

Regulation (EU) 2016/679 of the European Parliament and of the Council  
of 27 April 2016 on the protection of natural persons with regard to the  
processing of personal data and on the free movement of such data (United  
Kingdom General Data Protection Regulation)(Text with EEA relevance)

*CHAPTER IV*

***Controller and processor***

*Section 4*

***Data protection officer***

*Article 37*

**Designation of the data protection officer**

- 1 The controller and the processor shall designate a data protection officer in any case where:
  - a the processing is carried out by a public authority or body, except for courts acting in their judicial capacity;
  - b the core activities of the controller or the processor consist of processing operations which, by virtue of their nature, their scope and/or their purposes, require regular and systematic monitoring of data subjects on a large scale; or
  - [<sup>X1</sup>c the core activities of the controller or the processor consist of processing on a large scale of special categories of data pursuant to Article 9 or personal data relating to criminal convictions and offences referred to in Article 10.]
- 2 A group of undertakings may appoint a single data protection officer provided that a data protection officer is easily accessible from each establishment.
- 3 Where the controller or the processor is a public authority or body, a single data protection officer may be designated for several such authorities or bodies, taking account of their organisational structure and size.
- 4 In cases other than those referred to in paragraph 1, the controller or processor or associations and other bodies representing categories of controllers or processors may <sup>F1</sup>... designate a data protection officer. The data protection officer may act for such associations and other bodies representing controllers or processors.
- 5 The data protection officer shall be designated on the basis of professional qualities and, in particular, expert knowledge of data protection law and practices and the ability to fulfil the tasks referred to in Article 39.
- 6 The data protection officer may be a staff member of the controller or processor, or fulfil the tasks on the basis of a service contract.
- 7 The controller or the processor shall publish the contact details of the data protection officer and communicate them to [<sup>F2</sup>the Commissioner].

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2016/679 of the European Parliament and of the Council, Section 4. (See end of Document for details)

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### Editorial Information

- X1** Substituted by [Corrigendum to Regulation \(EU\) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC \(General Data Protection Regulation\)](#) (Official Journal of the European Union L 119 of 4 May 2016).

### Textual Amendments

- F1** Words in Art. 37(4) omitted (31.12.2020) by virtue of [The Data Protection, Privacy and Electronic Communications \(Amendments etc\) \(EU Exit\) Regulations 2019 \(S.I. 2019/419\)](#), reg. 1(2), **Sch. 1 para. 31(2)** (with reg. 5, Sch. 1 para. 80); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in Art. 37(7) substituted (31.12.2020) by [The Data Protection, Privacy and Electronic Communications \(Amendments etc\) \(EU Exit\) Regulations 2019 \(S.I. 2019/419\)](#), reg. 1(2), **Sch. 1 para. 31(3)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

## Article 38

### Position of the data protection officer

1 The controller and the processor shall ensure that the data protection officer is involved, properly and in a timely manner, in all issues which relate to the protection of personal data.

2 The controller and processor shall support the data protection officer in performing the tasks referred to in Article 39 by providing resources necessary to carry out those tasks and access to personal data and processing operations, and to maintain his or her expert knowledge.

3 The controller and processor shall ensure that the data protection officer does not receive any instructions regarding the exercise of those tasks. He or she shall not be dismissed or penalised by the controller or the processor for performing his tasks. The data protection officer shall directly report to the highest management level of the controller or the processor.

4 Data subjects may contact the data protection officer with regard to all issues related to processing of their personal data and to the exercise of their rights under this Regulation.

5 The data protection officer shall be bound by secrecy or confidentiality concerning the performance of his or her tasks, in accordance with [<sup>F3</sup>domestic law].

6 The data protection officer may fulfil other tasks and duties. The controller or processor shall ensure that any such tasks and duties do not result in a conflict of interests.

### Textual Amendments

- F3** Words in Art. 38(5) substituted (31.12.2020) by [The Data Protection, Privacy and Electronic Communications \(Amendments etc\) \(EU Exit\) Regulations 2019 \(S.I. 2019/419\)](#), reg. 1(2), **Sch. 1 para. 32** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

## Article 39

### Tasks of the data protection officer

- 1 The data protection officer shall have at least the following tasks:
  - a to inform and advise the controller or the processor and the employees who carry out processing of their obligations pursuant to this Regulation and to [<sup>F4</sup>other domestic law relating to data protection];
  - b to monitor compliance with this Regulation, with [<sup>F5</sup>other domestic law relating to data protection] and with the policies of the controller or processor in relation to the protection of personal data, including the assignment of responsibilities, awareness-raising and training of staff involved in processing operations, and the related audits;
  - c to provide advice where requested as regards the data protection impact assessment and monitor its performance pursuant to Article 35;
  - d to cooperate with [<sup>F6</sup>the Commissioner];
  - e to act as the contact point for [<sup>F7</sup>the Commissioner] on issues relating to processing, including the prior consultation referred to in Article 36, and to consult, where appropriate, with regard to any other matter.
- 2 The data protection officer shall in the performance of his or her tasks have due regard to the risk associated with processing operations, taking into account the nature, scope, context and purposes of processing.

#### Textual Amendments

- F4** Words in Art. 39(1)(a) substituted (31.12.2020) by [The Data Protection, Privacy and Electronic Communications \(Amendments etc\) \(EU Exit\) Regulations 2019 \(S.I. 2019/419\)](#), reg. 1(2), **Sch. 1 para. 33(2)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in Art. 39(1)(b) substituted (31.12.2020) by [The Data Protection, Privacy and Electronic Communications \(Amendments etc\) \(EU Exit\) Regulations 2019 \(S.I. 2019/419\)](#), reg. 1(2), **Sch. 1 para. 33(2)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in Art. 39(1)(d) substituted (31.12.2020) by [The Data Protection, Privacy and Electronic Communications \(Amendments etc\) \(EU Exit\) Regulations 2019 \(S.I. 2019/419\)](#), reg. 1(2), **Sch. 1 para. 33(3)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in Art. 39(1)(e) substituted (31.12.2020) by [The Data Protection, Privacy and Electronic Communications \(Amendments etc\) \(EU Exit\) Regulations 2019 \(S.I. 2019/419\)](#), reg. 1(2), **Sch. 1 para. 33(3)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

**Changes to legislation:**

There are currently no known outstanding effects for the Regulation (EU) 2016/679 of the European Parliament and of the Council, Section 4.