

International Enforcement Co-ordination Event Styal, Cheshire 2014

Workshop One

Jo Stones & Nick Martin
Civil Investigation Team, Enforcement

What to expect from the workshop

1. Introductions (5 minutes);
2. Considerations and issues (5 minutes);
3. **Activity one.** Two groups (15 minutes);
4. Summary of discussions from each sub group (5 minutes);
5. **Activity two.** Group discussion on how DPAs identify a lead authority where an issue spans multiple authorities, and how this impacts their investigations (20 minutes);
6. Summary of discussions from each group (5 minutes);
7. Closing comments (5 minutes)

Workshop one – data controllers, data processors and lessons learnt

UK 1998 Act definitions:

'data controller' means, subject to subsection (4), a person who (either **alone** or **jointly** or in **common** with other persons) determines the purposes for which and the manner in which are personal data are, or are to be, processed;

'data processor' in relation to personal data, means any person (other than an employee of the data controller) who processes the data on behalf of the data controller

Common challenges

- Remoteness of the data controller from the actual processing;
- Shared services (multi-agency working; collaboration units);
- Sub-contracting by the data processor with or without the knowledge of the data controller;
- Lack of appropriate consideration from all parties involved in the business relationship– a need to embrace a 'back to basics' approach

Common challenges. Cont.

- Data processing on an international scale;
- New and emerging technology;
- Customer interaction and perceptions – relationship may be with the processor, not necessarily the data controller

Workshop Activities

- The scenarios and data controllers are fictitious but have elements derived from real life cases;
- The solutions should be based on best case outcomes that assume that all DPA's are working to the same common goal;
- Don't be afraid to suggest something radical, there isn't necessarily a right or wrong answer;
- The purpose of the workshop is to stimulate debate;
- Use the summary information to help you;
- Pens and paper are available if you need to make notes / map out your understanding of the incidents and the interlocking relationships;
- Jo and Nick are on hand to assist

When completing the activity

- Consider your own way of working – this will help us to identify the differences across the groups;
- Consider whether it is possible to identify common practices that should/could be developed?
- Where possible, identify ways of merging common practice – how might this help us collaborate on cross border cases?

Activity one (15 Minutes)

- Split into two groups;
- Elect a spokesperson to feedback;
- Discuss the fictitious scenarios;
- Determine;
 - Who is the data controller?
 - Is there more than one data controller?
 - Could they be joint data controller's or data controllers in common?
 - Are there any data processors?

Activity one: feedback (5 Minutes)

- Did both groups reach the same conclusion in identifying data controllers / data processors?
- What were the challenges faced and how might these affect our ability to carry out effective cross border enforcement?

Activity two (20 Minutes)

- Regroup;
- Elect a spokesperson to feedback (this can be the person who provided feedback previously if preferred);
- Revisit the fictitious scenarios;
- Determine;
 - Which international DPA's may need to be involved in the investigation of each incident?
 - Who might take the lead and why?
 - Is there a possibility that regulatory action might be taken by more than one international DPA? If so why?

Activity two: feedback (5 Minutes)

- Did both groups reach the same conclusion in identifying which international DPA's should take on which part of the investigation?
- What were the challenges faced? How might we overcome these?

Closing comments (5 minutes)

- Unravelling data controller / data processor relationships can be difficult;
- Data controller / data processor relationships in an international context can present further challenges;
- New and emerging technology is facilitating ever more complex data controller / data processor relationships;
- By working together we may be able to identify and overcome common areas of difficulty

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