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PRIVACY LAWS BUSINESS DATA PROTECTION & PRIVACY INFORMATION WORLDWIDE

UK Court of Appeal limits exemptions to access rights

Marcus Evans and **Yasmin Lilley** explain the importance of this recent court decision in the *Dawson-Damer case*.

nder the UK Data Protection Act 1998 (DP Act), data subjects have rights to obtain copies of their personal information through a data subject access request (DSAR). Data subjects frequently use DSARs to obtain information in the context of nondata protection disputes with data

controllers. There has been much controversy over this practice, particularly as the £10 maximum fee the data controller may charge is a small fraction of the cost of complying with the request.

On 16 February 2017 in Dawson-

Continued on p.3

Data brokers beware: The ICO may be coming for you

The ICO will crack down on bad actors in the data broker industry in coming weeks. **Dugie Standeford** reports.

ata brokers are organisations which obtain data, some of which may be personal data, from various sources and then sell or license it to third parties for uses such as marketing. In 2012, data brokers' trade in personal information reportedly generated over \$150 billion in revenue, Hogan Lovells' data

protection attorney, Eduardo Ustaran, noted in a 16 February blog posting.¹

The UK Information Commissioner's Office (ICO) has had data brokers in its sight for some time but will now begin monitoring them more closely, Information Commissioner

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What now for data transfers?

Brexit looms. But most organisations will need to transfer data across borders whatever happens. The UK government might be wise to start preparing an application to the European Commission for an adequacy decision now - the previous candidates have waited a long time to obtain their approval from the European Commission. This process has now speeded up due to a more flexible concept of "adequacy" (PL&B International February 2017 p.3). But will the future UK DP regime, post-Brexit, be adequate?

There is no date yet for the Investigatory Powers Act to enter into force. Its surveillance powers may not be seen as fitting with the EU DP regime, from an EU perspective. The Home Office has confirmed that in the light of the December 2016 judgement of the Court of Justice of the European Union relating to the UK's communications data regime, there will be a delay as the matter must now be considered by the domestic courts. However, the Codes of Practice relating to the Act have been published for consultation with responses invited by 6 April (www.gov.uk/government/ consultations/investigatory-powers-act-2016-codes-of-practice).

One solution to transfers are Binding Corporate Rules, which are formally approved as a transfer mechanism under the GDPR. Read on p.6 practical considerations on their use. Company BCR applications are now being processed at the ICO quicker than in the past due to more staff being allocated to this task, as *PL&B* has requested.

Data controllers need to take notice of the recent Data Subject Access Request (SAR) appeal case which may affect the ICO's guidance in this area (see p.1). It is clear from our *Help!* series of Roundtables in November and January that SARs are a much bigger problem in the UK, both in terms of volumes received, and the level of detail expected in compliance compared with most EU Member States. Perhaps another area where the ICO's GDPR guidance would be welcome?

We heard the Commissioner's views on many current DP issues at the ICO's recent stakeholder conference (p.20). The regulator is now working on a new international strategy, and has recently issued draft guidance on consent under the GDPR. Organisations will face many new requirements (p. 5).

New technologies bring new data protection dilemmas with them. In this issue, read about wearable technology monitoring emotions at the workplace (p. 16) and p.13 on how wearable providers can stay within data protection law.

Laura Linkomies, Editor PRIVACY LAWS & BUSINESS

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Privacy Laws & Business regular newsletters and website provide me with a very useful summary of legal developments on data protection issues. This is particularly valuable in the challenging area of keeping up to date on data protection law in multiple geographies. Alan White, Pitney Bowes



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