*Generally, I think this guide needs to be more targeted. So, less of the background narrative and more of the ‘why’ these practices are important.*

*We also need a list of clear best practices in the introduction. Each section should be orientated around a best practice. Before describing the detail of the best practice, we need to first set out how we have identified it as a best practice.*

*Is there a particular format this guidance should take to attract DPAs? E.g. Does it need to be short and consise. Just 5-10 best practice bullets with examples, with the EU and STAR II logos on the back? Are images/links beneficial? Or do DPAs prefer a longer, more referenced document?*

**Introduction**

Financed by the European Union, the STAR II (SupporT small And medium enterprises on the data protection Reform II) project, running in the partnership of the National Authority for Data Protection and Freedom of Information (NAIH), the Research Group on Law, Science, Technology & Society (LSTS) of the Vrije Universiteit Brussel (VUB), and the Trilateral Research Limited (TRI IE) between 2018 and 2020, has the aim of assisting SMEs in applying the GDPR.

Taking the structure and needs of SMEs into account, the project helps the enterprises in question shape an appropriate practice.

In the course of the project, partners surveyed how the EU data protection authorities call, and have called, the attention of SMEs to their obligations arising from the GDPR, and also gathered information on the experience gained by SMEs in applying the GDPR.

In this document, based on the knowledge gained through the project’s main activities (most notably, the information gathering process, the awareness-raising campaign and the running of the hotline) and the interaction with DPAs and SMEs throughout the project, the consortium tries to give a guidance for DPAs on good practices in raising awareness, especially of SMEs about GDPR issues. One of those good practices will be the operation of a hotline for SMEs, with guidance on how to set up and run a hotline (with special attention to the required infrastructure, resources required, engaged personnel, internal policies, legal implications and ethical considerations).

**DPAs’ efforts to raise awareness among SMEs**

The report on DPAs’ efforts to raise awareness among SMEs (deliverable D2.1) presents the findings from a research study into awareness-raising efforts by EU data protection authorities among small and medium enterprises about the GDPR. The project team conducted interviews with and received questionnaires from a total of 18 DPAs to establish the state-of-the-art in this area.

The intent of the study was to understand what methods and resources DPAs were using to raise awareness of the GDPR and its provisions, specifically among SMEs, and to understand the DPA evaluation of these activities in the hope of identifying some best practices. To ascertain this information, DPAs were asked general questions around their view on levels of SME awareness of the GDPR, as well as whether the DPA conducts any structured research to establish this precisely. They were also asked about the specific issues that SMEs raise with DPAs on data protection and through what channels, for example a hotline or helpdesk advice service, as well as whether the DPA provides specific guidance documents targeting SMEs. In development of these questions, DPAs were also invited to provide information around their own processes and external relationships and to give evaluative comments on what works well and what is challenging. The responses to these questions revealed information around three broad areas, namely:

1. how DPAs identify the data protection needs of SMEs;
2. what kinds of resources DPAs provide for SMEs;
3. and what awareness-raising activities DPAs undertake to target SMEs.

This guidance – in line with its purpose – is arranged around the third area, focusing on the key-findings concerning the awareness-raising activities and the hotline/helpdesk advice services of DPAs, and at the same time it presents NAIH’s own experiences – as a possible good practice – in raising awareness as well as establishing and operating a hotline for SMEs.

Concerning awareness-raising activities of DPAs, we found that:

* A very small number of DPAs questioned the appropriateness of their role in awareness-raising among SMEs; the vast majority assumed this role as part of their responsibilities.
* When trying to capture levels of SME awareness about the GDPR, there is a need to distinguish between a basic awareness of the existence of the GDPR and awareness and understanding of various provisions within the GDPR.
* DPAs were however confident in expressing that awareness about the GDPR had increased vis-à-vis the previous data protection regime due to media attention, the existence of fines and the heightened activity of private consultants.
* DPAs identified the print media, social media and events as the most common general awareness-raising methods when asked.
* A multi-method approach was identified by quite a few DPAs as the best approach for raising awareness among SMEs. This may be because of the varied nature and needs of SMEs.
* Although the multi-method approach came out strongest, of the specific methods identified, DPAs referred to events as the most effective awareness-raising strategy for SMEs. This appears to sit comfortably with the fact that DPAs feel they understand SME needs best through personal interaction, for example, on-site consultation and helpline/helpdesk advisory services were identified as the next most effective methods for SMEs after events.
* Dissemination of examples of compliance strategies from larger organisations could be a helpful educational and awareness-raising tool for SMEs.
* There may be a need for DPAs to establish separate strategies around the format of educational resources available for SMEs and the dissemination and awareness activities about those resources.
* There may be a need to distinguish between awareness-raising activities for SMEs who are not likely to be engaged with the data protection framework in any capacity (e.g. not members of SME associations or DPO network) and awareness-raising activities for SMEs who are part of organised business networks. More traditional methods of awareness-raising such as through TV and radio networks may be best suited to the former group.
* Both the size of the country and the cultural landscape may have an impact on the most appropriate awareness-raising activities for SMEs.
* Many DPAs are evolving in terms of how they conduct awareness-raising activities. However, there was no consistent message in terms of what ways. Some DPAs identified innovative awareness-raising techniques such as engaging with social media influencers on compliance.
* Where the content of awareness-raising activities was raised, DPAs suggested that SMEs require specific content with examples and not generic advice. This tallied with the advice received by the STAR II campaign that the focus on content should be on its accessibility for DPAs through simplified and relevant forms of communication.
* Awareness-raising content that identifies the potential consequences of a failure to comply, e.g. cases and fines, does have an impact on the attention of SMEs. DPAs may therefore need to consider the balance to be achieved between communication of potential liabilities for failure to comply and a friendlier approach which encourages proactivity and engagement with the DPA on GDPR issues.
* It would benefit SMEs to convey the strategic and financial benefits of the GDPR through business language to which they can relate. This can be done by advertising the advantages of maintaining consumer trust, operational efficiency, sustainability and data security.
* If the GDPR is promoted as simple, it may be best if SMEs are educated on the distinction between the concepts and the application of these concepts. Application through self-evaluation/risk assessment and the implementation of technical and operational measures do not at present appear simple for SMEs.

Concerning the hotline/helpdesk advice service, we found that:

* All DPAs operated a form of telephone or email and telephone advice service. In most cases, this service was not an SME specific hotline/helpdesk service.
* There was, however, no suggestion from the data that DPAs felt that an SME specific hotline/helpdesk advice service was needed. This may be because many advice services report an already high volume of enquiries from SMEs.
* DPA mention of priority areas for improvement concerned instead the capacity of the hotline/helpdesk in terms of operating hours and personnel allocation, as well as expertise.(The ability of DPA employees to give precise and practical advice was sometimes identified as a problem with hotline/helpdesk services by SME associations in Deliverable D2.2.)
* Some DPAs mentioned taking up to 30 days to respond to queries from the hotline/helpdesk and rarely longer. While DPAs appear for the most part to attempt to respond as soon as possible, SME associations advise that maximum benefit is achieved for SMEs if the service is perceived as quick, i.e. where responses are received within one week.
* Most DPAs do not use internal guidance to direct hotline/helpdesk advisers. Just over a quarter of DPAs did. The ones having such documents were not willing to share them with the consortium.
* Most DPAs did not consider that the hotline/helpdesk advice service would incur legal liability.
  + However, at least for routine enquiries, DPAs appeared more comfortable giving advice via telephone because it mitigates liability concerns.
  + DPAs appeared roughly divided in terms of whether a formal disclaimer was provided to the SME seeking advice or not.
* Most calls/queries were facilitated in the national language of the respective country which was also the language in greatest demand from SMEs.
* While English was also widely facilitated across the EU DPAs, a small number of DPAs expressed that it would be beneficial to develop their English language capacity.
* Most DPAs did not appear to consult each other formally or informally when either developing guidance or establishing a hotline/helpdesk. That said, some DPAs mentioned cooperation at the EU level and awareness and knowledge of other DPAs resources.

In developing the DPA best practice guidance, STAR II may wish to take forward some of the suggestions below which have been derived from the report findings.

* Formally recording issues raised with DPAs by SMEs. This would be especially important in the forum through which DPAs interface with SMEs the most - the hotline/helpdesk. It would also serve as necessary data for the monitoring and evaluation of SME awareness-raising strategies and the success of any knowledge-based resources.
* Undertaking commissioned research at specific intervals to assess awareness of specific issues. It is important to ensure that the same research questions are asked more than once to be able to assess the effectiveness of any awareness-raising measures taken or general shift in SME needs. As mentioned above, this could be done in coordination with SME associations to avoid duplication of effort and maximise resources. The emphasis here is again on follow-up and mapping change.
* Offering multiple channels for SMEs to contact DPAs, and being able to respond on those channels.
* Ensuring that all SME communications include a focus on the strategic and financial benefits of the GDPR for business. It appears that there may be a missed opportunity to ‘sell’ the GDPR, both to SMEs and by SMEs. Whether the GDPR can be genuinely called simple for SMEs is unclear. By emphasising the benefits for SMEs in terms of their customer base, it may be possible to garner greater ongoing interest.
* Developing separate strategies for awareness-raising among isolated SMEs and engaged SMEs (e.g. sector engagement, rural/urban, technology literate etc). The STAR II project is aware that many SMEs have not engaged with their national DPA and that some will also operate largely apart from SME associations. Such SMEs need to be distinguished from ‘connected’ SMEs and SMEs that operate with a high level of technological capacity.
* Prioritising opportunities for personal interaction with SME representatives and SME associations.

**NAIH’s awareness raising campaign**

The campaign aimed to reach out to SMEs to raise their awareness regarding the GDPR and to draw more attention to the new regulatory framework on personal data protection. The  
campaign also explained the particular forms of assistance STAR II will provide, namely the hotline for SMEs in the first place, and – subsequently – the handbook for SMEs and a guidance for DPAs. The campaign reached out the target group widely and has risen the awareness of the SMEs in Hungary about the need to comply with the new data protection framework and encouraged them to take the necessary measures.

The communication channel (radio), the length of the campaign (one month), the frequency of broadcasting (two plus one spots per day) were based on the experience gained in the ARCADES project. A one-month-long campaign with three spots (50 seconds) per day was deemed to be appropriate to deliver the message for a significant number of people, including the target audience.

NAIH requested quotes from the Hungarian Media Service Support and Trust Fund (MTVA) on the expected costs of the recording and one-month-long broadcast, and later a contract has been signed.

NAIH drafted the text and the scenarios of the radio campaign in English and in Hungarian and then validated them with the consortium. The final text and the scenarios of the radio spot was recorded in Hungarian language on 20.12.2018. The following text was recorded:

*“Do you know that small and medium-sized enterprises represent 99% of all businesses in the EU?*

*Rules and obligations of the new EU data protection regulation (coming into force as of May2018) affect generally these data controllers, too and there are also some specific rules of the GDPR which apply to SMEs.*

*For more information please, contact the National Authority for Data Protection and Freedom of Information, which has set up a special hotline:* [*kkvhotline@naih.hu*](mailto:kkvhotline@naih.hu)

*This PSA has been prepared upon the request of NAIH and co-financed by the Rights, Equality and Citizenship Programme of the European Union under the supervision of the DG JUST of the Commission.”*

The radio campaign was broadcasted by Petőfi Rádió, a countrywide available public radio that has the most listeners per day among the entire adult population in Hungary. According to the data published by the National Media and Infocommunications Authority, Petőfi Rádió has had about 1,3 million listeners per day in average in the first quarter of 2019.  
The radio spot was broadcasted 86 times between 15.03.2019 – 15.04.2019 (17 times in the  
morning hours, 37 times in the afternoon hours and 32 times in the evening hours).

The President and other representatives of NAIH presented the project and the launch of the  
SME hotline on several conferences (Hungarian Decision maker Think Tank Conference,  
Infoszféra conference, Data Protection Case Handling Workshop). To further advertise the STAR II project and the SME hotline the NAIH published an announcement on its website on the launch and operation of the SME hotline on 14.03.2019.

**STAR II’s SME hotline**

In order to interact with SMEs, assist them to ensure compliance with the GDPR and gather valuable information about the difficulties they face, NAIH is operating a hotline for SMEs between 15 March 2019 and 15 March 2020. In this period NAIH provides information for SMEs throughout the European Union in respect of the interpretation and proper application of the GDPR.

Infrastructure and necessary workforce (hotline administrator, hotline expert, DP expert responsible for the “Knowledge Base”, professional supervisor) is provided by NAIH. The “Knowledge Base” has been created before the trial-hotline started its operation, but it is constantly expanding based on the incoming questions and the answers given to them. A data protection notice and internal rules for the operation of the hotline (including deadlines, conditions of assistance, liability issues) have also been prepared.

The data protection notice is published on NAIH’s website and includes information on

* the data controller
* the data protection officer and contact details
* the purpose of data processing and the scope of the data processed
* the legal basis of data processing
* the sources of personal data processed and the scope of those personal data provided to the Authority not by the data subject
* the recipients of personal data and the categories of recipients
* the duration of storing personal data
* the data subject’s rights concerning data processing
* right to remedy

The internal rules for the operation (Memorandum) of the hotline lay down the tasks of the engaged personnel, the internal policies (including deadlines, conditions of assistance, etc.) and it covers liability issues as well.

|  |  |
| --- | --- |
| **Engaged person** | **Task** |
| Head of the Data Protection Department | The control and approval of the answers to the questions received via the SME Hotline operated between 15 March 2019 and 15 March 2020 in the framework of the STAR II Project |
| Hotline Expert | Participation in answering questions received via the SME Hotline operated between 15 March 2019 and 15 March 2020 in the framework of the STAR II Project, as well as cooperation with Hotline Project Assistant |
| Deputy of the Hotline Expert | Participation in answering questions received via the SME Hotline operated between 15 March 2019 and 15 March 2020 in the framework of the STAR II Project, as well as cooperation with Hotline Project Assistant; when justified by the quantity of work, support for the Hotline Expert designated to answer questions received via the Hotline in the first place and deputizing for him or her |
| Colleague in charge of the Knowledge Base | The continuous updating of the Knowledge Base created for assisting the working of SME Hotline operated between 15 March 2019 and 15 March 2020 |
| Deputy of the colleague in charge of the Knowledge Base | The continuous updating of the Knowledge Base created for assisting the working of SME Hotline operated between 15 March 2019 and 15 March 2020 |
| The colleague deputizing for Project Assistant | Performing the duties of SME Hotline Project Assistant on an ad hoc basis, when the Project Assistant is incapacitated |

Hotline questions shall be answered within 8 workdays of receiving them in the way defined by the Memorandum. The response shall be sent to the requester’s e-mail address. The response shall include the summary of the question or questions, the concrete answer to each question, with references to sources used apart from citations of law and the following disclaimer:

*„Finally, please note that the information by the Authority—dispatched outside of any procedural framework, as a consultation answer—shall be construed neither as law nor as any legal instrument, and shall have no normative feature, legal force or binding content. The interpretation of law by the Authority on the basis of the information provided in this case shall in no way bind any other authority, the courts or the data controller; it is serves merely guidance purposes. The opinion and information thus provided shall thus in no way exempt the addressee from the necessity of developing its own legal position or the data controller from its liability for data processing.”*

The answers to the hotline requests in Hungarian or English, as well as the languages designated by consortium members and EU languages, shall be in the language of the request, under the condition that the Project Assistant shall send the non-English or non-Hungarian requests to the designated consortium member, redacting the personal data in the request and stating the expected deadline, and shall then dispatch the response by the consortium partner to the requester.

The Project Assistant shall draft responses to questions that can be answered on the basis of the Knowledge Base, and shall forward the draft response to colleague designated by the Head of the Data Protection Department (hereinafter: ‘the Hotline Expert’), who shall signal within a day if he or she disagrees with and suggests changes to it on its merits; the Project Assistant shall dispatch the response taking into account the possible suggestions by the Hotline Expert.

The questions that cannot be answered on the basis of the Knowledge Base shall be sent by the Project Assistant to the Hotline Expert within 2 days of receipt, who shall then send the draft answer based on the law-enforcement practice of NAIH and the supervisory authorities under the GDPR, the relevant case law of the courts, and the documents of the EDPB assisting the application of law to the Project Assistant within four working days. The latter shall then dispatch the response.

Should a hotline request pose a new or especially complicated question which cannot be answered unequivocally on the basis of the law-enforcement practice of NAIH and its associate authorities, the relevant case law of the courts, and the documents of the EDPB assisting the application of law, the Hotline Expert shall involve other experts of NAIH in accordance with executive guidance where necessary.

The Hotline Expert shall present the draft response he or she formulates to the Head of the Data Protection Department before forwarding it to the Project Assistant.

The responses shall be formulated so as to not only include the mere repetition of the provisions of law, but also to provide graspable assistance in the interpretation of law applicable relevant to the merit of the question, and to highlight the relevant aspects in the application of law related to the given question, the factors to be considered among them, and their significance. The answer shall contain no opinion as to the lawfulness of any concrete data processing.

Any request that is not general but specific, directed in its content to obtain an opinion on the lawfulness of a given data controller’s data processing with a defined purpose shall be rejected by providing the following brief notice:

*“The Authority responds to SME Hotline requests only insofar as they pose general questions of interpreting law, where, beyond the mere repetition of the provisions of law applicable, the requester requires assistance in the interpretation of their content relevant to the question, and the question can be answered by providing information on the relevant aspects of applying law, the factors to be considered among them, and the outlining of law-enforcement practice without any formulation of opinion on the lawfulness of a concrete data processing. On account of the above, we are not in the position to deliver an opinion as regards the lawfulness of a data controller’s data processing with the defined purpose. I kindly ask you to take knowledge of the information above.”*

The Project Assistant shall maintain a Register of all hotline requests and the responses to them with specified content. The aim of the Register shall be to monitor the timely response to requests received and to collect statistical data needed for other products of the Project. The Register shall include the e-mail address of the requester as personal data only in order to monitor the fulfilment of the request, and the personal data required for other products by the Project shall be deleted when the SME Hotline task is concluded.

In terms of the statistics and the Register related to the fulfilment of the SME Hotline task and the calculation of the special assignment allowance of the Hotline Expert, the answers to questions shall be classified in three groups according the level of difficulty of formulating them:

* Level 1: a question answerable on the basis of the Knowledge Base or concludable by sending the notice included in point 12;
* Level 2: a question not answerable on the basis of the Knowledge Base but answerable unequivocally by the Hotline Expert on the basis of the law-enforcement practice of the Authority and the supervisory authorities under the General Data Protection Regulation, the relevant case law of the courts, and the documents of the European Data Protection Board assisting the application of law;
* Level 3: the question is only answerable with the assistance of other experts of NAIH.

The Head of the Freedom of Information Department, the Project Assistant and the deputy Project Assistant shall have read and write access to the [kkvhotline@naih.hu](mailto:kkvhotline@naih.hu) e-mail box.

Following the conclusion of the SME Hotline task, the contents of the [kkvhotline@naih.hu](mailto:kkvhotline@naih.hu) e-mail box shall be saved and archived on a portable storage device, and the storage device shall be stored filed among the papers of the project until selection for destruction, and otherwise the contents of the e-mailbox shall be deleted.

The Hotline Expert, the colleague in charge of the Knowledge Base, the persons commissioned to deputize for them and the Project Assistant, and the Head of Data Protection Department shall perform their duties related to the SME Hotline task as beyond their normal work duties, as a special assignment in exchange for a special assignment allowance.

The allowance for special assignments shall be calculated by multiplying the number questions answered, the hourly fee defined on the basis of gross salary, and the difficulty factor (the difficulty level defined in the statistical order of the operation of the Hotline), so that the hourly fee for a question belonging to Difficulty Level 2 shall be 200% and one in Difficulty Level 3 shall be 300% of one in Difficulty Level 1, but the allowance shall not exceed half of the gross salary per month. Payment of the special assignment allowance shall be conditional on submitting the monthly time sheet.

**Evaluation and statistics**

NAIH has experienced a relatively high interest among SMEs during the hotline’s operation, but it must be noted that only Hungarian SMEs have used the hotline so far. The majority of the SMEs contacting NAIH refers to the information available on the website of NAIH, a smaller part refers to the radio campaign. Based on the increased interest of the SMEs on their GDPR compliance, the awareness raising campaign has successfully reached its goal.

figures, charts, etc. to be added here