European Data Protection Update WALA 2014

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Agenda

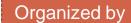
- Current data protection legislative regime...
 - ocomparing the position in the UK and Germany

A look at the draft EU Regulation









Current Position across Europe

- Directive 95/46/EC
- Broadly but inconsistently implemented
- Basics are the same
- But...national differences in
- interpretation



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UK Data Protection Act 1998 (DPA) Bundesdatenschutzgesetz 2009 (BDSG)

- Aims of data protection legislation
- Scope of legislation
 - Application to most businesses
 - Implications for businesses
 - Consequences of breach of the DPA/BDSG
 - 4. Subject access requests
- Obligations on data controllers

Host

- Notification
- Compliance with the data protection principles







Eight Data Protection Principles

- Data Protection Principles
 - Processed fairly and lawfully
 - Obtained only for specified lawful purposes
 - Adequate, relevant and not excessive
 - Accurate
 - Not kept for longer than is necessary
 - Processed in accordance with individuals' rights
 - Secure
 - 8. Not transferred to countries outside the EEA without adequate protection

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Most commonly addressed in...

- Privacy Policy
- Security Policy
- Document Retention and Handling Policy
 - Personal data of employees
 - Personal data of customers





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The Draft General Data Protection Regulation

- Draft EU Regulation on the Protection of Individuals w.r.t. the processing of personal data and on the free movement of such data
- Implementation *could be* as early as 2016 but...new MEPs have slowed the momentum down
- Main legal basis:
 - Regulation \rightarrow Direct Effect

Hopefully this...

Reduces legal fragmentation

Host

Increases legal certainty







The Draft General Data Protection Regulation

• Main Areas to Note:

- Mandatory Breach Notification
- o Fines for data breaches → up to €100M or 2 5% of worldwide annual turnover
- Right to be forgotten
- Data Protection Officer
- **Supervisory Authorities**
 - **National**
 - EU level

Buenos Aires











Conclusion / Q&A

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