

## Part A: Generic

DCUSA Change Proposal (DCP)		At what stage is this document in the process?
<h1>DCP 316:</h1> <h2>General Data Protection Regulation Compliance for DCUSA</h2> <p><i>29 March 2018</i></p> <p><i>Peter Waymont</i></p> <p><i>Eastern Power Networks plc</i></p> <p><i>DNO</i></p>		<p><b>01 – Change Proposal</b></p> <p>02 – Consultation</p> <p>03 – Change Report</p> <p>04 – Change Declaration</p>
<p>Purpose of Change Proposal: The intent of this change 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>Governance:</p> <p>The Proposer recommends that this Change Proposal should be:</p> <ul style="list-style-type: none"> <li>• Treated as a Part 2 Matter</li> <li>• Treated as an Urgent Change</li> <li>• Proceed to Change Report</li> </ul> <p>The Panel will consider the proposer’s recommendation and determine the appropriate route.</p>	
	<p>Impacted Parties: All</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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 Any questions?

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## Indicative Timeline

**The Secretariat recommends the following timetable:**

Initial Assessment Report	29 March 2018
Change Report issued to Panel	11 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 Date	24 May 2018 <sup>1</sup>

## 1 Summary

### What?

The General Data Protection Regulation 2016/679 (GDPR) is 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.

<sup>1</sup> Extra DCUSA Release

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?

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 you comply with the principles, therefore, updating the DCUSA to ensure compliance is the first step in doing this.

## How?

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

We do not believe that Authority Consent would be necessary for this change as there are no material changes to DCUSA.

### Requested Next Steps

This Change Proposal should:

- Be treated as a Part 2 Matter
- Be treated as an Urgent Change
- Proceed to Change Report

## 3 Why Change?

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.

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.

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.

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 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.

GDPR also requires organisations 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.

The DCUSA Ltd. requested that their legal advisors undertake an impact assessment on the DCUSA document to update any clauses and ensure compliance with the new GDPR legislation. This has been completed and recommendations have been made. More information on the legal text recommendations can be found in section 4 below.

## Part B: Code Specific Details

N/A

### 4 Solution and Legal Text

#### Legal Text

Recommendations of changes to be made to the DCUSA document can be found as Attachment 1 to this change proposal

#### Text Commentary

The following changes have been made to the DCUSA document:

- 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
- Incorporating a GDPR Clause in Section 3 as clause 60.15 "Data Protection". These inclusions address the requirements under Article 26 GDPR<sup>2</sup> in respect of joint data controllers and clarifies that the Parties to the Agreement are either joint data controllers or independent data controllers.

### 5 Code Specific Matters

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 from the DCUSA Legal Advisors.

Parties are invited to consider whether there are any instances in which a 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 provision of the metering services.

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<sup>2</sup> <https://gdpr-info.eu/art-26-gdpr/>

## Reference Documents

n/a

## 6 Relevant Objectives

DCUSA General Objectives	Identified impact
<input type="checkbox"/> 1 The development, maintenance and operation by the DNO Parties and IDNO Parties of efficient, co-ordinated, and economical Distribution Networks	None
<input type="checkbox"/> 2 The facilitation of effective competition in the generation and supply of electricity and (so far as is consistent therewith) the promotion of such competition in the sale, distribution and purchase of electricity	None
<input type="checkbox"/> 3 The efficient discharge by the DNO Parties and IDNO Parties of obligations imposed upon them in their Distribution Licences	None
<input checked="" type="checkbox"/> 4 The promotion of efficiency in the implementation and administration of the DCUSA	Positive
<input checked="" type="checkbox"/> 5 Compliance with the Regulation on Cross-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.	Positive

This Change Proposal will better facilitate DCUSA General Objectives 4 and 5 as it will promote compliance with the upcoming GDPR EU Legislation across the DCUSA.

## 7 Impacts & Other Considerations

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

No

**Does this Change Proposal Impact Other Codes?**

- BSC
- CUSC
- Grid Code
- MRA
- SEC

Other   
None

## Consideration of Wider Industry Impacts

This Change Proposal will not have any wider industry impact, as DCUSA Parties will be completing their own internal GDPR reviews.

## Confidentiality

None

## 8 Implementation

### Proposed Implementation Date

GDPR will be implemented into EU Law from 25 May 2018. This change is proposing that the implementation of these changes to the DCUSA should be implemented before this data on an extra DCUSA Release on 24 May 2018.

## 9 Recommendations

The Proposer recommends this CP progress to Change Report stage.

## 10 Attachments

- Attachment 1 – Recommended Legal Changes