

Data Processor Obligations

Data Processors (individuals/organisations who process data on behalf of data controllers) have specific legislative obligations under GDPR.

Design

Data processors need to have regard to the concepts of accountability, privacy by design and risk assessment when designing and offering their services

Data Protection Officers

Some data processors will be required to appoint a mandatory data protection officer – the Article 29 working party have produced guidelines on this


Security

Direct security obligations are imposed on data processors under article 32 of the GDPR which includes a requirement to inform data controllers of security breaches

Contracts

Data processors need to have a written contract with data controllers for whom they process data.

Clauses required in the written contract are:

- subject matter and duration of processing
 - obligations and rights of the data controller
 - confirmation that the data processor only processes on documented instructions from the data controller
 - an obligation on the data processor to ensure that anyone authorised to process data under the contract is committed to a confidentiality obligation
 - reference to compliance with security measures
 - confirmation that the data processor cannot appoint a sub-processor without consent and that obligations will flow down into sub-processor contracts (and a clause confirming that the data processors will provide supporting information to demonstrate compliance)
 - confirmation that the data processor will assist the data controller (i.e. with data subject rights)
 - details of what happens to the data at the end of the contract
 - confirmation that the data processor will assist in contributing to the data controller's audit
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Records

Article 30 requires data processors to maintain records of their processing activity

Overseas transfers

The requirements for data transfer overseas will apply directly to data processors

Cooperation

Data processors must cooperate on request with supervisory authorities (for example the ICO)

Data subjects

Data subjects can complain directly to the ICO about data processors and the ICO can fine data processors for breach of data processor obligations. Data subjects can also bring court claims against data processors.

For further information

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