GDPR AND PENSIONS

ASSOCIATION OF CONSULTING ACTUARIES

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DATA PROTECTION AND PENSIONS

GDPR will go into direct effect across the EU on 25 May 2018

Data processors will have direct legal duties as well as data controllers.

The UK will also have a new Data Protection Act 2018

The maximum fine will be the higher of:

- **€20 million; and**
- **4% global turnover.**

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TERMINOLOGY REMINDER

CONTROLLER

Trustee

Employer

Actuary

Lawyer

PROCESSOR

Administrator

Investment consultants

PERSONAL DATA

Updated definition of personal data in the GDPR

PROCESSING

Anything you will do with data

DATA SUBJECT

Scheme members

Beneficiaries

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CONTROLLERS AND PROCESSORS

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DATA PROTECTION PRINCIPLES

ACCOUNTABILITY

Processed lawfully, fairly and in a transparent manner	Collected for specified, explicit and legitimate purposes	Adequate, relevant and limited to what is necessary
Accurate and kept up to date	Retained for no longer than is necessary	Processed in a manner to ensure appropriate security

CONTROLLERS AND JOINT CONTROLLERS

- A “Controller” determines the purposes and means of processing personal data
- “Joint controllers” where two or more Controllers jointly determine the purposes and means of processing
- GDPR requires Joint Controllers (i.e. actuarial firm / scheme actuaries and pension trustees) to agree their respective responsibilities.
- Essence of agreement should be made available to data subjects
- Data subject may exercise rights under GDPR against either Controller

DATA PROCESSORS

- Data Controllers must only use Data Processors which provide **sufficient guarantees** to implement appropriate technical and organisational measures
- Data Controllers must have **contractual terms** in place with Data Processor setting out
  - the subject matter and duration, nature and purpose of processing
  - type of personal data and categories of data subjects
  - obligations and rights of the controller
  - meet the requirements of article 28 including requirements for confidentiality, use of sub-processors, assistance with compliance, audit etc

PRIVACY NOTICES

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PRIVACY NOTICES

- The trustee of a pension scheme is responsible for a Scheme's privacy notice
- Privacy notice must include
  - What personal information held
  - How it is obtained
  - What it is used for
  - What the grounds for processing it are
  - Whether there are multiple data controllers
  - Details about member rights in respect of their data
- What information about other controllers should be included?

DATA SECURITY AND WHAT OUR CLIENTS EXPECT

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DATA SECURITY – ACCESS IDEAS

IDEAS FOR PHYSICAL ACCESS CONTROLS

Limiting access to workspaces

Locking filing cabinets

Secure archiving of older documents

Secure document disposal

Safe storage of sensitive material

Clear desk policy

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DATA SECURITY – ACCESS IDEAS

IDEAS FOR ELECTRONIC ACCESS CONTROLS

Print controls

Password protecting specific folders / files

Virus / malware protection

Password complexity and change requirements

Encryption of computer systems

Security settings for approved mobile devices

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SIMPLE STEPS TO HELP IMPROVE DATA SECURITY

- Pseudonymisation
- Password protection
- Replying to all
- Taking hard copies out of the office
- Think before sending email to a personal email address
- Secure disposal

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DEALING WITH DATA SUBJECT RIGHTS REQUESTS

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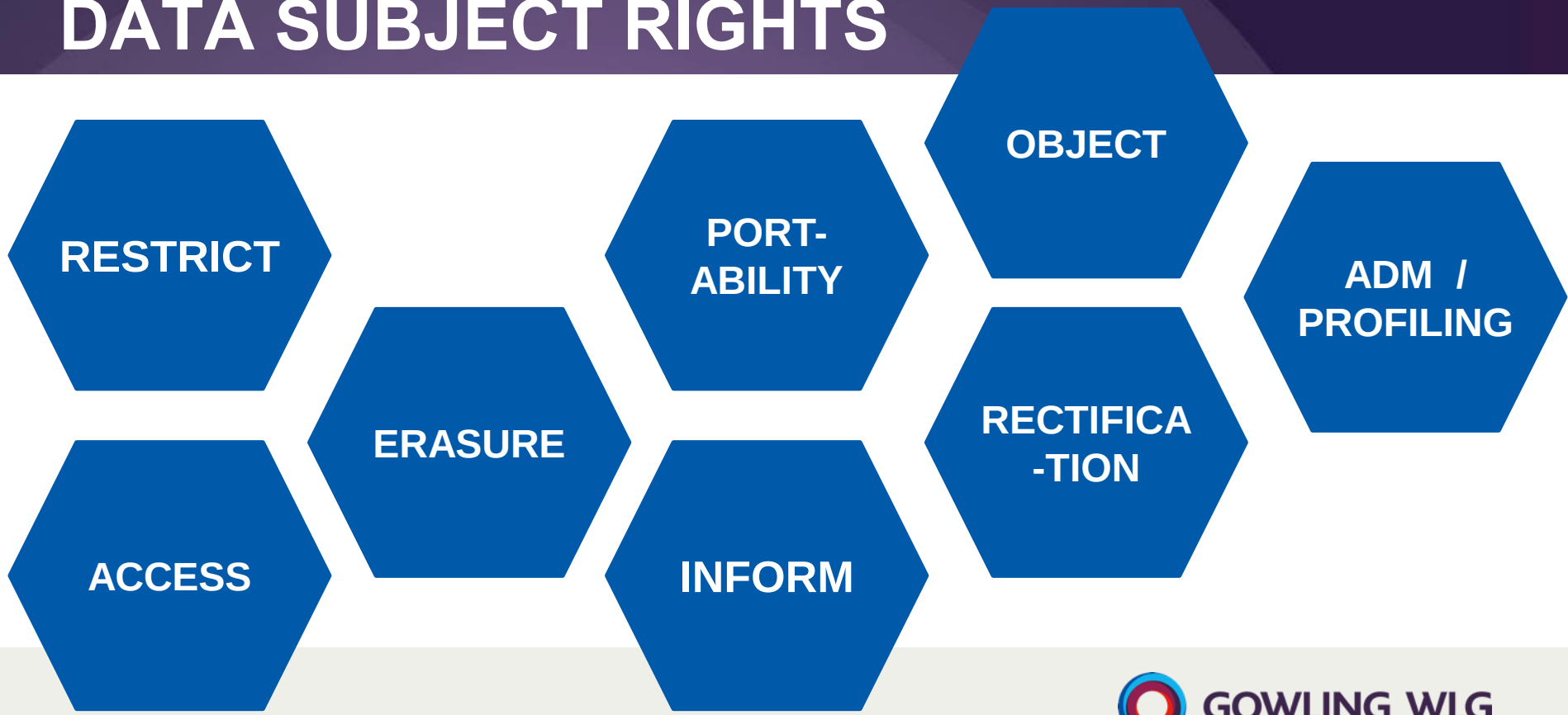
DATA SUBJECT RIGHTS



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DATA SUBJECT RIGHTS – KEY POINTS

- Process or policy?
- Responsibility for responding?
- Getting help from relevant third parties
- Awareness of time limits and format of responses

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RISK MANAGEMENT AND BREACHES

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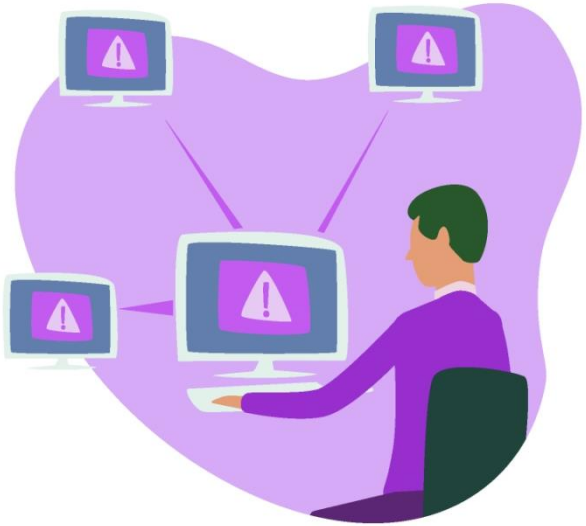
RISK MANAGEMENT - TRAINING

- Use of systems and computers
- Recognising common threats
- Recognising and reporting personal data breaches
- Policies and procedures



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RISK MANAGEMENT – BREACH

Personal data breach is a breach of security leading to the **accidental** or **unlawful** destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;

Data Controllers need to consider how they would:

- identify;
- report;
- manage;
- resolve; and
- investigate

such breaches of the personal data they control.

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BREACH REPORTING

- **Controller** to notify breaches to **ICO**
  - without undue delay and within **72 hours** if feasible unless unlikely to result in risk to rights and freedoms of individuals
  - If 72 hours not feasible must provide reasoned justification
- **Controller** to notify breaches to **data subjects**
  - without undue delay if likely to result in **high** risk to rights and freedoms of individuals
- **Processor** to notify **Controller** of breaches without undue delay

QUESTIONS?

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