

Data Protection Ireland

Volume 17, Issue 5

September / October 2024

Headlines

- Supreme Court to consider whether data breach damages claims require pre authorisation, p.18
- Meta challenges EDPB’s ‘pay or consent’ decision, p.19

Contents

<i>Expert comment</i>	2
<i>GDPR compliant school social media use — recommended guidance</i>	4
<i>Practitioner Certificate in Data Protection Examination Results</i>	8
<i>Access rights: the GDPR vs the EU Data Act</i>	10
<i>Safeguarding Critical Infrastructure and Digital Services — recent EU and UK developments</i>	13
<i>News & Views</i>	17

DPC takes urgent court action against X over AI data concerns

The Data Protection Commission has taken urgent High Court action against X (formerly Twitter) that is likely to have significant implications for organisations using personal data to train artificial intelligence (‘AI’) systems.

The action relates to the company’s AI-powered search tool, Grok, which was developed to challenge more mainstream models such as ChatGPT.

X recently decided to automatically use posts and interactions from the site to train the chatbot. The decision meant that those who did not consent to their data being used in

this way would have to manually turn it off.

The DPC is alleging that through this behaviour, X processed public posts of X’s EU and EEA users between 7th May and 1st August unlawfully.

The case is the first time that the DPC invoked section 134 of the Data Protection Act 2018 (‘DPA’), which allows the regulator to make an application to the High Court for an order suspending, restricting or prohibiting the processing of data where the DPC considers there is an urgent need to act to protect the rights and freedoms of data subjects.

Some of the hearing, which took place on 6th August, seems to have been concerned with procedural matters. X contested that the evidential threshold required for the section 134 application was met, stating that it only received the papers for the application two days prior to the hearing, and as such did not have sufficient time to formulate a statement of opposition to the claims of the DPC.

The company argued that in order to properly defend the proceedings, it would need to adduce complex technical evi-

[\(Continued on page 17\)](#)

New guidance on AI and large language models

The DPC has issued new [guidance](#) (‘the Guidance’) on the data protection implications of AI and large language models.

The Guidance is addressed to both organisations using AI services and AI product providers themselves.

The Guidance states that before they start using AI systems, organisations should carry out formal risk assessments. The

assessment should help them to understand what personal data they use; how they use them; where the personal data go in situations where a third-party is involved in the processing; whether the data are retained by the provider of the AI product or re-used in any way; and how the product allows the controller to meet its GDPR obligations. The AI provider’s documentation should be understandable and ac-

cessible in compliance with Articles 13 and 14 of the GDPR.

The Guidance recommends 12 specific considerations for AI product providers.

Among these, AI product providers should consider the purpose and goals of their processing and if there are other non-AI technologies or means to

[\(Continued on page 18\)](#)