

**Welcome to the newsletter around Data Protection for June. Can you believe it has been a year since the new GDPR Regulations & Data Protection Act came into effect? This month we will look at the work the Information Commissioners Office are undertaking around protection of your personal data and how their powers have increased, and email disclaimers.**

## **GDPR: One year on**

One whole year has passed since the new GDPR Regulations were brought into effect. It has been a busy time for many businesses and organisations, who want to ensure that they adhere to the new regulations and, more importantly, that their clients and employee's information is being kept safe. The ICO have published a [report](#) on their data protection work since the GDPR was introduced, to share their reflections and learnings from the past 12 months. This update provides an overview of their experiences in the first year of the GDPR, and shares information and insights that will be further explored in their Annual Report later this year.

If you haven't yet looked at the GDPR regulations, please do so, and ensure you are compliant.

## **Data Protection doesn't take a day off**

Last year the ICO began taking action against organisations for non-payment of their data protection fee, sending out a clear message that those who didn't pay, risked a fine.

The ICO increased their activity around this earlier this year when they began identifying organisations which had been issued with a fine, as well as trend reports to show which sectors had been issued with fines.

The recent dismissal of the first appeal of a fine for non-payment of the fee by Farrow and Ball sends a further message, loud and clear, that there is no excuse for non-payment.

The company had appealed their £4,000 fine on a number of grounds, including that the person responsible was on holiday.

The first-tier tribunal accepted that although the non-payment was an oversight, the company should have had measures in place to prevent this happening.

Data controllers are given adequate opportunity to pay the fee to the ICO before they are issued with a fine. Being on holiday is no excuse.

However, the ICO will consider any reasonable representations from organisations in response to their notices of intent to serve a penalty.



## **Marketing your business**

Marketing rules can be a minefield, can you contact individuals or other corporate bodies under the new GDPR guidelines? Here are a few points for you:

An organisation cannot make unsolicited marketing calls to numbers which are registered on the Telephone Preference Service (TPS), or to anyone who has told the company they don't want to receive its calls

The DPA and privacy regulations give individuals the right to prevent their personal data being processed for direct marketing. An individual can, at any time, ask you to stop (or not to begin) using their details for direct marketing. To make this easier for the individual, provide them with an unsubscribe or "opt-in" or "opt-out" choice, (depending on the method of communication involved). "Opt-in" requires the individual to actively consent to receiving direct marketing materials from the data controller.

GDPR will allow direct marketing as a legitimate interest, if certain conditions and a 'balance of interest' test is met.

You can rely on legitimate interests for marketing activities if you can show the way you use people's data is proportionate, has a minimal privacy impact, and people would not be surprised or likely to object to what you are doing, as opposed to consent. Ensure you record how you've protected that individual's rights.

## Audits, Advisory Visits & Overview Reports:-

So far, during the last 3 years, there have been 177 visits undertaken

98 Advisory visits

53 Audit visits

26 Overview reports

The sector breakdown looks like this:-

41 Education & childcare

35 Charitable & voluntary

33 Health

17 Criminal Justice

10 Local Government

9 General Business

9 Social Care

6 Online technology & telecoms

5 Finance insurance & credit

3 Central Government

3 Land or property services

3 Legal

2 Membership association

1 Marketing

1 Regulators

1 Religious

1 Transport & Leisure

1 Utilities

If you haven't paid the fee before you can find out if you are required to by visiting the ICO's website and completing their self-assessment form.

They have a handy fee-assessment tool, to check if you are paying the correct level of fee. You can also check the date your renewal is due on their website, if you have already paid the fee.

## Activity carried out by the ICO



This month's activity has seen visits to various sites including education and childcare facilities, the public sector, charities and private businesses.

These visits have consisted of advisory and audit-based visits from the ICO.

Date of Activity	Identified DC	Type of DC	Type of Visit
07 June 2019	Legal Ombudsman	Regulators	Audit
31 May 2019	Diverse Academies Learning Partnership	Education & Childcare	Advisory
31 May 2019	The Bridge Pre-School	Education & Childcare	Advisory
29 May 2019	NHS England	Health	Audit
29 May 2019	Academies Enterprise Trust	Education & Childcare	Audit
28 May 2019	Lady Nuffield Home	Social Care	Advisory
28 May 2019	Southampton Engineering Training Association (SETA)	Education & Childcare	Advisory
28 May 2019	Amicable	Legal	Advisory
28 May 2019	Acorn Care Services	Social Care	Advisory
23 May 2019	Impact Arts (Projects)Ltd	Charitable & Voluntary	Advisory

The ICO continue to carry out advisory and audit visits. These visits are undertaken on a regular basis. Any organisation can ask for a visit to take place, to ensure their practices and procedures meet requirements. The audits that are carried out are to ensure the governance and accountability of data processing. These audit reports are freely available

To find out more information about the ICO, visit their website [www.ico.org.uk](http://www.ico.org.uk)

The activity carried out by the ICO provides support to ensure Data Controllers/Processors are compliant under Data Protection laws.

They will support but they also there to enforce if Data Controllers consistently fail to comply with Data Protection laws and demonstrate Accountability.

The information of Data Controllers/Processors visited by the ICO and their published reports are freely available on their website.

## The relationship from the Principles to the real life enforcement action.....

*As you can see from the enforcement action taken by the ICO how the principles apply and are strictly enforced.*

on the ICO website and they are a useful tool to assess and identify areas for improvement and good practice being actioned followed by other Data Controllers and Data Processors.

This reinforces the fact the ICO do visit organisations regularly. So, consistently adhering to the Data Protection Act will ensure your organisation remains compliant.



### Enforcement Action

Avalon Direct Ltd (General Business) made almost 52,000 calls to people who were registered with the Telephone Preference Service (TPS) between 1 March and 20 November 2017.

Hall & Hanley Ltd (Finance, insurance & credit) Organisation found responsible for the sending of 3,560,211 direct marketing messages to subscribers without consent.

Her Majesty's Revenue and Customs (HMRC) issued with an enforcement notice for failing to get adequate consent to collect callers' personal data.

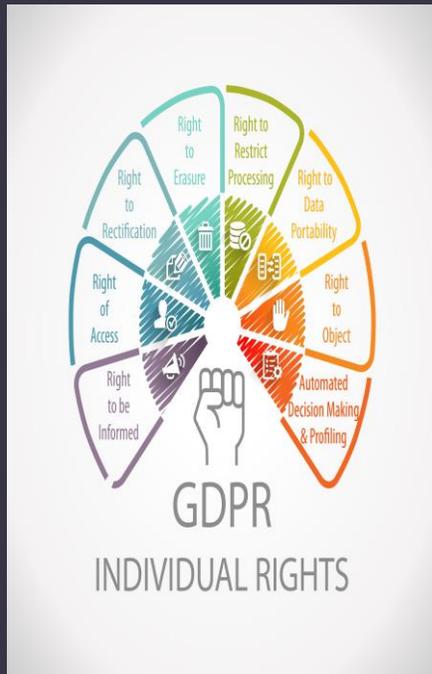
A Restorative Justice Caseworker has been prosecuted for sending sensitive personal data to her own personal email account without authorisation.

Jeannette Baines had worked at Victim Support and sent spreadsheets containing a combination of victim and offender data from her work email address to her personal email address during her last week of employment.

Jeannette Baines, of Merseyside appeared before Blackpool Magistrates' Court and was found guilty of obtaining personal data, in breach of s55 of the Data Protection Act 1998. She was sentenced to a 3 year conditional discharge, ordered to pay costs of £600 and a victim surcharge of £20.

A former customer service advisor at Stockport Homes has been prosecuted for accessing records relating to anti-social behaviour with authorisation.

## What are your individual rights under GDPR?



An internal investigation found that Wendy Masterson had inappropriately accessed cases without any business reason to do so. The records related to victims, witnesses and perpetrators of anti-social behaviour.

Ms Masterson of Stockport appeared before Stockport Magistrates' Court and pleaded guilty to the offence of unlawfully obtaining personal data, in breach of s55 of the Data Protection Act 1998. She was fined £300, ordered to pay £364.08 costs and a victim surcharge of £30.



### E-Mail Disclaimers

E-Mail Disclaimers have been around since 2006 and are regulated via the Electronic Communication Provision and Companies Act 2006. This may be of interest to you regarding your options of the content.

- Any email disclaimer that you send should include your registered company address, and not a link to this information. Providing information about your company is required by law in some countries. There is also a high marketing value including your company's name and other information in your emails. It makes your brand more recognizable and builds great relationships between you and any clients.
- One of the most important things to mention in a good email disclaimer, for instance, that the message should only be read by the original recipient, and that sharing any content of the email is forbidden. You could ask for any email received in error to be returned to the sender or ask the recipient to advise the sender if it is received in error.

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- You could remind the recipient that they should check the message and attachments against viruses. This could prevent clients' computers from infection, or your company from being sued for the damage caused by viruses.
- If you deal with contracts or quotations for clients, when you send a quotation, the recipient may assume that they are entering an agreement, or, an employee may send something that oversteps their authority. A simple disclaimer regarding agreements can help both parties avoid misunderstandings.
- Are you and your company passionate about the environment? You could add an email disclaimer asking the recipient not to print the email to help save the environment. – Show that you care!
- Employee liability disclaimers. Should you be in a position where an employee writes something inappropriate, this disclaimer is a safety measure against the company being sued for personal viewpoints of individuals in the company.
- Sending Newsletters and subscription lists. These are especially important, and relevant to GDPR. According to regulations concerned with email spamming and privacy, you have to provide an easy way to unsubscribe from such a list, or a 'opt out' mechanism. If you manage your subscribers' list on your own, you can easily create an unsubscribe link. Just create a hyperlink on the unsubscribe text and link it to: <mailto:example@example.co.uk> subject=unsubscribe

### Top Tip for the month

Always be open. Tell people what you're doing with their information and obtain consent prior to collecting their personal data. Be upfront and tell them what you are collecting, how you'll use it, and who it may be disclosed to. Most organisations will do this via a privacy notice/statement. Apex HR can assist you with this 😊

I hope you have found this newsletter interesting, please do let me know if you would like to provide any feedback. Apex has an excellent Data Protection service that can offer you and your company advice and guidance on how to demonstrate your compliance.

***So, call or email us at Apex HR and we will support with all of your Data Protection needs.***

Check out our Data Protection service on our website.

[www.apexhr.co.uk](http://www.apexhr.co.uk)