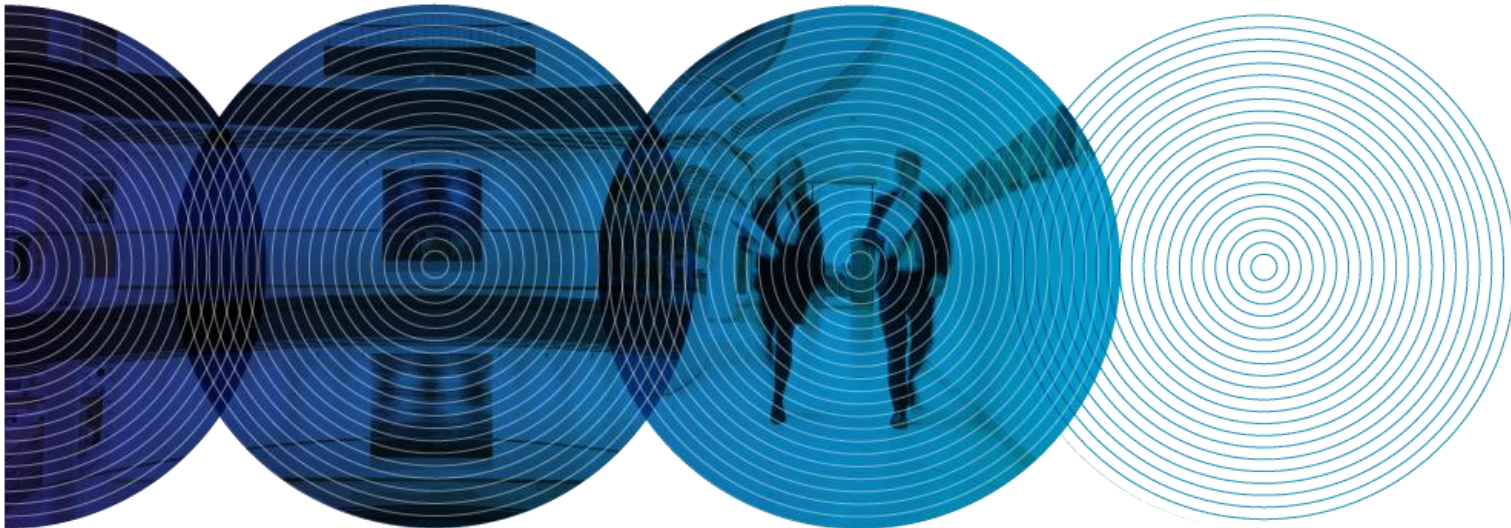

DPIAs and Social Media Monitoring

9 May 2019, Doug McMahon



What is a DPIA?

- Data Protection Impact Assessment
- A process to assess the potential impact of a proposed set of processing operations on the fundamental rights and freedoms of data subjects in connection with the protection of personal data

Why carry out a DPIA?

- Why?
 - *Mandatory in certain circumstances under Article 35 of the GDPR and the Data Protection Act 2018*
- Best practice
 - *Assists in compliance with Articles 24 and 25 of the GDPR*

Who should carry out a DPIA?

- Who?
 - *DPO or equivalent*
 - *External legal adviser? – consider privilege*
- Who should be involved?
 - *Stakeholders*
- Who is it intended to benefit?
 - *Data subjects*
 - *Controller*
 - *Society generally*

When should a DPIA be carried out?

- When?
 - *In advance of processing taking place*
 - *Also consider during and post implementation*

How?

- Process can range from relatively brief and light-touch to lengthy and very detailed
- Steps should be broadly the same

GDPR

- Articles 35 and 36 (and Recitals 84 and 89-95)
- DPIAs mandatory in certain circumstances
- Consultation with Supervisory Authority where high risk identified
- Note that DPIAs can be made mandatory by the DPC and by Regulations (e.g. Data Protection Act 2018 (Section 36(2)) (Health Research) Regulations 2018)

DPIAs – Overview of Process



1. Initial Assessment

- Understand the project
- Identify the privacy issues
- Risk assessment & DPIA decision

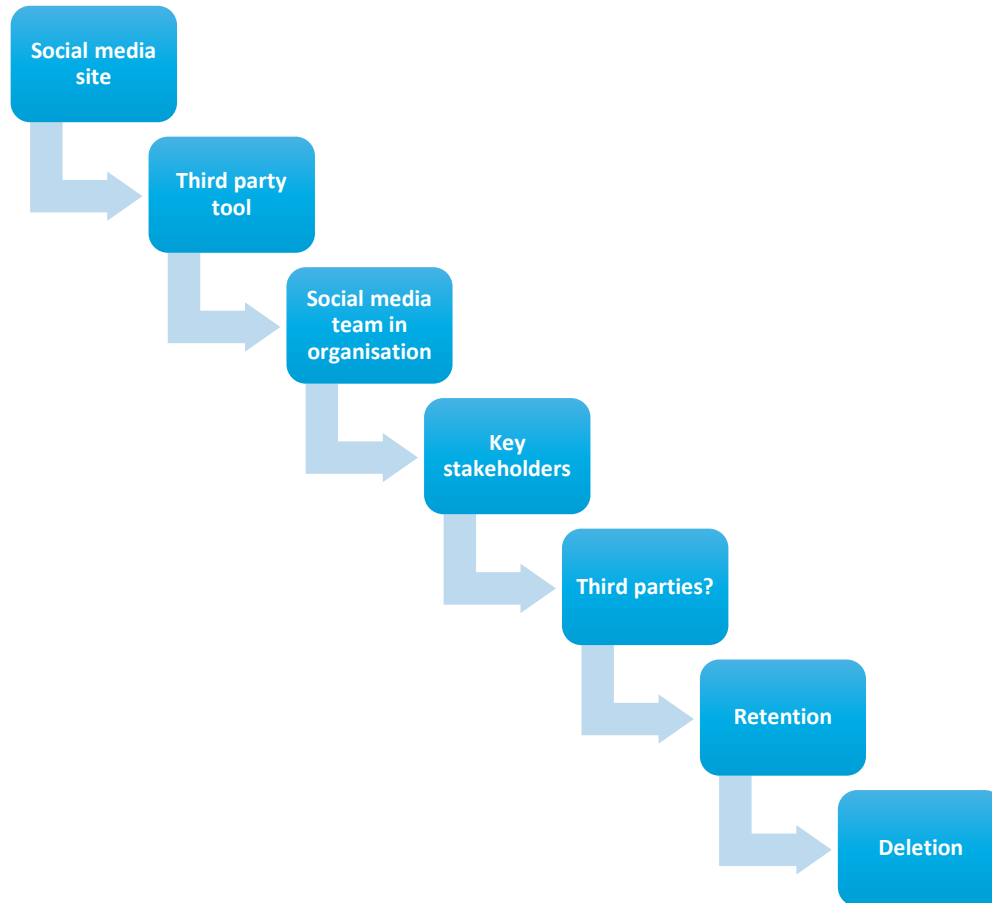
Social Media Monitoring/ Social Media Listening

- Objective: Track and manage online conversations in relation to your brand
- Privacy risks:
 - *Monitoring behaviour of data subjects*
 - *Potentially large scale*
 - *Potential difficulties with transparency*
 - *Potential chilling effect on speech*
 - *Automated processing*
 - *Use of third party tools*
- Highly likely that a DPIA is required

2. Information Flows & Planning

- Document initial assessment
- Describe information flows
- Project team and stakeholders
- DPIA structure and scale
- Resources and budget
- Actions and timetable
- Background paper

Social Media Monitoring/ Social Media Listening



Social Media Monitoring/ Social Media Listening

- Medium to large scale DPIA
- Relatively quick to implement a third party tool, so unlikely to be attached to a significant project
- Time pressure to complete

3. Gather Information and Consult

- Gather information
- Internal and external consultation
- Who and how to consult
- Consultation questions
- Confidentiality concerns
- Assess outputs

Social Media Monitoring/ Social Media Listening

- Key information to gather:
 - *What keywords will be used?*
 - *Will there be sentiment analysis?*
 - *What other information is gathered (e.g. demographics)?*
 - *What will reports be used for?*
 - *Does the tool facilitate interaction with data subjects?*
 - *Is there a mechanism for data subjects to opt-out?*

Social Media Monitoring/ Social Media Listening

- Internal consultation
- External consultation
 - *Focus group?*
 - *Online polls/questionnaires?*
 - *Survey?*

4. Compliance Review

- Timing and results
- Legal issues:
 - *Legal framework & governance*
 - *GDPR, DPAs, E-Privacy Regs, personal right to privacy, law of confidence, others*

Social Media Monitoring/ Social Media Listening

- Primary compliance risks are GDPR/privacy related
- Freedom of expression in some cases may be impacted
- No general legal prohibition

5. Risk Assessment

- Necessity and Proportionality
- Risk assessment
- Further analysis
- Solutions
- Privacy design features

Social Media Monitoring/ Social Media Listening

- Necessity and proportionality test
 - *Can the same goals be achieved through processing less or no personal data?*
- Risks and solutions
 - *Chilling effect on speech – Opt outs*
 - *Lack of transparency – Monitoring policy available on social media channels*
 - *Excessive data collection – Controls on key words*
 - *Use of reports – internal policies*
 - *Retention of data – internal policies*
 - *Security – DD of third party tools, anonymisation/pseudonymisation*

6. Record the Outcomes

- Purpose
- Contents
- Communication

Social Media Monitoring/ Social Media Listening

- DPC may see the DPIA
- Who is responsible for implementing mitigating measures?
- Timelines for implementation
- Disclosure to the public?

7. Implement & Review

- Build into the project (design & implementation)
- Re-do or expand on DPIA
- Assess compliance following implementation

Social Media Monitoring/ Social Media Listening

- Third party tools add features frequently
- Training for users of the tools may be required
- Monitoring the implementation of internal policies is important

DPIAs – Useful links

- **DPC Guidelines** - <https://www.dataprotection.ie/en/organisations/know-your-obligations/data-protection-impact-assessments>
- **ICO Template** - <https://ico.org.uk/media/for-organisations/documents/2553993/dpia-template.docx>
- **EDPB Opinion - "Data Processing for Social Media Monitoring" at the European Central Bank (ECB)** - https://edps.europa.eu/data-protection/our-work/publications/opinions-prior-check/data-processing-social-media-monitoring_en

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