Department for
Digital, Culture
Media & Sport

Fwd: Response from the Office for National Statistics to DCMS call for views on GDPR

27 July 2017 at 15:06

Good afternoon,

Please see below the response from the UK Statistics Authority (Statistics Board) and it's executive office (the Office for National Statistics) to your call for views on the General Data Protection Regulation. We have no comment regarding those themes not mentioned.

I trust that a response by email is acceptable. I have just now attempted to complete the online tool, but was dismayed to find that it had closed at midday today. Particularly because your call for views document states only that responses must be received by 10th May, with no mention of a 12pm deadline. If this emailed response is insufficient (or you need to get hold of me for any other reason) please do let me know using the contact details below.

Thank you.

Response:

Theme 1 - Supervisory Authority

Article 51

We believe that the UKs current approach of having a single Information Commissioner responsible for the regulation of data protection (and freedom of information) should be maintained. It is better for both data subjects and data controllers to avoid the confusion of having multiple supervisory authorities.

Article 90

There are likely sufficient safeguards within the Regulation itself (an obligation of secrecy placed upon the supervisory authority, that any such requests must themselves be both necessary and proportionate) that additional rules may not be necessary. In any event it will ultimately be for the Courts to decide whether the requirement in Article 90 over-rides pre-existing obligations. The obligation of secrecy on information held by the Statistics Board (in section 39 of the Statistics and Registration Service Act 2007) applies equally to the Board, and to those who receive that information

from the Board, in this case the Supervisory Authority. Any rules considered under this Article should be subject to public consultation.

Theme 2 - Sanctions

Article 36

No comment on social protection and public health. With regards the processing of data for statistical purposes we strongly believe there is no benefit in legislating for additional consultation with the ICO over and above what is already required by the Regulation. Such a requirement would place an additional and unnecessary burden on both statistical offices and producers and the supervisory authority.

Theme 5 - Archiving and Research

The processing of personal data for statistical purposes should be exempt from the subject rights set out in Articles 15, 16, 18 and 21. Statistical processing must always be subject to three safeguards (i) the processing is never used to support measures or decisions in relation to individuals (ii) the processing never causes (substantial) damage or distress to individuals (iii) no results of the statistics or statistical research are ever made available in a form that identifies, or could identify, an individual. These are fundamental tennets of statistics, enshrined in EU and UK legislation and the Code of Practise for Official Statistics. They are also the safeguards set out in the Data Protection Act 1998 at section 33. To take the rights individually:
Article 15 (Right of Access) - Information held for statistical purposes is not usually held according to name or any other common identifier, indeed in most instances such identifiers are removed at the earliest opportunity as they are not required to produce aggregate statistics. It would therefore take considerable effort to discover all the information held in relation to a particular individual, and this effort would be entirely disproportionate, since provision of this information to an individual cannot serve any purpose because of the safeguards i.e. the processing cannot cause damage or distress, is never used to make decisions in relation to the individual, and will only lead to aggregate statistics.
Article 16 (Right to rectification) - Again because of the safeguards, even if there were inaccuracies in the data held for statistical purposes, this would have no effect on the data subject. Should this right exist and be exercised then in the best case scenario there would be no effect at all (either on the individual or statistics), but in the worst case it could cause constant amendments in the underlying data used for statistical production, leading to inaccuracies and a loss of confidence in statistics.
Article 18 (Right to restrict) - Any restriction of processing can have no effect on data subjects because of the safeguards, but will adversely affect and impede statistical production, by changing the underlying data.
Article 21 (Right to object) - Where data are processed for statistical purposes the legitimate grounds for that processing (raising public awareness, informing debate, formulation of policy etc) will always outweigh the risk to the rights and freedoms of the data subject, because the safeguards ensure that there is zero risk to those rights and freedoms.

Theme 12 - Processing of Data

Article 6

We are not against this in principle, since the variety of processing that could take place under (c) and (e) is wide. However we are of the view that certain processing operations, such as those defined under Article 89, are already subject to sufficient safeguards. Any proposed provisions under Article 6(2) must be subject to public consultation.