

Article 83 of the General Data Protection Regulation (GDPR) (EU 2016/670 of the European Parliament and of the Council of 27 April 2016) sets out penalties for infringements.

Those penalties are summarised as follows:

Article infringed	Penalty
8 - Conditions applicable to child's consent in relation to information society services	Up to €10M or 2% of total worldwide turnover
11 - Processing which does not require identification	
25 - 39 - General obligations, including co-operation with supervisory authority, processor contracts, data protection by design and by default, records of processing activities, security of processing, personal data breach reporting, data protection impact assessments and data protection officer	
42 - Certification	
43 - Certification bodies	
5 - Principles	Up to €20M or 4% of total worldwide turnover
6 - Lawfulness of processing	
7 - Conditions for consent	
9 - Processing of special categories of personal data	
12 - 22 - Transparency and rights	
44 - 49 - International transfers	
58(1) - Failure to provide access to supervisory authority	
58(2) - Non-compliance with any order issued by supervisory authority	

In the Isle of Man, Regulation 114 of the GDPR and LED Implementing Regulations 2018 sets the maximum penalty at £1M. There is no 'percentage of turnover' penalty provision.

Penalties for infringements of the Applied GDPR in the Isle of Man must, however, be effective, proportionate, and dissuasive.

In calculating the penalty in the Isle of Man, the first consideration is the **Business Type**, in particular the size and nature of function of the business (including public bodies).

Depending on **Business Type (A & B)**, there are currently two **Penalty Ranges**, which are anticipated to cover the majority of circumstances in which penalties may be imposed. Further Penalty Ranges may be introduced, if necessary.

Whilst the **Penalty Ranges** are provisionally set at £0 - £25000 (2.5% of £1M) and £0 - £100,000 (10% of £1M), the **Penalty Ranges** are indicative only and do not preclude the Commissioner from imposing any level of penalty, including the maximum penalty, in any given case.

Within the **Penalty Ranges**, there are three **levels of seriousness**. The level of seriousness will be determined on a case-by-case basis.

For the purposes of penalty calculation, **Penalty Ranges** have **default penalties** for each **level of seriousness**.

The **default penalty** may be increased, or decreased, depending on aggravating and mitigating factors in the circumstances of the given case.

Note:

The £1M penalty also applies to infringements of the Unsolicited Communications Regulations 2005, by virtue of SD2019/0456 (Data Protection (Application of GDPR)(Amendment) Order 2019.

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