

EU Data Protection proposals: The ICO's perspective

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General observations:

- Data protection law needs updating
- Paper-age rights and pre-internet concepts
- Scope increasingly unclear (identify / relate to?)
- Overseas transfer rules
- Sensitivity without context
- Role of consent?
- Harmonisation?

What the ICO called for

- Overarching, clear scope, easy to understand and apply
- Effective rights with simple, low cost means of exercise
- Responsibility and accountability throughout information life cycle
- Obligations focussed on risks
- Independent data protection authorities with effective powers and flexibility

Provisions we welcome

- Improved rights for individuals
- Clearer responsibility on organisations
- High standard of consent
- Incorporation of important new concepts
- Codes of conduct/certification
- Stronger supervisory authorities
- More consistency across the EU

Less welcome

- Two separate instruments
- Weaknesses in the proposed Directive
- Over prescription of details
- Lack of focus on privacy risk
- Retention of special categories of data
- Outdated approach to international transfers

Some doubts

- Right to be forgotten
- Enforceability outside the EU
- Criminal offences
- Public access to official documents
- Potential workload of supervisory authorities
- Funding of ICO

Further work needed

- Processing of special categories
- International transfer rules
- Role of the DP authority
- Genuine accountability
- One stop shop/consistency mechanism
- Fines for non compliance
- The proposed Directive

The ICO contribution

- Expert advice based on experience
- Detailed analysis published
- Various stakeholder events
- Research on impact
- Active in Article 29 Working Party
- Preparing for implementation!

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