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Data Protection Ireland

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Headlines

- Facebook whistleblower says Ireland has unfair pressure, p.18
- Ireland's cyber security chief says cyberattacks are getting "messier and more complicated", p.20

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More enforcement-oriented approach as from January 2022

The Deputy Commissioner has warned controllers of substantial policy changes in how the Data Protection Commission will deal with breach notifications from next year.

Speaking to delegates at the 16th Annual Data Protection Compliance Conference, John O'Dwyer said "you will be aware that we have traditionally taken a very hands on approach to breach notifications, immediately following up with guidance to help [you] to mitigate the effects. From January 2022, that will change. There will no longer be immediate engagement from the DPC and we will no longer offer guidance on mitigation. The lack of immediate response does not mean we are satisfied: we will continue to investigate and determine whether a statutory inquiry is needed."

In addition, the DPC is going to be more heavy-handed with controllers that fail to acknowledge requests from data subjects. "We are going to up our game and punish those controllers", said Mr O'Dwyer. Referring to two recent decisions involving internet platforms that didn't respond to requests for deletion, he said "we are going to punish not just internet platforms, but every controller who doesn't acknowledge access requests."

In a further modification of its approach, the DPC is going to limit its interactions with certain controllers (those who "fail to have regard for their own responsibilities"). Overall, the DPC is going to attempt to apply a common sense, risk-based, enforcement oriented approach, and judicially apply its supervision resources.

The DPC's ability to enforce the GDPR has

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Breach notification webform updated

The DPC has updated its breach notification form in line with its previously expressed intention. The new webform is divided into ten sections which controllers can navigate back and forth between as they progress through the form.

The sections are comprised of: introductory questions; questions relating to cross border matters; details to be provided regarding the person completing the form; timeline of the incident; details of the breach; about the Data Subjects; action taken (before/ after); communication to data subjects; upload supporting documents and submit; and mandatory declarations.

The current breach notification form asks whether the user is notifying a breach as a controller or a processor and whether the user wishes to make a new breach notification or update a previous breach notification. In the new form, users will also be required to confirm whether the breach reaches the risk threshold for notification and whether the breach falls under the Law Enforcement Directive.

The DPC has released a summary of all the changes which can be read at: www.pdp.ie/docs/11009