

WEBINAR SERIES

Data Protection: The Legislative Landscape

Building Blocks of Data Protection Series

This webinar will begin shortly

Data Protection:

The Legislative Landscape

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Key Sources of Law and Guidance

- UK General Data Protection Regulation (“UK GDPR”)
- Data Protection Act 2018 (“DPA 2018”)
- Information Commissioner’s Office (“ICO”) Guidance

The UK GDPR: The Origin Story

- When the UK effected its exit from the European Union on 31 December 2020, it retained existing direct EU legislation in domestic law as it applied prior to that date by virtue of section 3 of the European Union (Withdrawal) Act 2018. This body of law was known as retained EU law (“REUL”). This included the EU’s General Data Protection Regulation (“EU GDPR”), retained as the UK GDPR.
- This position has now been significantly amended by the Retained EU Law (Revocation and Reform) Act 2023. To start, REUL has been rebranded as “assimilated” law. Principles of EU law – such as the supremacy of EU law over domestic legislation; and the incorporation into UK law of general principles of EU law – have been done away with.
- The UK GDPR thus now forms part of a body of “assimilated” law. References to fundamental rights and freedoms in the UK GDPR are now to be read as references to Article 8 of the ECHR (see the Data Protection (Fundamental Rights and Freedoms) (Amendment) Regulations 2023).

The UK GDPR: Structure of the Regulation

- Preamble (Recitals). These are not legally binding but may be used as a tool to help interpret the text of the Regulation. The extent to which this will remain true following the 2023 Act remains to be seen.
- Chapter 1: General Provisions (introductory provisions; material scope; territorial scope; etc.)
- Chapter 2: Principles
- Chapter 3: Rights of data subject
- Chapter 4: Controller and Processor
- Chapter 5: Transfers of personal data to third countries or international organisations
- Chapter 6: The Commissioner

The UK GDPR: Structure of the Regulation II

- Chapter 7: Repealed
- Chapter 8: Remedies, Liabilities, and Penalties
- Chapter 9: Specific processing situations
- Chapter 10: Delegated acts and implementing acts
- Chapter 11: Final provisions
- Annexes: Not yet in force!



The DPA 2018: Purposes



- First, the DPA 2018 supplements and adds to the UK GDPR's provisions on general processing.
- Second, the DPA 2018 provides a data protection regime for data processing which (in summary) relates to national security, defense, law enforcement, etc.
- Third, the DPA 2018 contains numerous key provisions relating to the ICO and enforcement of data protection laws.



The DPA 2018: Structure of the Act



- Part 1: Preliminary
- Part 2: General Processing
- Part 3: Law Enforcement Processing
- Part 4: Intelligence Service Processing
- Part 5: The Information Commissioner
- Part 6: Enforcement
- Part 7: Supplementary and Final Provision
- Schedules



ICO Guidance



- The ICO issues guidance and codes of practice from time to time on a range of topics and pursuant to numerous statutory powers (see, for example, DPA 2018 s.115; s.121-124).
- Various codes of practice are subject to formal parliamentary procedure (see DPA 2018 s.125) and carry statutory force when issued, in that (for example) they are admissible in legal proceedings, and courts or tribunals must take relevant provisions into account (DPA 2018 s.127).
- ICO Guidance has become an important practical resource, and is often a first stop for organisations and individuals seeking to determine their rights and obligations under data protection legislation.
- Current guidance covers topics such as subject access requests; personal information; CCTV video surveillance; and many more.

WEBINAR SERIES

UK GDPR: The Key Concepts

Building Blocks of Data Protection Series

Wednesday 4th June, 11am

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Thanks!

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