

Data Protection Ireland

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- Major provisions of Singapore law now in force, p.18
- ODPC questions Facebook in wake of revelations regarding mood influencing, p.19

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Working Party ‘sets record straight’ on risk-based approach

The Article 29 Working Party has clarified its view on a ‘risk-based regulatory approach’, a core concept for data protection in Europe, and a particular area of interest for the UK regulator.

The Working Party issued a statement (www.pdp.ie/docs/10046), prompted by what it says are its concerns, both in relation to discussions on the new EU legal framework for data protection and more widely, that the risk-based approach is being ‘increasingly and wrongly presented as an alterna-

tive to well-established data protection rights and principles, rather than as a scalable and proportionate approach to compliance.’ The Working Party intends to ‘set the record straight’ with its statement.

Far from a new concept, the risk-based approach is well known from the current Data Protection Directive (95/46/EC). One such application of it in the Directive is the processing of special categories of data (Article 8), in that strengthened obligations result from processing which is considered risky for

the persons concerned. As the Working Party points out, the risk-based approach has also been laboured as a core element of the Accountability Principle (Article 22) in the draft Data Protection Regulation.

In addition to the obligation of security (Article 30 of the draft Regulation), and the obligation to carry out an Impact Assessment (Article 33), the approach has been extended and reflected in other implementation measures, such as the data protection by design

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EU authorities to coordinate regarding ‘take down’ requests

The Office of the Data Protection Commissioner and its European counterparts on the Article 29 Working Party are working on guidelines to help data protection authorities respond to complaints about the removal of personal information from search engine results.

The guidelines are being developed in response to the recent judgment by the European Court of Justice that ordered Google to

remove search engine results of a Spanish citizen. The recommendations aim to ensure a consistent approach by European data protection authorities in response to complaints when takedown requests are refused by the search engine provider.

The news follows the issuing of a strongly worded statement from the Article 29 Working Party vowing to investi-

gate if the company refuses to abide by the European Court of Justice ‘right to be forgotten’ ruling. The group advised web search engines ‘to put in place user-friendly and pedagogical tools for the exercise by their users of their right to request the deletion of the search results links containing information relating to them’.

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