

LAW AND DIGITAL TECHNOLOGIES
INTERNET PRIVACY AND EU DATA
PROTECTION

The Data Protection Officer

Gerrit-Jan Zwenne
Seminar VI.a
November 1st, 2017



what is a data protection officer?

- someone (m/f) in the organization of a controller or processor *not a committee or commission, but an individual*
- who informs and advises that controller or processor on data protection compliance, and particularly on DPIA's *could be an employee, could be from an external organization*
- and who monitors compliance with applicable DP-law *not part of management(!)*
- and cooperates with DPA's and acts as contact-point *not a whistleblower(!)*



who should appoint a data protection officer?

- public authority or body (but not courts)
- core activities consist of processing operations that require systematic large-scale monitoring of data subjects
- core activities consist of large-scale processing of special data and criminal data

determined under national law... universities, bar associations?


'primary activities, i.e. not relating ancillary activities'
key operations to achieve the controller's or processor's goals

Therefore, not salary administration, unless that is the core-activity of a processor (e.g. Workday)

hospitals, public transport, fastfood delivery, search engines, telco's, banks etc.

The number of data subjects concerned - either as a specific number or as a proportion of the relevant population


- volume of data and/or the range of different data items being processed
- duration, or permanence, of the data processing activity
- geographical extent of the processing activity



SHOULD YOUR COMPANY APPOINT A DATA PROTECTION OFFICER (DPO) UNDER THE EU GDPR?

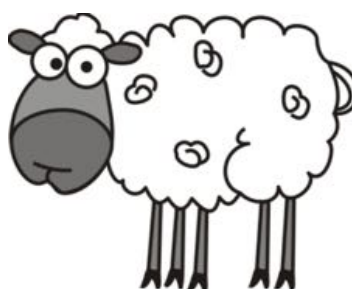
DPO Network Europe
European Privacy Recruitment

(1) EU Member States may have / introduce other laws which require appointment of DPOs. Organisations may also opt to appoint DPOs even if there is no legal requirement at EU or Member State level. (2) For a definition of personal data, consult Article 4(1) of the EU GDPR. (3) For a definition of special categories of personal data, consult Article 9(1) of the EU GDPR. (4) See 102(1) list of EU Member States. This document has been prepared for informational purposes only. The content of this document does not constitute legal advice and should not be relied upon as such. Consult your legal counsel when in any doubt about understanding your rights and obligations in order to comply with the law and regulations.



what are the tasks of a data protection officer?

- informing and advising a controller or processor on data protection compliance, and particularly on DPIA's
- monitoring compliance with applicable DP-law
- and cooperation with DPA's and acting as contact-point



what are the requirements for a DPO?



- expertise and professional qualities, and the ability to fulfill his or her tasks
- independent

on DP-law, on the organization of the controller or processor, on data flows, ICT, etc.

all of the above, and well-positioned in the organization of the controller or processor

exclude or provide for solutions in case of conflicts of interest

QUESTIONS

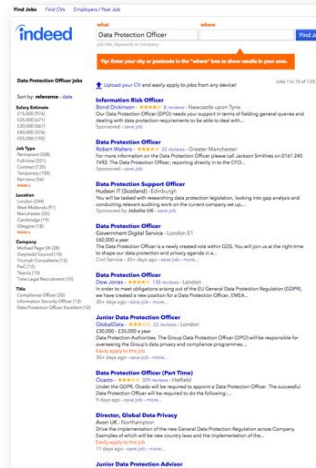
could a private practice lawyer be a DPO?
is a controller allowed to designate the Data Governance Officer as DPO?



why a data protection officer?

because of

- DPO-obligation (art. 37(1) GDPR)
- accountability-obligation (art. 5(2) GDPR)
- DPA's expectations
- data subjects' expectations
-?



questions?

g.j.zwenne@law.leidenuniv.nl

