UNITED KINGDOM REPORT

PRIVACY LAWS & BUSINESS
DATA PROTECTION & PRIVACY INFORMATION WORLDWIDE

Data breach management: Are you prepared?

Mandatory breach reporting is on the way… **Robyn Palmer** and **Cameron Craig** explain what companies should be doing already.

As had been widely anticipated the draft of the proposed new European data protection regulation, which was leaked onto various blogs last year, contains an obligation for data controllers in all sectors to report data breaches to both the supervisory authority and the individuals affected within 24 hours of having established the breach.

Whilst the leaked regulation is still subject to further review, Viviane Reding, EU Justice Commissioner, has confirmed, on a number of occasions, her intention to extend data breach notification requirements to all business sectors, and it is highly likely that the breach notification requirement will remain in some form.

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Freedom of Information Act to be extended later this year

At least 100 publicly owned companies will be brought under the FOIA. Will the change have a significant impact on finances or workload? **Dugie Standeford** reports.

The point of the expansion, via the Protection of Freedoms Bill, is to include organisations "that appear to be exercising functions of a public nature," the MoJ said in a draft impact assessment obtained by the Campaign for Freedom of Information (CFOI) and posted on its blog on 19 December. In addition to 25 bodies announced in January 2011, the government plans to bring around 150 "awarding bodies" and over 200 harbour authorities within the scope of the act, according to the list of organisations consulted, also posted on CFOI's website.

One key change the MoJ is seeking is an end to the "illogical"

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comment

Brussels keeps everyone in suspense over new DP regime

In this issue, we return to the topical subject of data breach management (p.1). Mandatory notification of a data breach to a Data Protection Authority is one of many new provisions expected to be included in the EU Commission's proposals for the revision of the EU Data Protection Directive (p.17). The leaked draft managed to alert companies to the issues but rumours are that several of the Commission's Directorates found some of the proposals too rigid, and therefore a review is needed before the publication of the formal proposals. This is unfortunate as organisations need time to start preparing for the new regime. To understand the implications for organisations doing business in the UK, we have organised a Roundtable with Deputy Information Commissioner David Smith on 14 February (see p.17).

On the domestic front, the ICO has published new guidance on the cookie regulations (p.8). However, it is not yet comprehensive advice, even though the date for compliance, 26 May, is looming. Information Commissioner, Christopher Graham, has said that there "will not be a wave of knee-jerk formal enforcement action taken against people who are not yet compliant but trying to get there." He encourages those who have not yet started preparations to read his guidance and look at how other websites manage the issue.

The ICO is now so worried about non-compliance within local government and the NHS that they are demanding compulsory audits (p.13). Most fines have been imposed on the public sector. Companies are relieved that, so far, private sector data breaches have not attracted heavy sanctions.

The FOIA is being reviewed (p.7) and there is now new guidance about using private email accounts at work. It confirms that these emails, if referring to public authority business, fall under the FOIA (pp. 7 and 12). At the same time, the government is proposing new categories of organisations to be brought under the Act (p.1).

Another workplace issue deserving attention is the use of social media. Whilst a certain amount of private use is almost taken for granted in many organisations, employers need to pay attention to how social media is used as it may cause them reputational damage, as well as have privacy implications (p.10).

Laura Linkomies, Editor
PRIVACY LAWS & BUSINESS

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