

# European Journal of Privacy Law & Technologies

2019/2



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<b>Challenge Title: Processing activity records</b>	
<b>Use Case Author</b>	<i>Davide Borelli, Lucilla Gatt, Suor Orsola Benincasa University of Naples</i>
<b>Topic</b>	<i>Privacy in Banking</i>
<b>Overview</b>	<p><i>'UOMe' is an Italian fintech company headquartered in Milan and regulated by the Italian Conduct Authority. Being particularly active in the Forex market, 'UOMe' offers low-priced currency exchange and international payments to private individuals and companies. Although many of its activities are deeply based on technology (e.g., lead qualification, KPI), 'UOMe's business model heavily relies on traditional 'call calling': having identified a 'prospect', a salesperson calls them to pitch 'UOMe's products and services. Once onboarded, clients may use 'UOMe's mobile app to get real-time quotes, place trades, make transfers, and manage their existing positions.</i></p> <p><i>'UOMe' Operations Team is based in India, whereas the Sales and the Compliance Offices are respectively based in Italy and the United Kingdom.</i></p> <p><i>Being successfully pitched by one of 'UOMe's dealers, Davide decides to join the service conscious of the convenience of the offered rates. Nevertheless, while going through the onboarding process he suddenly realises that the service is not cheap as expected in the first place, hence he decides not to progress with his application. After a couple of weeks, having received another unsolicited call from 'UOMe', Davide decides to exercise his rights to access and to be forgotten.</i></p>
<b>1. Engage</b>	
<b>Big idea</b>	<i>Processing Activity Records and Data Subject Rights (DSRs)</i>
<b>Essential Question</b>	<i>How would you define for each processing activity which is the appropriate legal basis for processing? How would you ensure you have full control and visibility over your data processing activities? How would you comply with a data subject request (e.g., right to access, to deletion, etc.)?</i>
<b>Initial re-sources</b>	<ol style="list-style-type: none"> <li><i>1. A brief Onboarding Standard Operating Procedure</i></li> <li><i>2. The request sent by the data subject</i></li> <li><i>3. A Processing Activity Inventory spreadsheet</i></li> </ol>
<b>Guiding</b>	<i>Acting as newly appointed Global Privacy Offices, the Students</i>

<b>Questions</b>	<p><i>should try to update the existing Onboarding Standard Operating Procedure to include necessary privacy controls, document the related processing activity into an ad hoc inventory spreadsheet, and handle the data subject request.</i></p> <ul style="list-style-type: none"> <li>• <i>What controls would you put in place to ensure that privacy is considered throughout the onboarding process?</i></li> <li>• <i>In the financial sector, is there any regulations that might have an impact on the applicability of the data protection legislation?</i></li> <li>• <i>How would you limit unstructured data transfers?</i></li> <li>• <i>How would you capture the data given by prospects and clients in compliance with the applicable data protection legislation?</i></li> <li>• <i>How would you handle data subject requests? Would you structure a proper process or handle them manually on a case by case basis? What if the request has been sent using a third-party platform (e.g., One.Thing.Less)?</i></li> </ul>
<b>Reflections</b>	<p><i>Once the exercise is completed, the Students will be encouraged to reflect on the challenges that the financial sector players may face from a privacy perspective and on the importance of a data mapping exercise. The Students will also be encouraged to think about how a similar scenario could be tackled more effectively in future and to record any individual reflections on the exercise.</i></p>
<b>Other notes</b>	None.
<b>2. Investigate</b>	
<b>Activity Description</b>	Each Student is required to map out a process of investigation for answering the questions above.
<b>Resources</b>	<ul style="list-style-type: none"> <li>• <i>Tackling nuisance calls and messages: Consultation on action against rogue directors (30 May 2018), available at <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/711999/Nuisance_calls_and_texts_consultation_1.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/711999/Nuisance_calls_and_texts_consultation_1.pdf</a></i></li> <li>• <i>Lawfulbasis for processing (2018), available at <a href="https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/">https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/</a></i></li> <li>• <i>Draft List of types of Data Processing Operations which require a Data Protection Impact Assessment (6 June 2018), available at <a href="https://www.dataprotection.ie/docimages/documents/DPIA%20for%20consultation.pdf">https://www.dataprotection.ie/docimages/documents/DPIA%20for%20consultation.pdf</a></i></li> <li>• <i>Information to be Given (March 2018), available at <a href="https://www.dataci.gg/wp-content/uploads/2018/03/InfoGiven.pdf">https://www.dataci.gg/wp-content/uploads/2018/03/InfoGiven.pdf</a></i></li> <li>• <i>Conditions for Processing (March 2018), available at <a href="https://www.dataci.gg/wp-content/uploads/2018/03/Conditions.pdf">https://www.dataci.gg/wp-content/uploads/2018/03/Conditions.pdf</a></i></li> </ul>

	<ul style="list-style-type: none"> <li>• <i>Information Commissioner: A Closer Look at Rights &amp; Remedies</i>, available at <a href="https://www.inforights.im/media/1441/rights_and_remedies.pdf">https://www.inforights.im/media/1441/rights_and_remedies.pdf</a></li> <li>• <i>Report on Innovative Uses of Consumer Data by Financial Institutions (28 June 2017)</i>, available at <a href="http://www.eba.europa.eu/documents/10180/1720738/Report+on+Innovative+uses+of+data+2017.pdf">http://www.eba.europa.eu/documents/10180/1720738/Report+on+Innovative+uses+of+data+2017.pdf</a></li> <li>• <i>Guidelines on transparency under Regulation 2016/679   WP260 rev.01 (11 April 2018)</i>, available at <a href="http://ec.europa.eu/newsroom/article29/document.cfm?action=display&amp;doc_id=51025">http://ec.europa.eu/newsroom/article29/document.cfm?action=display&amp;doc_id=51025</a></li> <li>• <i>Data Protection Guidelines for Banks (8 May 2018)</i>, available at <a href="https://idpc.org.mt/en/Press/Documents/Data%20Protection%20guidelines%20for%20banking.pdf">https://idpc.org.mt/en/Press/Documents/Data%20Protection%20guidelines%20for%20banking.pdf</a></li> </ul>
<b>Synthesis</b>	<p><i>In groups of 5, the Students are required to create a PowerPoint presentation which outlines –</i></p> <ol style="list-style-type: none"> <li><i>(1) Their findings on the topic,</i></li> <li><i>(2) How they would update the existing Onboarding Standard Operating Procedure,</i></li> <li><i>(3) How they would record processing activities within a proper inventory, and</i></li> <li><i>(4) Their strategy to handle the data subject request.</i></li> </ol> <p><i>The proposal shall be shown to and discussed with the class. Afterwards, the groups shall engage the data subject to handle its request. Each group shall evaluate the performance of the others and outline pros and cons of each suggested approach</i></p>
<b>Reflections</b>	<p><i>The Students will be encouraged to reflect on the operational side of privacy and on how to foster awareness and accountability within the business. They will also be encouraged to think about how a similar scenario could be tackled more effectively in the future and record any individual reflections on the exercise.</i></p>
<b>Other notes</b>	<i>None.</i>
<b>3. Act</b>	
<b>Solution Prototypes</b>	<p><i>Each Group will provide a classroom style briefing to fellow students to explain the process and outcome of their investigations, and to disseminate the implications which flow from this.</i></p> <p><i>The above-mentioned briefing shall include the following –</i></p> <ol style="list-style-type: none"> <li><i>1. An explanation of the Know Your Customer (KYC) process and any suggested updates,</i></li> <li><i>2. What risks may be associated with the onboarding of new clients,</i></li> <li><i>3. An introduction to the different legal basis for processing,</i></li> <li><i>4. A data mapping inventory handling workflow,</i></li> </ol>

	<p>5. A data subject rights handling procedure, and</p> <p>6. A brief strategy to handle the request made by Davide.</p> <p>The recommendations provided should aim to improve attitudes to data privacy and security, as well as awareness of the implications of breaches of the privacy laws and regulations.</p> <p>The proposal shall be shown to and discussed with the class. Each group shall evaluate the performance of the others and outline pros and cons of each suggested approach.</p>
<b>Solution</b>	<i>The Students shall provide a solution or options for different solutions in the format suggested above.</i>
<b>Implementation plan</b>	<i>The Students shall provide a plan on how the solutions may be delivered, and how to foster a virtuous change management within the business.</i>
<b>Evaluate</b>	<p><i>The Students shall answer the following –</i></p> <ol style="list-style-type: none"> <li><i>1. What are the strengths and weaknesses of the approach you have suggested?</i></li> <li><i>2. How did you assessed the proposed trade-off between legal compliance and business needs?</i></li> <li><i>3. What did you learn from this exercise?</i></li> </ol> <p><i>The Students will also be required to carry out a SWOT analysis on one of the suggested approaches.</i></p>
<b>Other notes</b>	<i>None.</i>
<b>4. Reflection and documentation</b>	
<b>Case notes</b>	<i>It can be developed in future by showing real onboarding procedures and let them assist a real contract negotiation.</i>