Guide to GDPR for Charities

The new General Data Protection Regulation (GDPR) replaces the longstanding Data Protection Act in May 2018. It significantly tightens up the rules on privacy and consent. This report looks at how charities can start on the road to compliance and reap the benefits of the new regulation.

eduserv

IT for public good

Why the time to take action is now

The new General Data Protection Regulation increases individuals' rights on personal data and will be fully enforceable by May 2018.

The implications for charities are widespread. Soon, all UK charities will need to have consent or one of five other specific legitimate reasons to hold and process individuals' data, including all legacy data. GDPR also stipulates the right of donors and individuals:

- to be forgotten
- to make subject access requests at any time
- to have their data protected by processes of encryption or pseudonymisation
- to prevent direct marketing
- to prevent automated decision-making and profiling, and
- to obtain and reuse any data held.

It's worth noting that these obligations are applicable to both data controllers and processors.

Time is now short. Among many other challenges, charities are facing a huge task auditing legacy data to find out where it all is and identify whether consent was granted correctly. They also need to delete records where it wasn't or where new consent can't be obtained. These are time consuming processes. Going forward, charities will also need to ensure that privacy is designed into processes and services by default. Overall, this will significantly change the way charities manage data for fundraising and provision of services.

However, this should not be seen as a bad thing.

In fact, charities should take the opposite view, because the changes that will need to be made will ultimately prove to be positive. GDPR, if implemented correctly and in the right spirit, will help charities to foster (and in some cases regain) the public's trust in the way they work. As some of the examples in this report show, it could even lead to dramatic improvements in performance.

In the following pages, we explain how.

> Sound, well-formulated and properly enforced data protection safeguards help mitigate risks and inspire public trust and confidence in how their information is handled by businesses, third sector organisations, the state and public service.
>
> Information Commissioner's Office

The GDPR to-do list

GDPR compliance can at first seem daunting, but it becomes a lot easier with a clear view of what needs to be done and why. While this list is not exhaustive, these are the key areas that charities need to prioritise:

✔ Dealing with consent

One of the most pressing tasks for charities is the need to deal with the issue of consent. The regulation stipulates that donors, or anyone else charities hold information on, must give their explicit and 'informed' consent for their data to be retained for a specified period of time and processed; which means the individual must be made aware of how their information is protected, what it's used for, and what the risks are.

There are a number of other hurdles to leap, because:

- This doesn't just apply to current or future data, which means charities are going to have to carry out a hefty data cleansing and consolidation programme.
- GDPR states that consent has to be specific, informed, unambiguous and freely given, which means that individuals cannot be chased or unduly pressed for their consent (charities will need to apply much more rigour to this process, because records also need to be kept to evidence that consents have been properly secured).
- Children's charities in particular need to consider the position of minors, because children under the age of 16 cannot give consent.
- There are issues with 'sensitive personal data', which includes data revealing racial or ethnic origin, political opinions and so on. Charities, like any other organisation, will need explicit and specific consent for the exact purpose or purposes for which any of this sensitive personal data will be used.

Recommended action

It's clear that the issue of consent is the most labour intensive element of GDPR. As such, it should be your starting point.

✔ New privacy policy agreements

GDPR makes organisations responsible for giving people clear and adequate information about how their information will be protected. This means most will need to develop a new, much more user friendly, Privacy Policy Agreement that is written in plain English. This is also an opportunity for organisations to promote their approach to privacy and the rights of the individuals they serve.

Recommended action

Engage a combination of legal, digital and content expertise to ensure you deliver a policy in a format and language that is clear, compliant and stands out.

✔ The right to be forgotten

Under GDPR people have more power to withdraw their consent and get their data amended or deleted. In other words, they have the 'right to be forgotten'.

Recommended action

If you have cleansed and consolidated your data in order to manage consent better, this task will be easier. Charities should check as soon as possible whether the IT systems they use will actually allow the right to be forgotten to happen. Many systems don't, even some from leading vendors. If this is the case, charities should put pressure on their IT providers to include a 'right to be forgotten' facility in future upgrades.

✔ Subject access requests

GDPR gives individuals the right to make a subject access request at any time and get a response within one month. There's a big incentive to get this right, because it will make data management processes more efficient. If charities don't get this right, however, there is risk of considerable financial penalty.

Recommended action:

Look at ways to make the process efficient through automation or self-service (see page 9).

✔ Pseudonymisation and anonymisation of data

When charities are going through their data cleansing process, they will find that some of those records can't be deleted even if the subject has asked to 'be forgotten'. This might be for reasons of financial regulatory compliance, or for a number of other reasons where organisations can show they have 'legitimate' reason for retaining and processing the data. GDPR recommends that you will need to pseudonymise or anonymise the data you can't legitimately delete to be compliant.

Recommended action:

Pseudonymisation and anonymisation are time consuming, specialised processes. Many charities will probably need new systems or external help to carry them out.

✔ Appointing a DPO

GDPR requires organisations with over 250 employees to appoint a Data Protection Officer (DPO) to achieve compliance. This includes all public authorities as well as all organisations that carry out "regular and systematic monitoring of data subjects on a large scale" or large-scale processing of "special categories of personal data" (such as those revealing racial or ethnic origin, political opinions, religious beliefs etc.).

GDPR specifies that DPOs are responsible for activities including monitoring compliance, educating staff on their responsibilities, providing advice on privacy impact assessments and co-operating wherever necessary with the relevant supervisory authority.

Recommended action

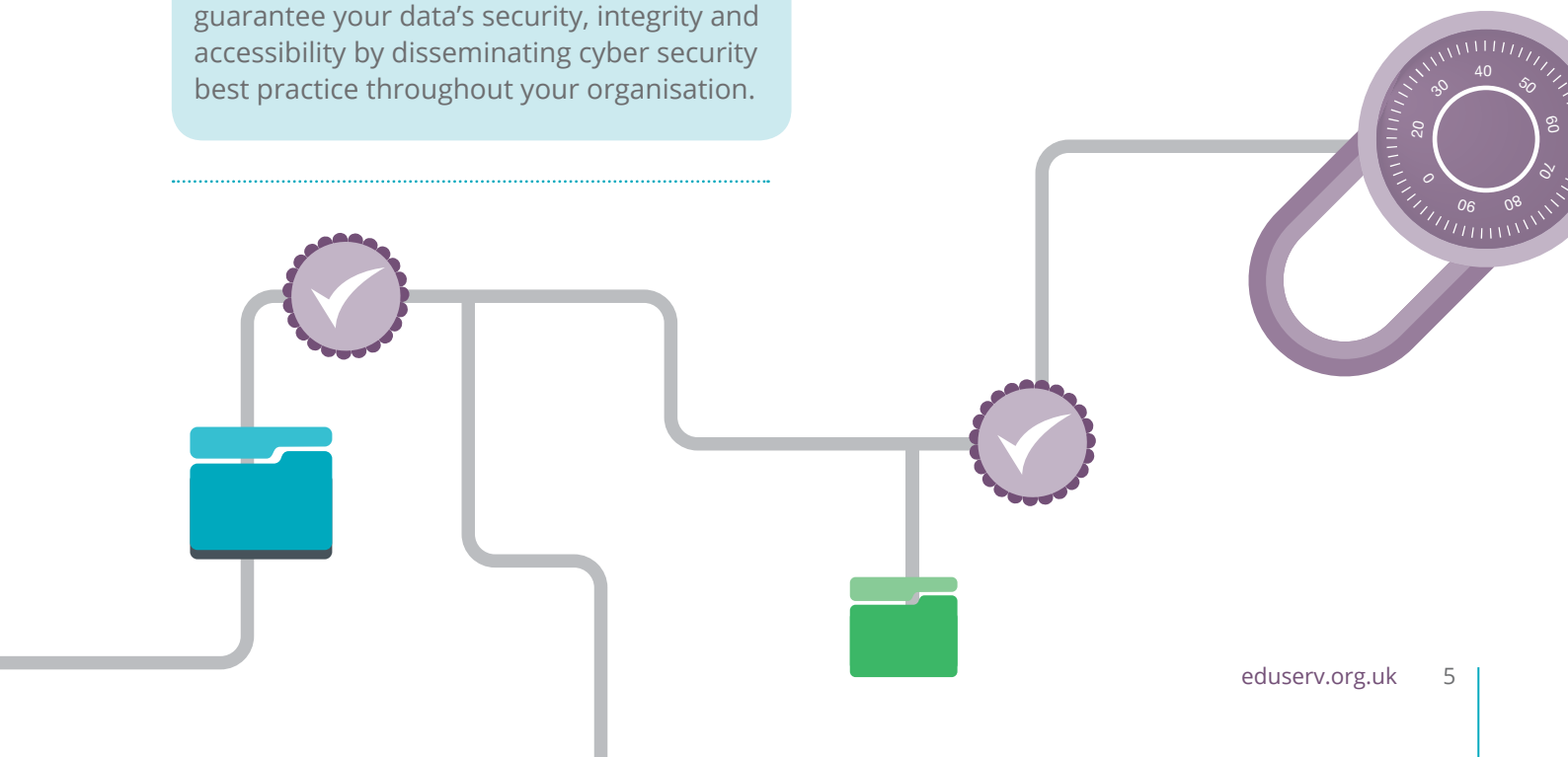
Although it is not a requirement, charities should check if potential DPOs are cyber security aware and trained. GDPR compliance implies implementing Cyber Security Regulations, so your DPO will need to be up to speed with the latest thinking on cyber security and broader organisational resilience. If they are, they will help to guarantee your data's security, integrity and accessibility by disseminating cyber security best practice throughout your organisation.

✔ Reviewing relationships with suppliers

It's not on many people's radar yet, but GDPR is also going affect charities' relationships with IT suppliers. This is because by enhancing the rights of data subjects, GDPR not only increases the responsibilities for data 'controllers' (i.e. your organisation), but also for data processors (i.e. your IT service provider or cloud provider).

Recommended action

Under GDPR, both controllers and processors are under a similar duty to ensure that the regulations are properly implemented. Contracts will need to be reviewed so that both parties comply with the regulations.



Timeline

What do you need to do and when? A phased approach that prioritises the heavy lifting first will help you achieve compliance effectively.

1 Raise awareness of GDPR among leadership and get their support

Be positive and explain the business benefits of GDPR to get full backing for your programme.

2 Identify and map processes that involve personal data

Audit all your personal data to find out where it is, where consent was granted, technical measures for ensuring its security and who controls it (you or a third party).

Also assess existing organisational processes (or lack of them) for data protection, including scenario based exercises, security and vulnerability testing.

3 Understand the legal grounds on which you currently collect and use data

In particular, examine how consent and 'legitimate' interests are used as the basis for processing personal data and document these. Where it's not obvious, contact the ICO for clarification.

4 Review skills and start recruitment of your DPO

Make sure you carry this out early, because people with the relevant skills and DPOs with the right knowledge of the charity sector are going to be in short supply in the run up to May 2018.

5 Prioritise your plan of action

Once you know what data you have and the condition it's in, it's time to focus on building the systems and processes you're going to implement. Key areas include:

- cleansing and consolidation of legacy data
- pseudonymisation and anonymisation of data you are legally obliged to retain
- subject access requests
- the right to be forgetten
- privacy by design for collection of all future data.

6

Review relationships with your IT suppliers

Assess how your working relationship will change and review and redraft contracts where necessary.

7

Check the current IT systems you use are up to the job

Assess whether your IT systems will work under GDPR – some, for example, currently make it very difficult to implement the right to be forgotten.

8

Review and update privacy policies

Rework all privacy policy statements to ensure they are in plain English and present a friendly face to the public.

9

Update leadership and the rest of the organisation

Celebrate success and reinforce the business benefits your organisation is likely to achieve as a result of GDPR. Remind everyone that they all have a part to play and share equal responsibility for data protection in their day to day roles.

10

Implement processes

In the run up to the compliance deadline, ensure any new processes (and education programmes) you are implementing are embedded as business usual.

Opportunities to improve practice

As well as improving data protection and fundraising practice, there are opportunities under GDPR for charities to improve the way they operate.

Cyber security and resilience

James Mulhern, Chief Information Security Officer for Eduserv.

Right now, charities are being threatened by cyber-attacks and data theft more than ever before.

This is especially true for those charities who provide social care services or might need to gather 'sensitive' data covering health, sexual orientation, race, gender and so on. Indeed, evidence gathered via the dark web suggests that personal information like this – such as a stolen care record – is now more valuable for cyber criminals than financial information like credit card details.

Reducing your attack surface

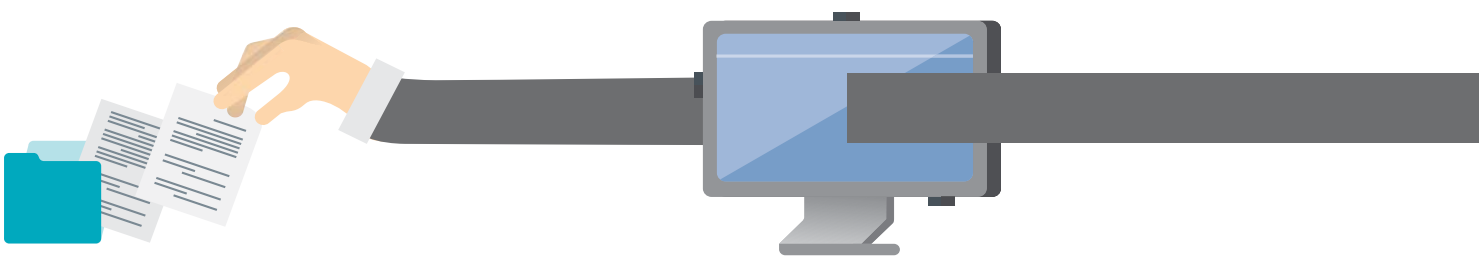
This is why GDPR is a good thing. If you're responsible for cyber security, GDPR is actually a golden opportunity to get a firmer grip on this key area where attacks are increasing.
For a start, the process of retrospectively cleansing, pseudonymising or anonymising data that is key to GDPR compliance provides an opportunity to reduce the value and sensitivity of data currently exposed to cyber criminals. Put simply, you can use GDPR to reduce your overall 'attack surface'.

Improving organisational resilience

Of course, we should also recognise that organisational and human factors are just as important as any technical barriers you put in place to prevent attack. The General Data Protection Regulation confirms this, stating that in order to achieve compliance, organisations are going to need to demonstrate that they have robust processes in place for regularly testing, assessing and evaluating the effectiveness of not only technical measures but also the organisational measures for ensuring 'security'.

That means they'll need to think about providing security and GDPR awareness sessions that improve understanding of personal and sensitive data across the organisation. In addition, they should consider performing security incident response planning, red teaming and advanced resilience testing, based on both covert and overt scenarios.

These activities should not be seen as a burden. Rather, they should be seen as the opportunity to introduce best practice that many organisations – especially those who hold really sensitive data – should have introduced years ago.



Digital services, websites and apps

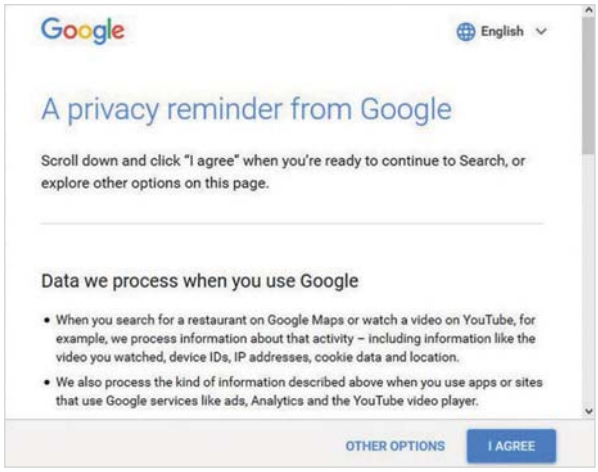
Vee Rogacheva, User Experience (UX) Designer for Eduserv.

On the face of it, GDPR's more stringent requirements for gathering personal data appear to have the potential to make digital services much clunkier to develop and engage with.

I take the opposite view. Digital leads should in fact be looking at GDPR as a way to improve the user experience. Take the way Privacy Policies are handled and the requirement to use plain English. There are some great examples out there already of how the tone of voice is changing.

Organisations that are already using GDPR to improve user experience

Major data-gathering organisations like Google and media outlets like the Guardian, have recently take a lead on this by developing new privacy policy pages and content (a video, in the case of The Guardian) that present a much friendlier and transparent face to their companies. Digital departments in charities that are looking for inspiration or guidance when they come to revamp their own policies would be well advised to look at these as examples of very good practice.



Google's new privacy policy presents a friendly welcome to users that want to learn more

Digital can also help new GDPR related processes run smoothly

There are many other ways that digital can help GDPR compliance to run smoothly and boost efficiency. Consider Subject access requests, for example, which gives users the right to check the data you hold on them and what you do with it at any time.

The danger is that this process, if handled badly, could become very laborious for both the users making the requests and the organisations that need to respond to them. However, digital specialists have an opportunity to make a difference here by following one of the GDPR's key best practice recommendations. This states that organisations should try to provide a secure online self-service system that provides the individual with direct access to his or her information.

This kind of 'Manage your privacy settings' system is only a recommendation and not compulsory, but it could be well worth exploring if your organisation is committed to digital transformation. In effect it could be a new digital service that organisations can develop to streamline potentially time consuming processes. It will also provide a better user experience. Getting there will require investment and technical development, but the incentive is that over time this kind of service could become a differentiator that's a clear demonstration of your organisation's overall commitment to transparency and customer service.

The main job for digital with regard to GDPR will be to ensure that no app or service is left unturned in the drive to make sure that all digital data entry points are compliant. But perhaps just as importantly, it's crucial that they consider the user experience at every stage. By doing so, they can not only build and maintain services that meet the requirements of GDPR, but also ones that will make users feel more welcome and protected.

CASE STUDY

Reaping the benefits

One UK charity – RNLI – has already embarked on its journey towards GDPR by adopting consent-based marketing.

In 2016 it started a review of its 2 miliion strong database that will eventually ask all supporters to opt in unambiguously. Since starting this process it has been widely reported that responses to RNLI's fundraising campaigns have trebled. This is clear early evidence that there can be a significant uplift for charities when they seek to establish public trust in the way they work with data and respect privacy. RNLI says that dealing with consent in this way is helping the charity to prepare for full GDPR compliance more easily. It is also improving the way the
charity communicates with supporters:

Speaking to Marketing Week about GDPR, RNLI Head of Marketing Jayne Clarke said: "We are able to create our own path. Our compliance officer is very much looking at the EU regulations but being ahead of the game means we give ourselves the time to do it the right way and that we can communicate we are doing the right thing because we want to, not because we have to."

Conclusion

John Simcock, Head of Business Development for Eduserv

Currently, when you speak with CIOs you may find that compliance with GDPR is not always high on their priority list. Often, they are focused on transforming operations and also securing systems to help support new digital ways of working.

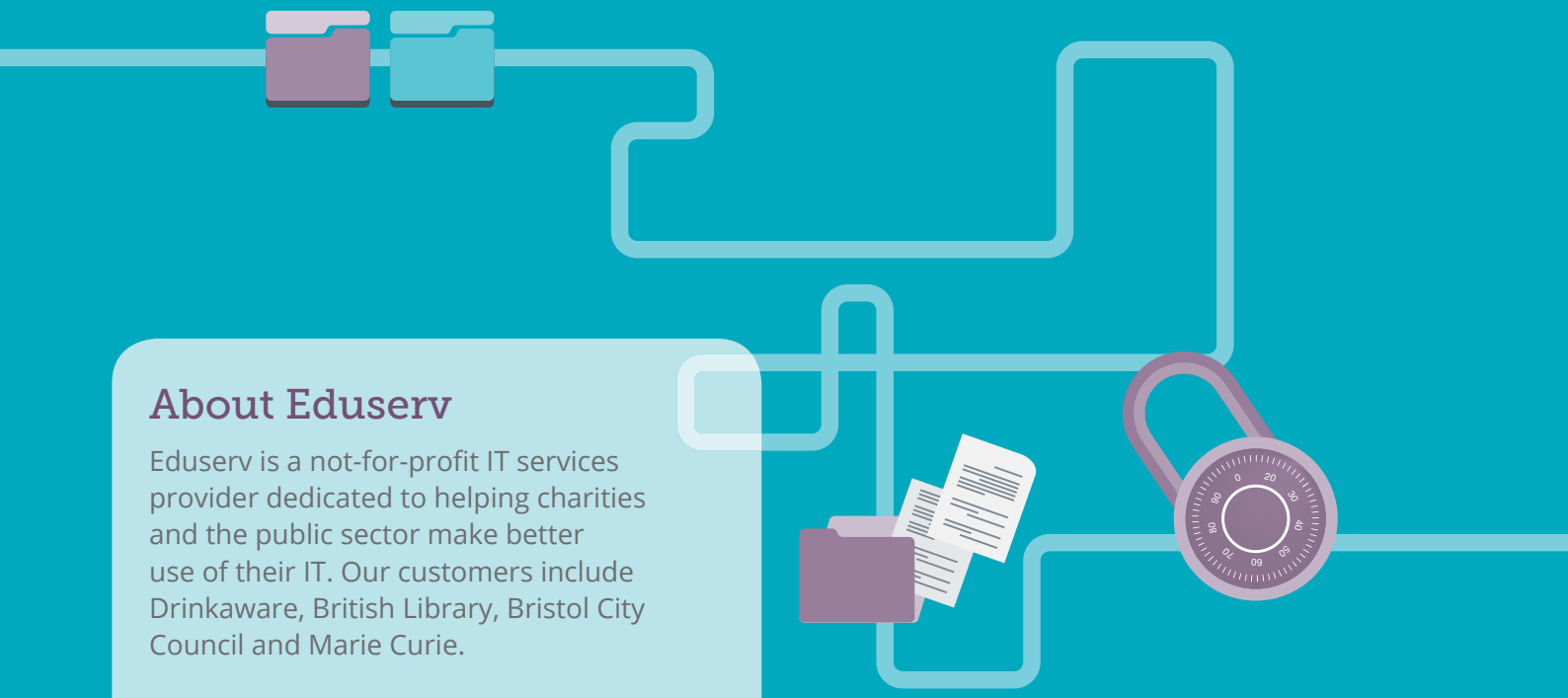
In some ways this is understandable. It's also a mistake, and it's because the industry as a whole has been guilty of talking about GDPR only in a negative way. GDPR is being seen as burden that has to be dealt with under sufferance, and only because you might get a larger fine if you don't comply.

This isn't the right way to look at things. GDPR needs to be far higher on leadership agendas simply because it is the right and proper thing to do. As we've seen in this report, it could even make organisations more effective and attractive to their key audiences.

I firmly believe charities need to see GDPR as an opportunity and grasp it as such. GDPR will make organisations much more effective in the way they manage, process and protect personal data. It could also help them use data more profitably for their own ends. In fact, I would go as far as saying that If organisations say they are intent on 'transforming' for a digital data-driven age, then GDPR can and should be a cornerstoneof that effort.

Eduserv and data

Eduserv provides a comprehensive range of cloud, digital development services, managed infrastructure, application and data services for the public sector and charities across the UK. We have in-depth knowledge of the way organisations need to manage and protect data in all these contexts and are actively helping our customers to prepare for GDPR compliance. For more information, visit **www.eduserv.org.uk/services**.



About Eduserv

Eduserv is a not-for-profit IT services provider dedicated to helping charities and the public sector make better use of their IT. Our customers include Drinkaware, British Library, Bristol City Council and Marie Curie.

Get in touch

If you would like to find out how Eduserv can help transform your IT, please contact us:

Tel: 0844 5000 115
Email: sales@eduserv.org.uk

eduserv

IT for public good