection officers and data protection by design and default –
Up to 2% of annual worldwide turnover during preceding financial year; or €10 million (whichever is higher)
2. Violations relating to breaches of the data protection principles, conditions for consent, data subjects' rights and international data transfers –
Up to 4% of annual worldwide turnover during preceding financial year; or €20 million (whichever is higher)

3 Resolve

We recommend that as a starting point we conduct an audit of your current business operations to identify the current level of compliance and what needs to be done. The audit will include:

- Reviewing your contracts – historic data protection clauses will be void
- Reviewing all processes that involve the processing and sharing of personal data
- Reviewing all processes for the retention of personal data
- Reviewing how you transfer data

This factsheet should not be used in any actual transaction and is not a substitute for specific advice in your own circumstances. Although the information contained is presented in good faith and believed to be correct, the factsheet can only provide an overview of the regulations in force at the date of publication, and specialist advice should be taken in relation to specific circumstances.