

Six data protection **myths** busted

How to challenge these common myths:

MYTH #1: You will be given a **massive fine for any personal data breaches**

REALITY: When a complaint or breach is upheld, the ODPA may issue: advice, action, reprimands, warnings, orders, and fines, depending on the circumstances. **Fines are mostly the last resort**, and will be proportionate to the breach's actual or potential impact. The ODPA will take all factors into consideration including how early and positively the organisation engaged with them.

MYTH #2: 'I can't do that because of data protection'

REALITY: Data protection is rarely a barrier if your activity is legitimate and in line with data protection principles. If someone point blank refuses to do something on grounds of 'data protection', **ask them what specific legal grounds this is based on**, this will help you determine whether it's a valid reason or not. Think of it like the Highway Code; it doesn't stop you from driving, but ensures you drive safely and with regard for your, and others', safety.

MYTH #3: You need people's **consent before you do anything with their data**

REALITY: Consent is **just one of over a dozen conditions** organisations can rely on to lawfully process data (e.g. another condition is that it's "necessary for the performance of a contract to which the data subject is a party". Note the use of the word 'necessary'). Seeking people's consent may be appropriate if you are unable to rely on any other legal condition that is necessary for processing their data.

MYTH #4: Referring to 'GDPR**' rather than local law**

REALITY: The General Data Protection Regulation (GDPR) is an EU regulation applying to all EU countries. **The Bailiwick of Guernsey is outside the EU**, but our local Law [The Data Protection (Bailiwick of Guernsey) Law, 2017] has been recognised by the European Commission as an adequate safeguard aligned to GDPR's principles, offering the same rights and standard of personal data protection to local citizens.

MYTH #5: Data protection is an **IT issue**

REALITY: IT plays a significant part in securing digital data but the responsibility for data protection doesn't begin and end with an IT team. Getting data protection right is often heavily reliant upon knowledgeable technologists but is also dependent upon the right **cultural, operational and administrative environment, and (importantly) the engagement of all staff**, whatever the size or sector of the organisation. Human error, as opposed to system error, has been found to be one of the biggest hurdles to good data protection, responsible for 35 out of 40 data breaches reported to us between February and April 2019.

MYTH #6: Data protection is a **pointless, bureaucratic waste of time**

REALITY: You are fortunate if you, or someone you know, has never witnessed the impact a personal data breach can cause. Anyone who has will tell you that **mishandling personal data can ruin: lives, careers, reputations, relationships, and organisations**. Trying to avoid these harms is not a waste of anyone's time.