

DCUSA Change Declaration		At what stage is this document in the process?
<h1>DCP 316</h1> <h2>General Data Protection Regulation Compliance for DCUSA</h2> <p><i>Raised on 29 March 2018</i></p> <p><i>As an Urgent Change</i></p>	01 – Change Proposal	
	02 – Consultation	
	03 – Change Report	
	04 – Change Declaration	
<p>Purpose of Change Proposal:</p> <p>The intent of DCP 316 is to ensure that the DCUSA is compliant with the General Data Protection Regulation 2016/679 (GDPR) which is due to be implemented by EU Law on 25 May 2018.</p>		
	<p>DCUSA Parties have voted on DCUSA Change Proposal (DCP) 316 with the outcome being a decision on whether or not the Change Proposal (CP) is to be accepted and the proposed variation to the DCUSA made accordingly.</p> <p>The DCUSA Parties consolidated votes are provided as Attachment 1.</p>	
	<p>For DCP 316, DCUSA Parties have voted to:</p> <ul style="list-style-type: none"> • Accept the proposed variation (solution); and • Accept the implementation date of DCP 316 	
	<p>Impacted Parties: All Parties</p>	
	<p>Impacted Clauses: Amend Section 1A (clause 1), Incorporate Clause 60.15 into Section 3 and replace any reference to “Data Protection Act” to “Data Protection Legislation”</p>	

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Timeline		 Any questions? Contact: Code Administrator  DCUSA@electralink.co.uk  0207 432 3011 Proposer: UK Power Networks  peter.waymont@ukpowernetworks.co.uk  07875 112757														
<p>The timetable for the progression of the CP is as follows:</p> <p>Change Proposal timetable</p> <table border="1"> <thead> <tr> <th>Activity</th> <th>Date</th> </tr> </thead> <tbody> <tr> <td>Initial Assessment Report Approved by Panel</td> <td>03 April 2018</td> </tr> <tr> <td>Change Report Approved by Panel</td> <td>18 April 2018</td> </tr> <tr> <td>Change Report issued for Voting</td> <td>20 April 2018</td> </tr> <tr> <td>Party Voting Closes</td> <td>14 May 2018</td> </tr> <tr> <td>Change Declaration Issued to Parties</td> <td>16 May 2018</td> </tr> <tr> <td>Implementation</td> <td>24 May 2018¹</td> </tr> </tbody> </table>			Activity	Date	Initial Assessment Report Approved by Panel	03 April 2018	Change Report Approved by Panel	18 April 2018	Change Report issued for Voting	20 April 2018	Party Voting Closes	14 May 2018	Change Declaration Issued to Parties	16 May 2018	Implementation	24 May 2018 ¹
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¹ Extra DCUSA Release

1 Summary

What?

- 1.1 The General Data Protection Regulation 2016/679 (GDPR) is a new EU Legislation which will be replacing the UK Data Protection Act 1998 (DPA) on 25 May 2018. The government has confirmed that the UK's decision to leave the EU will not affect the commencement of the GDPR.
- 1.2 Consistency around data protection laws and rights is crucial to both businesses, organisations and individuals, which included having clear laws with safeguards in place

Why?

- 1.3 The principles in GDPR are similar to those in the DPA, with added detail at certain points and a new accountability requirement. The GDPR requires you to show how to comply with the principles, therefore, updating the DCUSA to ensure compliance is the first step in doing this.

How?

- 1.4 GDPR will be implemented in the UK from 25 May 2018. DCUSA Parties will need to ensure that they comply with the GDPR from this date as a breach can have significant financial implications. Changes to the DCUSA have been recommended by DCUSA Ltd.'s legal advisors to ensure compliance.

2 Governance

Justification for Part 2 Matter

- 1.5 The Panel reviewed DCP 316 and noted that the Proposer's opinion was that the change should be treated as a Part 2 matter. The Panel agreed that Authority Consent would not be necessary for this CP as there are no material changes to DCUSA being made.

3 Why Change?

Background of DCP 316

- 3.1 GDPR will be implemented on 25 May 2018 for the whole of the UK. The GDPR applies to 'controllers' and 'processors' of data. These definitions are broadly the same under the DPA – the controller says how and why the personal data is processed and the processor acts on the controller's behalf.
- 3.2 If you are a processor, the GDPR places specific legal obligations on you; for example, you are required to maintain records of personal data and processing activities. You will have significantly more legal liability if you are responsible for a breach. These obligations for processors are a new requirement under the GDPR.

- 3.3 However, if you are a controller, you are not relieved of your obligations where a processor is involved – the GDPR places further obligations on you to ensure your contracts with processors comply with the GDPR.
- 3.4 Like the DPA, the GDPR applies to ‘personal data’, however, the GDPR’s definitions are more detailed and clearer. You can assume that if you hold information that falls within the scope of DPA, it will also fall within the scope of GDPR. The GDPR applies to both automated personal data and to manual filing systems where personal data are accessible according to specific criteria. Personal data that has been pseudonymised can also fall within the scope of GDPR depending on how difficult it is to attribute pseudonym to a particular individual.
- 3.5 GDPR also requires organisation to document how they are complying with the GDPR. Taking the first step in updating the DCUSA with legal advisors’ recommendation will help with this.

4 Solution

DCP 316 Assessment

- 4.1 The Board of DCUSA Ltd requested for their legal advisors to undertake an impact assessment on the DCUSA document with a view to ensuring compliance with the GDPR legislation. The impact assessment was completed and a set of recommendations, inclusive of proposed amendments, was provided to the Board. These recommendations and proposed amendments are set out in Attachment 4 (Memorandum – GDPR Impact Assessment).
- 4.2 The Board of DCUSA Ltd agreed that the recommendations and proposed amendments should be progressed into the solution of this CP. Further information on the recommendations and proposed amendments as provided by DCUSA Ltd.’s legal advisors upon completion of the impact assessment is set out in Section 8 below.
- 4.3 The Secretariat drafted the CP form and the Proposer agreed to sponsor the change, after which it was issued to the DCUSA Panel for approval into the change control process.

5 Relevant Objectives

Assessment Against the DCUSA Objectives

- 5.1 For a DCUSA Change Proposal to be approved it must be demonstrated that it better meets the DCUSA Objectives. The CP form provided as Attachment 3, details which of the DCUSA Objectives the Proposer considers DCP 316 better facilitates.

Impact of the Change Proposal on the Relevant Objectives:

Relevant Objective	Identified impact
General Objective Four - The promotion of efficiency in the implementation and administration of this Agreement	Positive
General Objective Five – Compliance with the Regulation on Cross-	Positive

Border Exchange in Electricity and any relevant legally binding decisions of the European Commission and/or the Agency for the Co-operation of Energy Regulators	
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- 5.2 DCUSA General Objectives four and five are better facilitated by this change as it will promote compliance with the upcoming GDPR EU Legislation across the DCUSA and it will ensure the DCUSA reflects the environment in which it operates.

6 Impacts & Other Considerations

Does this Change Proposal impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?

- 6.1 Not applicable

Consumer Impacts

- 6.2 No consumer impacts have been identified.

Environmental Impacts

- 6.3 In accordance with DCUSA Clause 11.14.6, the Proposer assessed whether there would be a material impact on greenhouse gas emissions if DCP 316 were implemented. The Proposer did not identify any material impact on greenhouse gas emissions from the implementation of this CP.

7 Implementation

- 7.1 GDPR will be implemented into EU Law from 25 May 2018. The proposed implementation date for DCP 316 should be before this date and therefore, the changes to DCUSA should be made on an extra DCUSA Release on 24 May 2018.

8 Legal Text

- 8.1 The legal text for DCP 316 has been recommended and reviewed by the DCUSA legal advisor and is provided as Attachment 2.
- 8.2 The legal text sets out the amendments made to the DCUSA and includes the following:
- The defined term “Data Protection Act” has been amended to “Data Protection Legislation”;
 - All references to “Data Protection Act” found in Clauses 1 and 57.3, Schedule 25 and Schedule 26 will be replaced with “Data Protection Legislation”;
 - Clauses 34.3, 35.5, 50.3, 51.5, 52E.3, 52F.5, 52K.5 and 52L.5 will be deleted; and

- Incorporating a GDPR Clause in Section 3 as clause 60.15 “Data Protection”. These inclusions address the requirements under Article 26 GDPR in respect of joint data controllers or independent data controllers.

8.3 The Proposer is satisfied that the legal text meets the intent of the change.

9 Code Specific Matters

- 9.1 Data protection expertise may be needed to review the recommendations provided to DCUSA Parties. However, this can be determined by individual Parties as the recommendations have been provided by a data protection lawyer.
- 9.2 Parties are invited to consider where there are any instances in which Party to the DCUSA processes personal data under the DCUSA as a data processor. There is no need to identify instances that are governed by a different contract, e.g. when a MOP processes data on behalf of a Supplier, as this will have been contracted separately with the MOP for the provisions of the metering services.

Modelling Specification Documents

9.3 Not applicable.

Reference Documents

9.4 Not applicable.

10 Voting

10.1 DCP 316 change report was issued to DCUSA Parties for Voting on 20 April 2018.

Part 2 Matter: Authority Decision Not Required

DCP 316 Proposed Variation (Solution) Decision

- 10.2 For the majority of the Party Categories that were eligible to vote:
- the number of groups in each Party Category which voted to accept the proposed variation was more than 65% of the total number of Groups in that Party Category which voted; and
 - the sum of the Weighted Votes of the Groups in each Party Category which voted to accept the proposed variation was more than 65%

10.3 DCUSA Parties have voted to **accept** the proposed variation (solution) of DCP 316.

DCP 316 Implementation Date Decision

- 10.4 For the majority of the Party Categories that were eligible to vote:
- the number of groups in each Party Category which voted to accept the implementation date was more than 65% of the total number of groups in that Party Category which voted; and

- the sum of the Weighted Votes of the Groups in each Party Category which voted to accept the implementation date was more than 65%.

10.5 DCUSA Parties have voted to **accept** the implementation date of DCP 316

The table below sets out the outcome of the votes that were received in respect of the DCP 316 Change Report that was issued on 20 April 2018 for a period of 15 working days.

DCP 316	WEIGHTED VOTING				
	DNO	IDNO	SUPPLIER	DISTRIBUTED GENERATOR	GAS SUPPLIER
CHANGE SOLUTION	Accept	Accept	Accept	n/a	n/a
IMPLEMENTATION DATE	Accept	Accept	Accept	n/a	n/a

11 Recommendations

DCUSA Parties

11.1 DCUSA Parties have voted on DCP 316, with the outcome being a decision to be accept the Change Proposal and thus the proposed variation to the DCUSA will be made accordingly.

Attachments

- Attachment 1 – DCP 316 Consolidated Party Votes
- Attachment 2 – DCP 316 Legal Text
- Attachment 3 – DCP 316 Change Proposal
- Attachment 4 – DCP 316 Memorandum – GDPR Impact Assessment