

Consultation questions: Data Protection Fining Guidance

Start date: 2 October 2023

End date: 27 November 2023

About you

Your name:

Email address:

If you are responding on behalf of an organisation, please tell us the name of the organisation, your role and (if applicable) how the views of the members of the organisation have been obtained:

If you are responding as an individual, please tell us if you are responding in a professional or private capacity:

If you are responding as an individual, please tell us if you consent to us publishing your name alongside your response (we will otherwise publish your response anonymously):

Our questions

Answers to the following questions will be helpful in finalising the draft Data Protection Fining Guidance. You do not need to answer all the questions.

The headings refer to the relevant sections of the draft Data Protection Fining Guidance.

Statutory Background

1. Do you have any comments on our approach to the concept of an 'undertaking' for the purpose of imposing fines?

No put to ensure an organisation is held responsible and not the individual.

- 2.** Do you have any comments on our approach to fines where there is more than one infringement by an organisation?

Fines should be incremental, after working for a period of time within the justice system and receiving informal feedback every person said that punishment should be hard first time and if behaviours are repeated than use a doubling strategy until behaviours change.

- 3.** Do you have any other comments on the section on 'Statutory Background'?

None.

Circumstances in which the Commissioner would consider it appropriate to issue a penalty notice

- 4.** Do you have any comments on our approach to assessing the seriousness of an infringement?

More emphasis on potential harm not just actual harm.

- 5.** Do you have any comments on our approach to assessing relevant aggravating and mitigating factors?

No.

- 6.** Do you have any comments on our approach to assessing whether imposing a fine is effective, proportionate and dissuasive?

A tougher stance, supported by more readily available training - especially using online training.

- 7.** Do you have any other comments on the section on 'Circumstances in which the Commission would consider it appropriate to issue a penalty notice'?

No.

Calculation of the appropriate amount of the fine

- 8.** Do you have any comments on calculating the starting point for the fine based on the seriousness of the infringement?

As previous tougher fines.

- 9.** Do you have any comments on our approach to accounting for turnover when calculating the fine?

No, it should be proportionate.

- 10.** Do you have any comments on how we apply aggravating and mitigating factors when calculating the fine?

No.

11. Do you have any comments on how we make any necessary adjustments to ensure the fine is effective, proportionate and dissuasive?

More use of regular, monitoring revisits.

12. Do you have any other comments on our five-step approach to the calculation of the appropriate amount of a fine?

No.

Financial hardship

13. Do you have any comments on our approach to financial hardship?

Too lenient, if it causes hardship for a firm where was their consideration of the hardship it may have caused by the breach. Cyber fraud is a growing crime and every organisation has to take responsibilities.

Any other comments

14. Do you have any other comments on the draft Data Protection Fining Guidance?

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