

## **GDPR and the DB Bill – the Data Protection Officer**

### Introduction

The following is the text of the UK's translation of the General Data Protection Regulation (GDPR) concerning Data Protection Officers. This has been published as part of the Data Protection Bill, and is now known in the UK as 'the applied GDPR'.

### *Article 37*

#### **Designation of the data protection officer**

1. The controller and processor shall designate a data protection officer in any case where:
  - a) The processing is carried out by a public authority or body, except for courts acting in their judicial capacity;
  - b) The core activities of the controller or processor consist of processing operations which, by virtue of their nature, their scope and/or purposes, require regular and systematic monitoring of data subjects on a large scale;
  - c) The core activities of the controller or processor consist of processing on a large scale of special categories of data pursuant to Article 9 of the applied GDPR and personal data relating to criminal convictions and offences referred to in Article 10 of the applied GDPR.
2. A group of undertakings may appoint a single data protection officer provided that a data protection officer is easily accessible from each establishment.
3. Where the controller or the processor is a public authority or body, a single data protection officer may be designated for several such authorities or bodies, taking account of their organisational structure or size.
4. [Deleted from the applied GDPR].
5. The data protection officer shall be designated on the basis of professional qualities and, in particular, expert knowledge of data protection law and practices and the ability to fulfil the tasks referred to in Article 39 of the applied GDPR.
6. The data protection officer may be a staff member of the controller or processor, or fulfil the tasks on the basis of a service contract.

7. The controller or the processor shall publish the contact details of the data protection officer and communicate them to the [Information] Commissioner.

### *Article 38*

#### **Position of the data protection officer**

1. The controller and the processor shall ensure that the data protection officer is involved, properly and in a timely manner, in all issues which relate to the protection of personal data.
2. The controller and processor shall support the data protection officer in performing the tasks referred to in Article 39 of the applied GDPR by providing resources necessary to carry out those tasks and access to personal data and processing operations, and to maintain his or her expert knowledge.
3. The controller and processor shall ensure that the data protection officer does not receive any instructions regarding the exercise of those tasks. He or she shall not be dismissed or penalised by the controller or the processor for performing his tasks. The data protection officer shall directly report to the highest management level of the controller or the processor.
4. Data subjects may contact the data protection officer with regard to all issues related to processing of their personal data and to the exercise of their rights under the applied GDPR.
5. The data protection officer shall be bound by secrecy or confidentiality concerning the performance of his or her tasks, in accordance with domestic law.
6. The data protection officer may fulfil other tasks and duties. The controller or processor shall ensure that any such tasks and duties do not result in a conflict of interests.

### *Article 39*

#### **Tasks of the data protection officer**

1. The data protection officer shall have at least the following tasks:
  - a) To inform and advise the controller or the processor and the employees who carry out processing of their obligations pursuant to

the applied GDPR and to other rules of domestic law relating to data protection.

- b) To monitor compliance with the applied GDPR, with other rules of domestic law relating to data protection and with the policies of the controller or processor in relating to the protection of personal data, including the assignment of responsibilities, awareness-raising and training of staff in involved in processing operations and the related audits.
  - c) To provide advice where requested as regards the data protection impact assessments and monitor its performance pursuant to Article 35 of the applied GDPR;
  - d) To cooperate with the [Information] Commissioner;
  - e) To act as the contact point with the Commissioner on issues relating to processing, including the prior consultation referred in Article 36 of the applied GDPR, and to consult, where appropriate, with regard to any other matter.
2. The data protection officer shall in the performance of his or her tasks have due regard to the risk associated with processing operations, taking into account the nature, scope context and purpose of processing.