



ARE YOU READY FOR THE NEW DATA PROTECTION LEGISLATION?

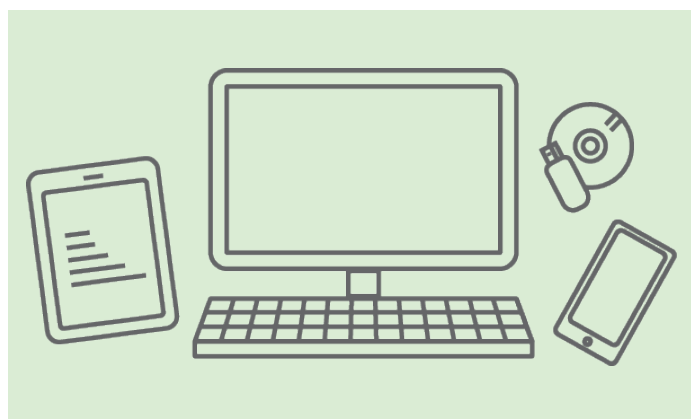
At the moment, Irish data protection obligations are primarily governed by the Data Protection Act 1988 as amended by the 2003 Act. However, there is a new law coming into force that will impact your organisation.

The advent of the General Data Protection Regulation (GDPR) represents a major overhaul of the EU data protection laws and will apply from May 2018. The new regime will necessitate changes to your business processes and much higher financial penalties will be applicable where breaches of the rules occur.

Key headlines

- fines of up to €20m or 4 per cent of annual income can be imposed;
- the regulatory regime is shifting from self-regulation and education to enforcement;
- explicit consent for data collection, data usage and marketing must be obtained;
- an individual will possess the right to claim compensation from a data controller and a simplified process for compensation claims will apply;
- 'the right to be forgotten' is a key focus – whereby individuals must be provided with the option to have their data deleted;
- The appointment of a Data Protection Officer will be required to monitor your organisation's compliance with the new rulebook.

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What do you need to do ahead of the new regulation?

The GDPR will apply from mid-2018, which does not give the Board or management a lengthy timeline to change how your entity functions – to update data, to change websites or to amend contracts, terms and conditions and privacy policies. Hence, it is important that you take the time now to understand the changes which are planned and how they will affect your organisation.

IT systems and business processes need to be considered in relation to methods for obtaining consent pertaining to personal data and the steps needed to facilitate both the portability and permanent deletion of data. However, it may be advisable to wait until there is greater certainty and clarity before going ahead with major new system implementations. Where a systems project must proceed, try to ensure that the systems you procure and implement have some flexibility to meet changing conditions and make provisions for additional implementation costs.

New requirements for portability and deletion of data

Customers and other individuals will have a new right to demand a file of their personal data. They will also have the right to insist that all data about them is deleted. Entities will be required to set up new processes that facilitate these rights. This clearly has far reaching implications for organisational processes and cements the need for a robust information management system to manage your corporate data.

Increased costs

Estimates of the possible cost/benefit arising from the GDPR are being debated. Our view is that, compared with the existing regime, there are likely to be significant additional costs for all organisations, including:

- a substantial one-off cost from the need to revise compliance procedures, redesign IT systems such as banking and CRM systems and review/update legacy data to meet the new requirements outlined above – particularly the new definition of consent, data portability and 'the right to be forgotten'; and

- increased on-going costs as a result of a significantly more onerous and bureaucratic regulatory regime, including the appointment of your Data Protection Officer.

There is much to consider ahead of the new regulations coming into place. We currently work with a significant number of organisations, assisting them to manage their data risks and help ensure compliance with regulatory obligations.

Our Privacy Impact Assessment is specifically designed to help organisations to have assurance that their internal processes are adapted and re-designed to meet the new legislative requirements, whilst minimising the costs in doing so. Being prepared for the changes in legislation ahead of its implementation is imperative to avoid the risk of substantial fines.

If you would like to discuss your state of readiness for GDPR in greater detail, please get in touch with Terry McAdam:



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