

Interview with a DPO



Caroline Goulding, Data Protection Officer at Tik Tok discusses key Data Protection trends for 2023, the skillsets required for an effective DPO team and personal development within her role.

As the GDPR prepares to mark its fifth anniversary this May, what are the key Data Protection trends you are monitoring for in 2023?

The GDPR was a watershed moment for Data Protection not just in Europe, but around the world. Other countries and jurisdictions either sought and indeed continue to seek to emulate it or comply with the extra territoriality provisions. However, as we approach the fifth anniversary, what's become apparent is how the next wave of digital legislation will interact with Data Protection legislation; this is going to be incredibly interesting. The Digital Services Act and the proposed European law on artificial intelligence to name just two, are both high on my watch list. Similar to the GDPR, both have the potential to set the global standard.

Another trend beyond evolving legislation is the increased practice of regulatory authorities from related domains formalising the way they interact. We saw this with the Digital Regulatory Cooperation Forum in the UK and now the Digital Regulatory Forum in Ireland. The latter convened publicly for the first time this quarter and it's clear there will be much more cooperation to come for the Commissioners from the Data Protection Commission; Competition and Consumer Protection Commission; the Commission for Communications Regulation and Coimisiún na Meán.

Separately, children's privacy has been a key trend for several years, which is set to continue, particularly now, with more attention being given to developing a youth online privacy related Code of Conduct under GDPR.

As a Data Protection leader within a multinational firm, what advice would you have for DPOs who are expanding their teams?

It is important to reflect on the existing skill sets and competencies. I recommend using a multi-pronged approach when assessing them within the existing team; against the tasks and responsibilities mandated by GDPR and according to the priorities within your

organisation. This includes being hyper aware of one's own strengths and weaknesses, in order to seek skills that can complement and round out the collective skillset.

Given this space is in a constant state of flux, it's crucial that the candidate is dedicated to development as the role necessitates continual on-the-job learning.

I personally look for people who can disagree in a constructive manner that aids not hinders discussion. When people are comfortable speaking up and can challenge each other's thinking, in a way not too dissimilar to the academic peer review process, it can lead to greater progress and much richer outputs.

How has the DPO function changed since the introduction of GDPR?

In the beginning there was a lot of myth-busting about the role of the DPO; what it is and what it is not. As the years evolved there is greater recognition that it is a distinct function in its own right and as a result, DPO's across different organisations and sectors are being brought into the discussion at an earlier stage.

That is not to say that there isn't more work to do, as evidenced by the European Data Protection Board's (EDPB) announcement in September 2022, that it would focus a coordinated enforcement action into "the designation and position of the Data Protection Officer" which is due to take shape in the first half of this year.

The body of DPO-related case law has grown and while a lot has focused on foundational aspects such as failure to appoint a DPO, there have also been more substantive cases that tackled failure to sufficiently involve the DPO. Most recently, this quarter we have seen the Court of Justice of the European Union (CJEU) rule, that there is no fundamental incompatibility between the performance of the DPO role and other duties for the same employer. This is helpful, as given the underlying nature of the role, at times DPOs can be asked to leverage their skills, influence, experience, and expertise across other aspects of the business such as strategy.

What skillsets are needed for an effective DPO team?

Diplomacy can often be at the cornerstone of an effective DPO team. The DPO has an array of stakeholders both within and outside the company, users, employees,

customers, business partners as well as regulatory authorities and policy makers. Not only is there a need to modify the approach to each stakeholder group, it can also be necessary to strive to adapt and speak the “language” of the respective group.

Beyond domain knowledge, power skills (formerly known as “soft skills”) are crucial for DPOs to navigate a complex environment. This includes focusing on having the right foundations in place, such as effective communication, collaboration, stakeholder management and emotional intelligence.

What tips would you have for Data Protection professionals who wish to keep updated on the many changes within the discipline?

It would be remiss of me not to mention the work that the Compliance Institute does in this regard from webinars to this quarterly publication though if you’re reading this then I’m probably preaching to the converted. Apart from that, if one is lucky enough to have budget available to attend a conference that is always helpful in meeting like-minded professionals and being exposed to different ideas. The key is to change it up and go to a different one each year. Another tip is to set a goal to meet three people from your wider network each quarter. I deliberately strive to meet people from other sectors to broaden my outlook, which helps me join the dots, given the evolving landscape of interconnected disciplines.

In what ways are the Data Protection challenges for a multinational firm different to those faced by a Small to Medium Enterprise (SME) business?

There is a threshold for certain requirements. For instance, if you employ fewer than 250 people, there are some exemptions for documenting processing activities. Even the requirement to appoint a DPO in the private sector is often influenced by the size of the organisation and multinational companies are often more likely to process data on a “large scale” than many SMEs.

On the other hand, many of the requirements are the same, which is understandably challenging for SME businesses. Even though a multinational firm may have a dedicated team, an SME likely needs to add this role on top of an existing function while making sure there is no conflict of interest or else considers outsourcing the work.

Whereas an SME may get a data access request once a year, multinational companies tend to have a higher frequency that will necessitate resources to process them accordingly, though it also means that there is a need for more streamlined processes and tooling.

What is your own approach to personal development as a DPO?

It’s crucial for a DPO to have sufficient business acumen to know how to navigate the landscape in which the

organisation is operating in and to inform a DPO’s ability to advocate for Data Protection as part of an organisation’s strategic objectives. As a result, while seemingly unrelated to Data Protection at face value, I dedicate time daily to business publications and podcasts.

Speaking of podcasts, there are a growing number focused on Data Protection and all things privacy adjacent, particularly at the intersection of ethics, technology, law, policy, and the privacy profession. Type ‘Privacy Podcasts 2023’ into your preferred search engine and the only issue you’ll have is trying to narrow down the selection.

Many challenges faced by DPOs are challenges faced by every leader in an organisation, so continuing to focus on honing leadership skills such as influencing; agility and relationship building can pay dividends.

When it comes to domain expertise, I’ve been striving to be a sponge when it comes to all things AI. I recently hosted a guest speaker who specialises in Generative AI to mark the beginning of TikTok’s Privacy Awareness Month. It has been said that beyond the comfort zone lies the learning zone, so this is something I embrace knowing that when it feels somewhat uncomfortable, I usually know that’s when it’s a period of growth.

How do you see Data Privacy evolving over the next five years?

The concept of a ‘privacy professional’ appears to be at a fork in the road. While privacy has long been considered a newer area of law, its interrelatedness and overlap with the emerging areas of digital legislation means that there appears to be a decoupling of ‘data protection’ and ‘personal data’ to where the governance of ‘data’ itself is key. It will be interesting to witness whether the extensive work to copper-fasten Data Protection into the mechanics of an organisation can be successfully integrated with the new provisions emerging.

Watch this space!

