

Data Protection Ireland

Volume 13, Issue 3

May / June 2020

Headlines

- DPC issues first GDPR fine, p.18
- Health Service Executive suspends practice of informing employers of COVID-19 statuses, p.19
- Identities of NI abuse survivors exposed in data breach, p.20

Contents

| | |
|---|----|
| <i>Expert comment</i> | 2 |
| <i>The DPC's new guidance on cookies</i> | 4 |
| <i>Belgian SA challenges the independence of DPOs</i> | 8 |
| <i>Legal responsibilities of processors — a guide</i> | 12 |
| <i>News & Views</i> | 17 |

All eyes are on the DPC, as it moves to close high profile cases

The Data Protection Commissioner has given a status update on its inquiries into several big techs amidst a climate of growing pressure from privacy activists and other EU regulators impatient for the DPC to complete its investigations.

The DPC has submitted a draft decision to other EU Supervisory Authorities (in line with Article 60 of the GDPR) regarding its inquiry into Twitter, which focusses on whether the company has complied with Articles 33(1) and 33(5) of the GDPR.

The regulator has also sent a preliminary draft decision to WhatsApp Ireland Limited for its submissions. That decision is related to the DPC's inquiry into WhatsApp's compliance with Articles 12 to 14 of the GDPR in terms of transparency, including in relation to transparency around what information is shared with Facebook.

Just prior to the second anniversary of the GDPR, the DPC issued its first GDPR fine against national child and family agency Tusla (see page 18 for the full story). However, it's the DPC's regulation

of the big technology companies that many commentators are concerned about. The fines and orders to change against the big techs have been eagerly awaited — and in some quarters, were expected much sooner.

For the DPC's defenders, its slow pace in taking on cases, putting together investigations and figuring out how to enforce the new rules is a sign that Ms Dixon and her team are taking the role seriously. The GDPR does not give enough detail on

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

Belgian ruling prompts serious concerns about dual role DPOs

The Belgian Data Protection regulator has fined a company for having appointed its Head of Compliance, Audit and Risk as Data Protection Officer, finding that this combination of roles creates a conflict of interest and therefore constitutes an infringement of Article 38(6) of the GDPR.

The company had argued that there was no conflict of interest between the roles, to the extent that

the DPO was not involved in any decision-making around the processing of personal data.

However, the regulator said that in its capacity of Head of Compliance, Risk and Audit, the DPO was the end-responsible person for the processing of personal data in the context of the organisation's compliance, risk and audit activities. As a result, it was impossible for the

DPO to exercise any independent oversight on these processing activities.

On the basis of the fact that 'the concept of the DPO is not new' for many Member States and organisations, the regulator's Dispute Chamber concluded that in combining the roles, the company acted with a 'significant degree of

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