# Trainer Guide

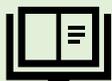## Data Protection Act 2018 Training Course

## Abstract

The one-day **Data Protection Act 2018 Training Course** provides a comprehensive introduction to the Data Protection Act 2018, and a practical understanding of the implications and legal requirements for organisations of any size. The course is part of the IT Governance data protection pathway.

# User Guide

Below are a few of the indicators you will find throughout this guide.
They are designed to trigger the Trainer to instances of different activities and opportunities for enhancement within the course.

| | |
|---|---|
| **socrative** | Trainer facilitates answers to a knowledge check question |

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| 📖 | Facilitate an exercise, group activity or instruct learners to fill in the learner guide |

| | |
|---|---|
| 📁 | Note |

| | |
|---|---|
| 🧠 | Trainer facilitates a discussion |

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|---|
| *"An extract from a standard"* |

| | |
|---|---|
| 📋 | Trainer facilitiates completing the **Action plan** |

| | |
|---|---|
| | **Slide title**<br>A thumbnail of the slide is provided on the left.<br>Brief trainer notes are outlined in this box.<br>**EXAMPLE**: Examples to illustrate and support explanations are highlighted in yellow |

## Introduction

## Introduction
**Expected time in section – 15-20 minutes**



**Welcome**
- Introduction
- Describe your job?
- Describe how your experience make you qualified to teach this subject?
- Explain that this is **not** legal advice
- We **WILL** be discussing the new DPA and how it interfaces with the GDPR



**Housekeeping**
- Breaks at mid-morning and md-afternoon
- Fire/evacuation routes
- Mobile phones (off)
- Security – room will be locked at each break



Trainer facilitates introductions via Socrative



**Introductions**
- Use the answers provided from Socrative to assist the welcome but still do a round robin



**Getting the most of this course**
Key points to raise:
1. This is a intermediate course that is designed to build on your knowledge of data protection.
2. Ask questions as we go along (I may hold them if it they'll be covered later). Share relevant experiences. There are further opportunities for questions at the end of each module
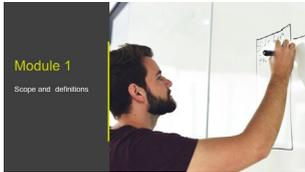


**Course objectives**
- Differences between the DPA 1998, 2018 and the GDPR.
- Processing special categories of personal data.
- The obligations of controllers and processors
- Data subject rights
- Transfer of personal data
- The functions and roles of the ICO

## Module 1

# Module 1 – Scope and definitons of the DPA 2018
**Expected time in section – 40 minutes**



**Module aims:**
By the end of this module the delegate should be able to:

- Explain the terms and definitions within the DPA;
- Explain the lawful bases that can be applied to a processing activity; and
- Recognise the circumstances where special categories of data may be processed legitimately.

The DPA 2018 received royal assent on 23 May 2018 in the UK.
It modernised the DPA 1998 to accommodate the expansion of an increasingly digital society and of UK data protection laws in general (and the GDPR in particular).

The DPA 2018 provides a comprehensive and modern framework for data protection in the UK, with stronger sanctions for malpractice compared to DPA 1998. Additionally, it addresses data protection in relation to data processing that does not fall within EU law, such as immigration and law enforcement. It provides a framework tailored to the needs of UK law enforcement agencies and intelligence services, in order to protect the rights of victims, witnesses and suspects, including from the various forms of global threats that the UK faces.

The new act:
- Repeals and replaces the DPA 1998;
- Incorporates the GDPR into UK law and applies GDPR standards to areas not covered by EU data protection law;
- Provides a foundation for the free flow of data between the UK and the EU post-Brexit;
- Sets out permitted derogations under the GDPR;
- Implements the Directive (EU) 2016/680 (the Law Enforcement Directive);
- Provides a framework for data protection for the intelligence services;
- Sets out the duties and powers of the UK Information Commissioner's Office (ICO); and
- Sets out enforcement provisions.



Scope - The DPA has seven **parts**, followed by numerous **schedules**, which provide supplementary information to chapters within the parts:
- Preliminary
- General processing, including the GDPR
- Law enforcement processing
- Intelligence services processing
- The Information Commissioner
- Enforcement
- Supplementary and final provision

# Module 1



**Definitions**
Indicate to the delegates that there is a list of the relevant defintions in the learner guide.

**Quick question 1:**

Which of these definitions under the DPA are incorrect?
**a)** *A "processor" means a natural or legal person, public authority, agency or other body that processes personal data on behalf of the controller.*
**b)** *Education data is personal data consisting of information that constitutes an educational record, and data concerning health.*
**c)** *A certification provider is a person who issues certification for the purposes of Article 42 of the GDPR.*
**d)** *A "controller" is responsible for complying with data protection law.*

**Answer: b) is incorrect**

Education data is: personal data consisting of information which constitutes an educational record, **but is not** data concerning health.

**Trainer notes**
Note 1 – An example is: 'Special categories of personal data' is the GDPR term that replaces what was referred to as 'sensitive data' under the DPA 1998. The new categories of genetic and biometric data are added to the existing categories of racial data, religious or philosophical beliefs, trade union membership, health data and information on political opinions and sexual orientation.  In addition, the DPA 2018 refers to "sensitive processing" which is defined in the 2018 Act as:
*"Sensitive processing" means:*
    *(a) the processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs or trade union membership;*
    *(b) the processing of genetic data for the purpose of uniquely identifying an individual;*
    *(c) the processing of biometric data for the purpose of uniquely identifying an individual;*
    *(d) the processing of data concerning health;*
    *(e) the processing of data concerning an individual's sex life or sexual orientation;*
    *(f) the processing of personal data as to:*
        *i.    the commission or alleged commission of an offence by an individual, or*
        *ii.   proceedings for an offence committed or alleged to have been committed by an individual, the disposal of such proceedings or the sentence of a court in such proceedings.*

The important thing to note is that organisations cannot just look at the GDPR in isolation. Reference will need to be made to the DPA as well. This is particularly true of organisations handling health data, education establishments and law enforcement agencies.

# Module 1



These two table look at the differences between DPA 2018 and the General Data Protection Regulation (GDPR).

The DPA 2018 provides a comprehensive and modern framework for data protection in the UK, with stronger sanctions for malpractice compared to DPA 1998.

Additionally, it addresses data protection in relation to data processing that does not fall within EU law, such as immigration and law enforcement. It provides a framework tailored to the needs of UK law enforcement agencies and intelligence services, in order to protect the rights of victims, witnesses and suspects, including from the various forms of global threats that the UK faces.

The important thing to note is that organisations cannot just look at the GDPR in isolation. Reference will need to be made to the DPA as well. This is particularly true of organisations handling health data, education establishments and law enforcement agencies.
The DPA 2018 should be read in tandem with the GDPR.

A comprehensive comparison between the DPA 1998, the GDPR and the DPA 2018 can be found at Appendix 1.
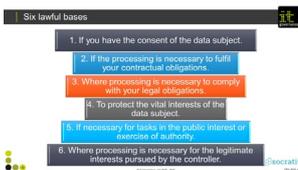


**Six lawful bases**
1. If you have the consent of the data subject.
2. If the processing is necessary to fulfil your contractual obligations.
3. Where processing is necessary to comply with your legal obligations
4. To protect the vital interests of the data subject
5. If necessary for tasks in the public interest or exercise of authority
6. Where processing is necessary for the legitimate interests pursued by the controller



**Quick question 2**:

The DPA offers further clarification regarding processing of personal data using the lawful basis of necessary for tasks in the public interest. This processing must be necessary for one of five reasons – what do you think the five reasons could be?

**Answer:**
1. The administration of justice;
2. The exercise of a function of either House of Parliament;
3. The exercise of a function conferred on a person by enactment or rule of law;
4. The exercise of a function of the Crown, a Minister of the Crown or a government department; or
5. An activity that supports or promotes democratic engagement.
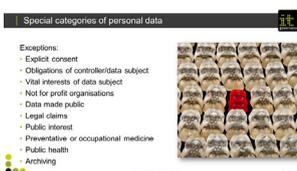


**Special categoties of personal data**
The processing of special categories of personal data is prohibited unless you have at least one lawful basis **and** one of the below exceptions (Article 9, GDPR):
• The data subject has given their explicit consent.