

European Data Protection Update WALA 2014



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Agenda



- Current data protection legislative regime...
 - comparing the position in the UK and Germany
- A look at the draft EU Regulation



UK Data Protection Act 1998 (DPA)
vs.
Bundesdatenschutzgesetz 2009 (BDSG)



- Aims of data protection legislation
- Scope of legislation
 1. Application to most businesses
 2. Implications for businesses
 3. Consequences of breach of the DPA/BDSG
 4. Subject access requests
- Obligations on data controllers
 1. Notification
 2. Compliance with the data protection principles

Eight Data Protection Principles



- Data Protection Principles
 1. Processed fairly and lawfully
 2. Obtained only for specified lawful purposes
 3. Adequate, relevant and not excessive
 4. Accurate
 5. Not kept for longer than is necessary
 6. Processed in accordance with individuals' rights
 7. Secure
 8. Not transferred to countries outside the EEA without adequate protection

Most commonly addressed in...



- Privacy Policy
- Security Policy
- Document Retention and Handling Policy
 - Personal data of employees
 - Personal data of customers

The Draft General Data Protection Regulation



- Draft EU Regulation on the Protection of Individuals w.r.t. the processing of personal data and on the free movement of such data
- Implementation *could be* as early as 2016 but...new MEPs have slowed the momentum down
- Main legal basis:
 - Regulation → Direct Effect

Hopefully this...

- Reduces legal fragmentation
- Increases legal certainty

The Draft General Data Protection Regulation



- **Main Areas to Note:**
 - Mandatory Breach Notification
 - Fines for data breaches → up to €100M or 2 - 5% of worldwide annual turnover
 - Right to be forgotten
 - Data Protection Officer
 - Supervisory Authorities
 - ✦ National
 - ✦ EU level

Conclusion / Q&A



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