

## GDPR Update – a year on

It has been more than a year since the EU General Data Protection Regulation (GDPR) came into force on 25 May 2018<sup>1</sup>, introducing us all to the concepts of ‘Data Subjects’ and ‘Personally Identifiable Data’.

### Other than introducing some new terminology – what did change?

One of the aims of the legislation was to reflect the changes in technology and the way organisations collect information about people by modernising and expanding the definition of ‘personal data’. It gives **individuals** greater protection and rights, strengthening conditions for consent and giving people rights to access, erasure, portability and breach notification.

For **businesses and bodies that handle personal information**, the inclusion of data protection from the onset of system design rather than as addition is now a legal requirement, as is keeping internal records

For **regulators** it has given greater power for enforcement actions, with the maximum fine now reaching the higher of EUR 20 million (GBP 17.5 million) or 4% of the company’s global annual turnover<sup>1</sup>. Previously, this was limited to up to GBP 500,000 in the UK<sup>2</sup>. It also makes it easier for regulators to work together rather than having to launch separate actions in each jurisdiction.

These changes affect all organisations, including, of course, life & health insurers and reinsurers. For most companies it prompted a thorough review, if not a complete overhaul, of business process around data handling, record keeping and obtaining consent.

Arguably, individual citizens in Europe are now covered by the world’s strongest data protection rules – regardless of the location of the organisation dealing with their data. This includes the UK, where GDPR is incorporated into the Data Protection Act (DPA) 2018 (superseding the 1998 DPA), and, although the detailed practical implications are unclear, it is likely that it will continue to function alongside UK law post-Brexit<sup>3</sup>.

I believe this has been an overwhelmingly positive change, helping people to understand the value of their own data and question how others may use it. As someone who works with data regularly, it has been fascinating to see some of these issues brought into mainstream consciousness. In the 5 days prior to GDPR implementation, American news channel CNBC reported that GDPR was featured in more worldwide searches than international singer-songwriter Beyoncé<sup>4</sup>!

Media attention has naturally focussed on the larger, higher profile claims such as a GBP 44 million fine in January this year for “severe infringements”<sup>5</sup>. Closer to home, a UK based “parenting club”, was fined GBP 400,000 for “sharing personal data unlawfully”<sup>6</sup>.

### How have insurers & other financial institutions fared?

The Information Commissioner’s Office (ICO) is the supervisory authority for data protection in the UK. It is responsible for monitoring compliance and takes enforcement action (including issuing monetary penalties) where appropriate.

<sup>1</sup> European Union, European Commission

<sup>2</sup> See The Information Commissioner’s Office. (2015)

<sup>3</sup> See Data protection if there’s no Brexit deal.

<sup>4</sup> See Bonn, T.

<sup>5</sup> See Fox, C.

<sup>6</sup> See The Information Commissioner’s Office. (2019)

According to their website, they have issued six monetary penalties to organisations in the finance, insurance and credit sectors since GDPR. This is in line with enforcement actions in this sector in the year prior to GDPR. The fines were relatively modest and related mainly to unsolicited marketing activities and non-payment of the Data Protection fee<sup>7</sup>.

So far, no reason to believe that GDPR should have any serious repercussions for financial services such as insurance. This is in part testament to the success of the momentous efforts by insurers to rise to the challenge of ensuring compliance with the new regulations. However, we should not be lulled into a false sense of security, as enforcement actions typically take a year or two to filter through the process; we might expect to see a steady increase in the GDPR-specific enforcement actions from the regulators over the next few years.

Insurers and reinsurers are privileged to have access to massive amounts of personal data, we should continue to treat it with the respect it deserves and must not become complacent.

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<sup>7</sup> See Enforcement action.