

# THE DATA PROTECTION OFFICER (DPO)

## The DPO checklist

Must be independent.



May benefit from support from a cross-functional 'data protection office'.



Offers the ability to handle data compliance internally.



May reduce intervention by regulatory authorities.



Must be provided with resources, access to information and a reporting line to senior management.



May be physically located in another jurisdiction.



## The external DPO

- ☺ Experienced in role.
- ☺ Able to benchmark compliance against competitors.
- ☺ Knows the market; speaks a common language.

- ☹ Higher costs.
- ☹ Less insight on company structures and processes.
- ☹ Exposes the business to a third party.

## The internal DPO

- ☺ Knows the business and its data flows.
- ☺ Sits in an existing function.
- ☺ Has a direct reporting line to the management function.

- ☹ Resourcing difficulties - the role requires a range of skills.
- ☹ Labour laws may shield under-performing DPOs from termination; consider limited-term appointments.
- ☹ Recent German court ruling barred Heads of Function from being appointed DPO owing to conflicts of interest.

## Q When is a DPO not a DPO? A When it's a CPO!

A DPO is a specific title with a formal set of responsibilities and requirements recognised under EU law. Many companies are strengthening their data protection offering with the appointment of a role with ostensibly the same functions as a DPO - a Data Protection Manager, Head of Privacy or Chief Privacy Officer. However, the Article 29 working party has made clear: a title by any other name is simply not the same! Though many are seeking greater clarity on the role of the DPO before making a formal appointment, there are advantages to creating a DPO before it becomes a requirement. By demonstrating a company's commitment to protecting customers, vendor and employee data, DPOs can...

Engender positive cultural change.

Enhance reputation.

Add credibility to the DP function.

Increasingly become a requirement in certain RFPs.

## Post-Brexit: a bright future for UK DPOs

The General Data Protection Regulation (GDPR) will apply from May 2018.

The GDPR will apply for a period during withdrawal negotiations - regardless of any Great Repeal Bill that might be passed post-Brexit.

The Information Commissioner's Office is very much in favour of accountability and the DPO concept.

Expect the UK's post-Brexit data protection regime to operate in a manner equivalent to the GDPR.

## Your Baker McKenzie contacts



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