EUROPEAN DATA PROTECTION SUPERVISOR

The EU’s independent data protection authority

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REVISION OF THE EDPS GUIDELINES ON PERSONAL DATA BREACHES

Workshop - 49th meeting EDPS/DPOs

04 June 2021
Goal of this workshop

1. Discuss experiences from the personal data breach handling process
2. Discuss expectations on notifications and feedback
3. Identify areas in which more guidelines are needed
Workshop Outline

Inclusion: Get to know each other
EDPS Experience from personal data breach notifications
Data breach notification Guidelines Update
Discussion
Feedback on the notification handling process
Discussion
Next Steps
Inclusion:
Get to know each other
EDPS Experience from personal data breach notifications
## EDPS experience from personal data breach notifications

Differences in the way EUIs handle and notify personal data breaches.
- time to report
- information provided in the notification form
- maturity of assessment
- actions to mitigate the risk to the data subject

Some EUIs have never submitted DBNs

Questions on assessment (e.g. unlikely to result in risk)
Identified errors on the assessment of the risk to the data subjects (Risk/High Risk)

DPO relation with the Information security officer and IT management

Processor’s reaction to personal data breaches
EDPB Guidelines 01/2021 on Examples regarding Data Breach Notification

EDPS Guidelines on Personal Data Breach Notification
Under Revision

EDPS will be more resolute on notification, supervision and enforcement

  e.g. recurrent or serious omissions in the personal data breach handling,
  negligence from an EUI to implement security measures following our specific recommendations on previous cases that the same EUI had.
EDPS Guidelines on Personal Data Breach Notification: Update
Guidelines on Personal Data Breach Notification: Update (1/4)

Scope of EDPS updated guidelines
• All Union institutions, offices, bodies and agencies
• Operational data processing operations

High-Risk indicators
• Categories of data: special categories of data, ids/passports, manual signatures, unencrypted passwords to access staff accounts or systems (emails, etc)
• Sensitive context: performance appraisals at work, recruitment process, political context (e.g. usernames in a political party’s website).

Elements to include in the notification
• explanation of the system or the process in 1-2 lines.
• description of the equipment compromised during an external attack
• source of the data breach
When to *not* notify?
Threshold of “unlikely to result in a risk to the rights and freedoms of natural persons”.
- Elements that may contribute to unlikely risk:
  - public information,
  - trusted recipient, e.g. contractually bound to confidentiality
  - security measures that make access to the personal data extremely difficult
  - time period of unavailability of personal data in relation to the provided service and effect to the individuals rights
  - other mitigating measures such as successful recall of an erroneously sent email.

- Always in relation to the context.

- In any case you *always* need to **document the data breach to your registry** along with any relevant information, e.g. the assessment and taken measures. (must be accessible to EDPS on demand)
Guidelines on Personal Data Breach Notification: Update (3/4)

Should you notify when you are not sure?
Cases in which the controller is not yet sure of the data breach, but there high indications of one. Usually in cases of external attacks, but also in cases of technical errors.

- Important asset related to user management and authentication is breached (e.g. domain controller)
- A system containing a large amount of personal data is breached.
- A system containing special categories of data is breached.
- If you have indications that personal data were copied, do not wait to see if the copies were extracted.
- If you do not have log data for all the period the data breach has taken place.
- If data has been made public and you do not know if they were accessed.

Qualitative assessment and proactive actions are important!
For example when a breach of personal data can definitely create significant damage to the data subject(s). e.g. appraisals, complaints
“Not your usual DBN cases”
Examples of cases when a personal data breach takes place but the EUI is not in control of the device or the system:
• EUI is informed of user account credentials found in the darkweb
• An email containing sensitive personal data is accessed via an attack to the recipients’ server.
• Employees telephone numbers leaked from a chat application on compromised mobile device (used in the context of work)
Discussion:

elements missing from the guidelines
Feedback on the notification handling process
Feedback on the notification handling process (1/2)

**EDPS feedback to your assessment**

- Main goal to **quickly assess the case and inform the controller** in case we see quick mitigation measures or inform if we see high risk and you need to inform the data subjects.
- **Closure letters** with feedback on your application of the process and proposals for measures to avoid similar incidents in the future.

**Copy of your notification when it is submitted via the webform**

- Requests for providing a copy of your submission.
- Technical difficulties, mainly for security reasons.

For the moment, we advise you to print or save the form before you submit it, as also indicated in the website. Otherwise, you need to contact us to ask for a copy of your submission.
Feedback on the notification handling process (2/2)

**Intelligence from EDPS DBN registry**
- statistics in the annual report of EDPS
- your ideas for enrichment and/or needs for other publications

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**DBN PER MONTH 2020**

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**Type of Security Incident**

- Confidentiality: 115
- Availability: 6
- Integrity: 2

**Root cause of the DB**

- Human Error: 1
- Technical Bug Functionality: 11
- External Attacker (spyware, spoofing etc): 25
- Unauthorized access: 63
Discussion:
EDPS feedback
Give us your feedback

What?
- Proposals for missing elements in the guidelines
- Examples of personal data breaches (not obvious, difficulty in assessment)

When?
- by 18 June 2021

Where?
- DATA-BREACH-NOTIFICATION@edps.europa.eu
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