

# Privacy & Data Protection

Volume 13, Issue 1

October / November 2012

## Headlines

- Medical loophole in draft Regulation?, p.17
- Regulator launches complaints assistant, p.18
- EU DPAs: Google must change privacy policy or else, p.19

## Contents

Expert comment	2
The changing face of cloud computing and data protection	3
BCRs under the Regulation — reasons to be cheerful?	7
Foreign account tax compliance provisions, data protection and other 'local law' issues	10
Midata and the unstoppable rise of the personal data services provider	14
News & Views	17

## Clouds on the horizon as they move up regulatory agenda

The UK regulator has published new guidance for organisations on the use of cloud computing, just as the European Commission published a strategy document about how to unleash the potential of cloud computing.

The ICO's 24 page guidance analyses the potential risks of cloud computing arrangements and sets out practical steps data controllers can take to avoid falling foul of data protection law in respect of their cloud deals.

One key area covered is auditing the cloud provid-

er. Controllers must select a cloud provider who provides sufficient assurances in respect of their technical and organisational security measures, states that guidance. Further, the ICO recommends that controllers carry out inspections of a potential cloud provider's premises, or have an independent third party conduct a detailed security audit and then provide the controller with a copy of that report.

Data 'in transit' between endpoints should be secure and protected from interception by use of encryption. Further, the encryption algorithm should meet recognised

industry standards.

Somewhat challenging to apply, the ICO states that the cloud customer should ensure that its provider is able to, and does, delete all copies of personal data within a timescale in line with its own deletion schedule. The cloud customer should also find out what will happen to personal data if it decides to withdraw from the cloud service in the future.

An aspect of the guidance that may prove controversial relates to the discussion of access to cloud-hosted data by a foreign

*(Continued on page 17)*

## Working Party makes it personal in latest Opinion

The Article 29 Working Party has given its latest Opinion on the draft Data Protection Regulation, recommending the inclusion of a far wider definition of 'personal data'.

Currently, the draft Regulation defines 'personal data' simply as 'any information relating to a data subject' and a 'data subject' is defined as 'an identified natural

person or a natural person who can be identified, directly or indirectly, by means reasonably likely to be used by the controller or by any other natural or legal person, in particular by reference to an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social

identity of that person'.

The Working Party wants to see information that can lead to individuals being 'singled out and treated differently' — which encompasses cookie identifiers and IP addresses — included in the definition of 'data subject'.

*(Continued on page 17)*