

WELCOME TO THE

**‘Using data intelligence to tackle
Council debt & insolvency’**

OPEN DAY

JUNE 15 2017, KNOWSLEY HALL

HOUSEKEEPING

- **MOBILE PHONES**
- **TOILETS**
- **EMERGENCY EXITS**
- **PLANNED ALARMS**
- **DESTIN INTRODUCTION**

AGENDA

10.45 **Data Collaboration – sharing data to tackle debt collection**

GREENHALGH KERR | SOLICITORS

11.15 **CUSTOMER INSIGHT SESSION 1: Getting down to business:
using data to drive revenue and improve collections**



11.45 *Refreshments & Networking*

12.15 **CUSTOMER INSIGHT SESSION 2: Business Rates Fresh look**



12.45 **General Data Protection Regulation (GDPR) – Are you ready?**



13.15 **Chairs closing remarks, observations and questions**

13.20 *Lunch, Networking & Demo's*



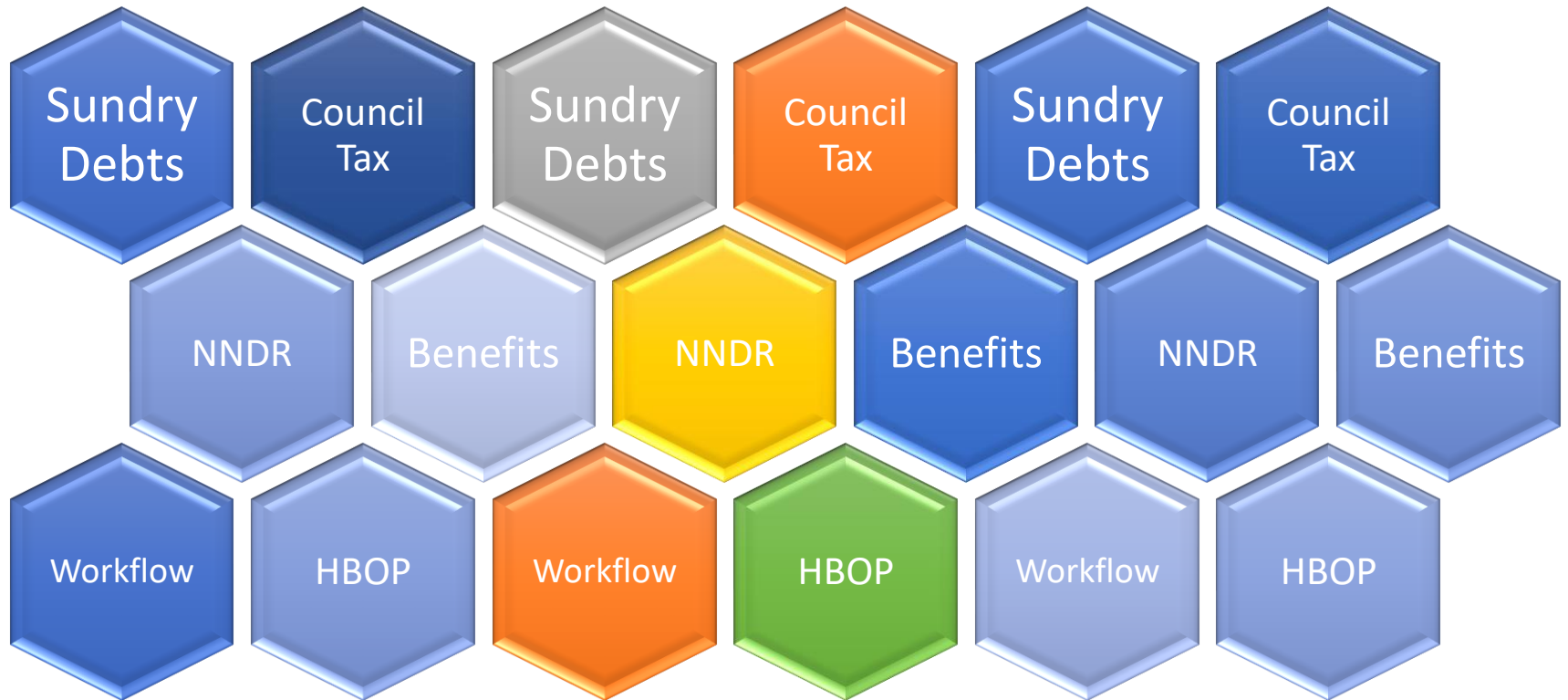
Product Update



Authority B

Authority A

Authority C



Shared Services

Regional

Benchmarking Groups





Ascendant Solutions
data management

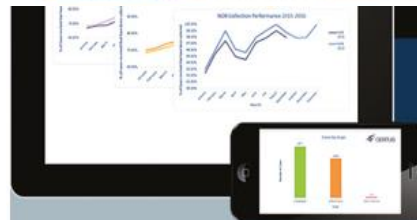


**Crown
Commercial
Service**

Finalists



DUKES
BAILIFFS LIMITED



INTRODUCING



CERTUS

INTELLIGENT PERFORMANCE MONITORING

Appointed as a Single Data Provider:

- Single Person Discount Rolling Review
 - Empty Property Rolling Review
 - NNDR Commercial Insight
 - Customer Trace
 - Customer Financial Insight
-
- Powered and delivered through Vision



Product Update

GREENHALGH KERR | SOLICITORS

Data Collaboration – sharing data to tackle debt collection

Richard Kerr

Greenhalgh Kerr Solicitors - Overview

Specialist firm of solicitors : Debt recovery & insolvency is all we do

Accredited : Legal 500 / Lexcel / 2016 IRRV awards – debt management

Experienced : 70 councils across E&W

Dedicated LA team : Combined expertise in insolvency and ratings law

Focus On Recoveries : Improving Collections

Dealing With Avoidance

Improving The Council's Reputation

NNDR Collections – addressing the issues

- **Resources:** the ability to manage volumes of non paying cases
- **Speed:** acting quickly to ensure that debtors pay the council first
- **Avoidance:** spotting issues at an early stage & getting good advice on how to deal with it

Issue No.1: Resources

- Full support of local authority team at Greenhalgh Kerr
- Online access to live Ascendant system
- Monthly / weekly review of cases identified in “Alerts”
- Joint training with GK in identifying actions to be taken / creating strategy

Example:

Monthly review with Business Rates Manager at Preston City Council

Via telephone with mutual login

Each flagged case discussed and entered into workflow

Issue No.2 : Improving and speeding up recoveries

As part of the regular review:

- Adverse credit rating – missed instalment
- Fast tracked to liability order
- Enforcement decision – insolvency/EA

Example:

Large deli company – missed instalments – healthy balance sheet – fast tracked to obtain LOs – winding up proceedings issued - £37k paid within 2 months

Notification of insolvencies – CVLs/CVAs

- Enables timely consideration of proposals – voting
- Post administration – disclaimer of leases
- Supporting petitions

Accounts in the wrong name

- Even if paying, cleans data and enables recovery action if they stop

Issue No.3 : Dealing with avoidance

- Avoidance on the increase – but can be hard to spot
- Use of GK expertise in identifying potential cases
- Further investigations carried out
- Full assistance with any resulting disputes/Magistrates Court proceedings

Example:

Empty property review

Cases identified on Ascendant

- Property empty (supported by inspection reports)
- One or a number of limited companies put forward as tenants
- Tenant companies filing little or no documents at Companies House / dormant accounts / dissolved
- No payment received and enforcement agents unsuccessful

Getting Down to Business

Using Data to Drive Revenue and
Improve Collections

Julie Smethurst IRRV (Hons)
Revenues Manager
Preston & Lancaster Shared Service

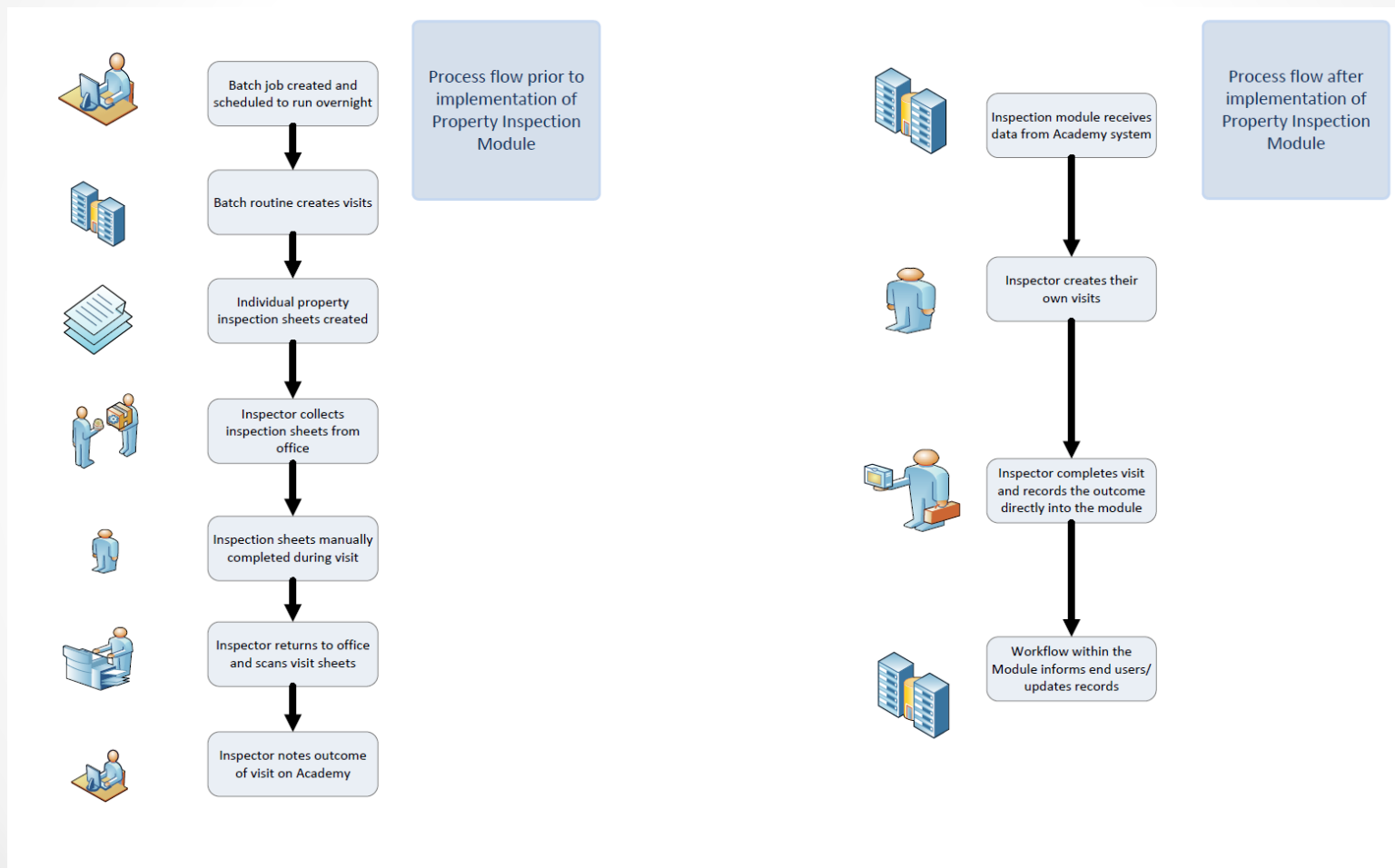
Background Information

- Preston & Lancaster entered into a Shared Service in 2011.
- Joint management team implemented from 2010.
- Overall reduction in staffing across Revenues & Benefits of 56% over a 6 year period.
- Savings of over £3 million.
- Managers split their time working over 2 sites.
- Management Information presented in very different ways at each site.
- Some processes were completely manual .
- Loss of experience and expertise.
- Varying performance.
- Change in emphasis in performance monitoring.
- Impact of CTRS and Rate Retention.

Implications

- Could no longer continue with unmeasured manual processes;
- Audit requirement to introduce an electronic inspections system.
- Less staff meant less time allocated to do the job – needed to work smarter.
- Staff taking over new roles – had to hit the ground running and needed better analytical tools.
- CTRS and Rate Retention had a big impact on the way we work and saw a marked readjustment of priorities.
- Managers could not continue working in different ways – had to look to streamline and bring reporting into alignment where possible.

Aspire Inspections Module



Property Details

Visit History

Address 9 STREET

Account Ref 10189091

LANCASTER

Postcode LA1

Customer MR

Reason visit requested

inspector observation

Liabile From 26 April 2011

Rateable Value £10,750

Discount/Exemption Empty

Exempt Class

Property Ref 100101520090

Circumstances

Directions

Notes

Increase in Tax Base & Income from Completion Notices

Lancaster		
Year	Number issued	
2015	293	£180,000
2016	1,158	£350,000 (*)
2017	318	£520,000
Total	1,769	£1,050,000

* Actual income due to proportioned charges

Preston		
Year	Number issued	
2015	411	£500,000
2016	398	£380,000
2017	360	£680,000
Total	909	£1,560,000

Empty Property Review Results

LANCASTER				PRESTON			
Number of Properties Checked		Number of Visits Selected		Number of Properties Checked		Number of Visits Selected	
<u>2015</u>	<u>2016</u>	<u>2015</u>	<u>2016</u>	<u>2015</u>	<u>2016</u>	<u>2015</u>	<u>2016</u>
739	243	253	185	909	282	249	189
% of Properties Visited Found Occupied				% of Properties Visited Found Occupied			
2015		2016		2015		2016	
16%		7%		24%		33%	
Additional Council Tax Revenue				Additional Council Tax Revenue			
2015		2016		2015		2016	
£7,016		£2,509		£8,459		£5,485	

Vision - Top Outstanding Debts

25 largest Council Tax debts			25 largest Non Domestic Rates debts		
Act Ref	Taxpayer	Account Balance	Act Ref	Ratepayer	Account Balance
xxxxxxx		£11,792.37	xxxxxxx		£12,787,890.76
xxxxxxx		£11,346.52	xxxxxxx		£5,305,290.00
xxxxxxx		£10,278.04	xxxxxxx		£894,880.00
xxxxxxx		£10,072.59	xxxxxxx		£713,010.00
xxxxxxx		£9,746.58	xxxxxxx		£626,690.00
xxxxxxx		£9,721.46	xxxxxxx		£591,620.00
xxxxxxx		£9,393.69	xxxxxxx		£542,990.00
xxxxxxx		£9,364.35	xxxxxxx		£479,000.00
xxxxxxx		£9,223.19	xxxxxxx		£370,904.00
xxxxxxx		£9,210.90	xxxxxxx		£320,440.00
xxxxxxx		£8,883.73	xxxxxxx		£270,915.00
xxxxxxx		£8,623.94	xxxxxxx		£243,220.00
xxxxxxx		£8,065.74	xxxxxxx		£229,059.00
xxxxxxx		£8,039.81	xxxxxxx		£221,119.96
xxxxxxx		£7,929.63	xxxxxxx		£208,012.00
xxxxxxx		£7,826.24	xxxxxxx		£201,184.00
xxxxxxx		£7,509.21	xxxxxxx		£191,657.29
xxxxxxx		£7,509.16	xxxxxxx		£144,240.00
xxxxxxx		£7,501.79	xxxxxxx		£141,576.00
xxxxxxx		£7,279.33	xxxxxxx		£139,392.00
xxxxxxx		£7,166.34	xxxxxxx		£138,912.00
xxxxxxx		£7,088.72	xxxxxxx		£138,380.00
xxxxxxx		£7,009.41	xxxxxxx		£129,700.00
xxxxxxx		£7,000.74	xxxxxxx		£128,410.00
xxxxxxx		£6,975.52	xxxxxxx		£127,730.00
Total		£214,559.00	Total		£25,286,222.01

Successful Action for CTAX Debts

- Targeted almost £750,000 of largest council tax debts across both sites.
- Firm approach taken and numerous bankruptcies and dissolutions followed which resulted in £176,424 (23.5%) being written off.
- Due to this firm and targeted approach, we have collected £162,677 of the arrears to date since April 2015 (21.7%).
- Combined use of Insolvency , charging orders, attachment of earnings and Enforcement Agents.
- Have to look at each individual case in detail and decide upon the best approach – one size doesn't fit.
- Many previously “problem” properties now paying and up to date.
- On going action against others should see more revenue collected.
- Clearing out arrears cases enables staff to focus on current debt.

Business Rates – Changing Priorities

- Since 1st April 2013, council's have been able to retain up to 50% of business rates collected.
- Pilots retain 100% from 1st April 2017.
- Government has said they will roll out 100% to all by 2020.
- Will be major source of income for Councils, so now falling under immense scrutiny.
- Challenging times for NNDR teams, we have to fight to collect every penny.

Lets Introduce The Players

- In the **Blue Corner** we have –
- The Billing Authority



- Game plan - to maximise rateable value and revenue.

- In the **Red Corner** we have –
- The Ratepayers



- Game plan - to pay as little as possible, or preferably nothing at all.

But are we really prepared for this fight?

- What do you know about your NNDR payers?
- Do you know how well they are trading?
- Do you know who the Directors are?
- What information is available at Companies House?
- Would you know if they were in decline?
- How quickly do you become aware of dissolutions or proposals to strike off?
- Do you know if your ratepayer has a parent company?
- Are you tired of being at the back of the queue for payment?
- Want to even the odds a little?
- We did!!

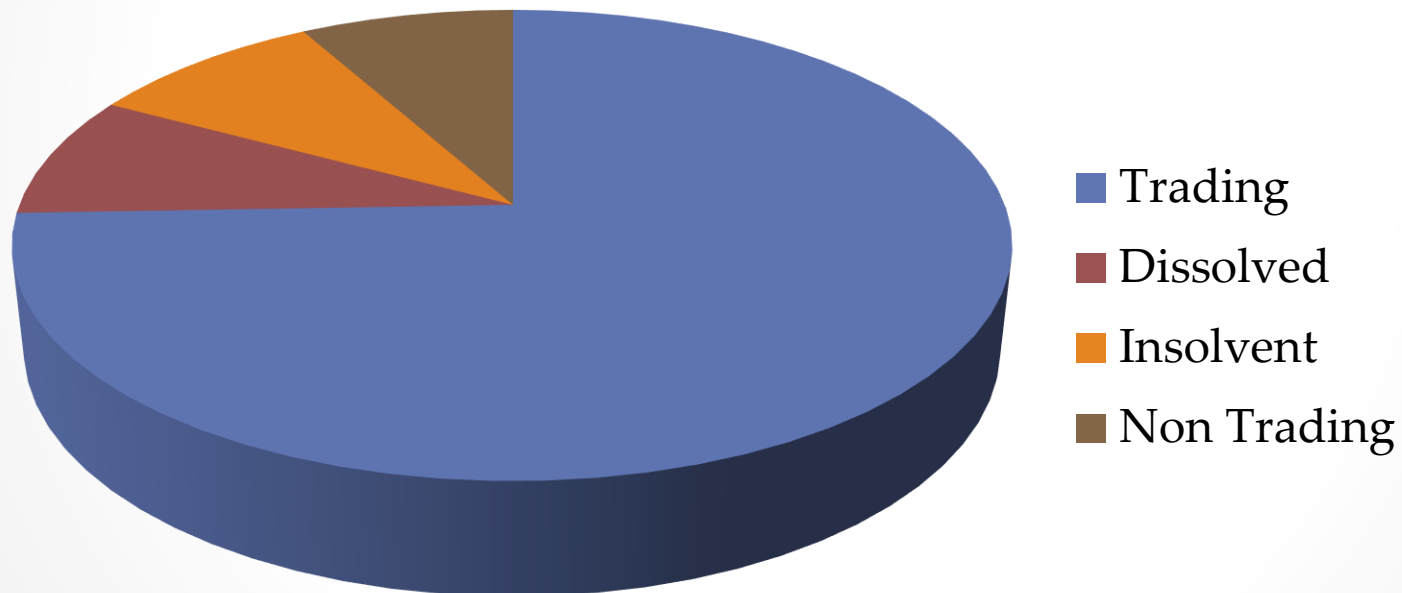
Ascendant and Destin Step into Our Corner

- Ascendant and Destin were the only people I spoke to that fully listened to what our issues were and what we needed.
- Came back to us with a viable solution.
- Already had our NNDR data so no set up resources required from us.
- Continue to work closely with us to refine and improve the product on an ongoing basis.
- All information feeds into the Vision product so no need for another system.
- Enables us to be proactive in our approach and tailor our recovery to circumstances in real time.

Overview of the status of the Companies In our Database

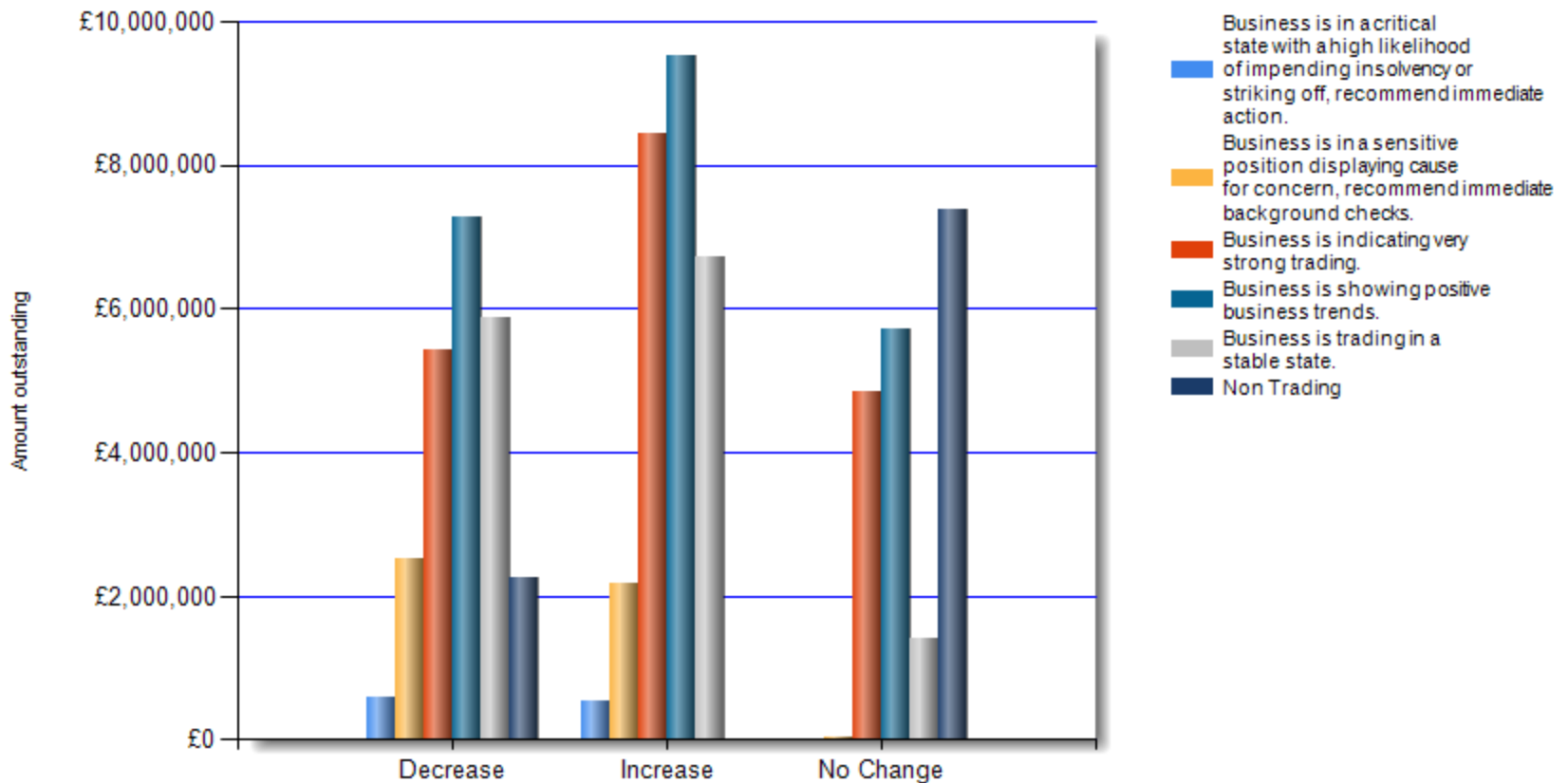
Company Status	Current Liability
Dissolved	£1,600,000
Non Trading	£2,000,000
Insolvent	£750,000

Trading Status



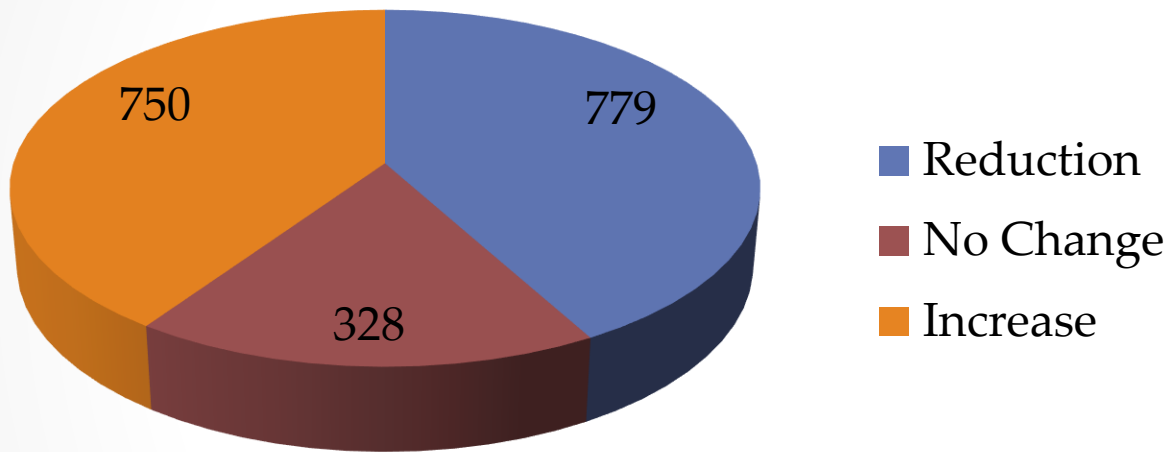
Overview of the status of the Companies In our Database

Current Balances by Business Status and Credit Rating



Daily alerts received since January 2017

Status alerts received



Ratepayer	Latest Rating	Previous Rating	Variance	Alert Date	Event	Balance
Cragg & Roberts Limited	15	41	-26	10 Mar 2017	Date of Senior Executive,Annual Returns,Limit,Company Status,Rating	£3,624.00
Crystal Clean (Nw) Limited	0	41	-41	02 Apr 2017	Limit,Company Status,Rating	Financial Statements too old
D.T Plus Ltd	0	59	-59	02 Apr 2017	Limit,Company Status,Rating	£1,046.60
Dan Kerr(Brides) Ltd	0	47	-47	19 Apr 2017	Limit,Company Status,Rating	Rating Suspended - Negative Press Event

Dan Kerr (Brides) Limited

Company Number: 01734639

Retail sale of clothing in specialised stores

Incorporation Date: 27 Jun 1983 0 Employees

Health
0
-47



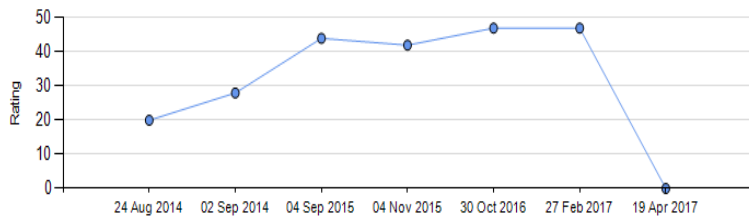
Main Contact: [Redacted] Nationality: U.Kingdom DOB: 08/1959
Occupation: [Redacted]

Input Address: [Redacted]
Registered Address: [Redacted]
Trading Address: [Redacted]
Telephone: [Redacted] Website: weddingdresspreston.co.uk
Ultimate Parent Co: -

Directors: [Redacted]
Shareholders: [Redacted]

Credit Limit:	£1,000	Invoices Available:	1
Credit Limit Date:		Invoices Paid:	1
CCJ - Number of:	0	Paid within 30 days:	0 0.00% ↓
CCJ - Value:	£0	Paid after 30 days:	1 100.00% ↑

Business Trend



UPDATE: Dan Kerr Brides closes suddenly - leaving couples panicking about their weddings



By
MICHAEL HOLMES
Email

Published: 12:50 Tuesday 18 April 2017

So what does that mean in Practical Terms?

- 6 companies showing as non-trading, subsequent enquiries resulted in change to liable party.
- 10 companies where first gazette published, objections to dissolution lodged at companies house and recovery fast tracked.
- 4 cases fast tracked for winding up petitions as assets indicated would be likely to result in faster payment.
- Proceedings on other cases still ongoing.
- Those we fast tracked and took a firm approach with for the previous year are now up to date on 2017/18 instalments.
- Our collection rate at the end of May 2016 was 19.4%, at the end of May 2017 is 20.3%, a 0.90% increase.
- Helps us to work smarter and focus on right cases.
- Most processes are automated saving time and resources.
- Using as our case management system for those we refer for legal action, cuts down on administration for both parties.

Tackling Rate Avoidance Via Shell Companies

List of shell companies showing the financial status of the company and the associated companies.

Actions | | | | 1 of 2 ? | | Find Next

Company Name	Company Information				Associated Companies	
	Net Worth	Pre Tax Profit	Credit Rating	Registered No	Net Worth	Credit Limit
	-£68,910		39	07994017	£58,499,457	£71,500
	-£47,656		21	08839739	£12,442	£0
	£2,600		89	08500170	£100	£0
	-£19,753		53	07642302	£719,100	£1,000
	£9,378		45	05583123	£1,191,200	£5,000
			47	10067069	£4,488,582	£4,500
	-£13,656		Financial Statements too old	03887717	£6,078	£0
	-£10,905,000	-£13,799,000	6	02631340	£6,505,279,696	£10,149,500
	£4,302		68	07300199	£0	£0
	-£12,472		6	09032353	£0	£0
				NF003097	£1,665,920,301	£164,276,500
	£6,219		73	08453864	£0	£0
			2	09686183	£0	£0
			Company is dissolved	05657663	£435,900	£500
	£0		Company is dissolved	07514274	£12,490	£500

Verifying Small Business Rate Relief Claims

Account No	Ratepayer	Linked Company Trading Statuses					Address Matches					Other Matches						
		Trading	Insolvent	Dissolved	Non Trading	No of Links	Line 1	Line 2	Line 3	Line 4	Postcode	Same Sounding Name	ID75pc Same Sounding Name	Telephone No	Fax No	Website Match	SIC Code	Auditors Match
xxxxxx		3	0	7	0	10	6	6	8	7	6	0	0	0	0	0	6	0
xxxxxx		10	0	0	0	10	9	5	7	10	9	7	0	8	0	9	5	0
xxxxxx		2	0	0	0	2	0	0	2	0	0	2	0	0	0	0	2	0
xxxxxx		5	0	0	0	5	2	4	5	2	4	2	2	2	0	0	3	0
xxxxxx		2	0	0	0	2	2	2	2	0	2	2	0	0	0	0	0	0
xxxxxx		12	0	3	3	18	2	4	13	3	4	9	0	0	0	5	13	0
xxxxxx		6	0	0	0	6	3	2	3	2	5	0	0	3	0	3	0	0
xxxxxx		2	0	0	0	2	1	0	0	0	1	0	0	0	0	0	0	0
xxxxxx		8	0	2	2	12	10	10	9	0	10	7	0	7	0	5	0	0
xxxxxx		2	0	0	0	2	1	1	1	0	1	0	0	0	0	0	0	0
xxxxxx		6	0	0	6	12	0	0	0	6	5	2	0	2	0	2	0	0
xxxxxx		3	0	3	1	7	0	0	0	0	1	1	0	0	0	0	0	0
xxxxxx		4	1	3	4	12	2	4	5	4	5	2	1	1	0	1	2	0
xxxxxx		2	0	0	0	2	2	2	0	0	2	0	0	0	0	0	0	0
xxxxxx		23	0	5	1	29	12	20	7	0	14	3	0	14	0	18	11	14
xxxxxx		2	0	0	0	2	2	2	2	0	2	2	2	2	0	0	2	0
xxxxxx		5	0	1	0	6	4	0	2	2	4	3	0	1	0	0	1	0
xxxxxx		3	0	1	1	5	4	2	4	4	4	1	1	1	0	1	1	0
xxxxxx		15	0	14	2	31	11	11	11	11	16	2	0	2	0	1	2	12
xxxxxx		2	0	5	0	7	3	1	3	6	3	1	1	0	0	0	6	0
xxxxxx		2	0	0	0	2	0	0	2	0	0	0	0	0	0	0	0	0
xxxxxx		2	0	0	0	2	0	0	1	0	0	0	0	0	0	0	1	0
xxxxxx		6	0	0	0	6	3	2	3	0	4	3	2	0	0	0	2	0
xxxxxx		5	0	5	3	13	13	0	7	0	13	0	0	0	0	1	0	0
xxxxxx		2	0	0	0	2	2	2	1	1	2	1	1	1	0	1	1	0
xxxxxx		2	0	0	0	2	0	1	1	2	0	2	0	0	0	0	1	0
xxxxxx		2	0	0	0	2	2	2	2	2	2	0	0	0	0	0	0	0
xxxxxx		8	0	6	0	14	2	2	12	0	12	8	0	0	0	0	0	0
xxxxxx		4	0	6	0	10	1	6	10	4	1	1	1	0	0	0	7	0
xxxxxx																		

Verifying Small Business Rate Relief Claims

Main Ratepayer Details		Linked Company Details				
Company	[Redacted]					
	ing	✓ Trading	✓ Trading	✓ Trading	✓ Trading	
	[Redacted]					
	Preston	Preston	Preston	Preston	Ashton On Ribble	
	Lancashire	Lancashire	Lancashire	Lancs	Preston	
Postcode	PR2 2QS	PR4 4GA	PR4 4GA	PR4 4GA	PR4 4GA	
Auditors						
Fax No						
Telephone No	[Redacted]					
Website	[Redacted]					
Company No		05162214	02472687	03140928	03164936	
SIC Code	Test drilling and boring ing	Test drilling and boring	Test drilling and boring	Engineering related scientific and technical consulting activities	Test drilling and boring	

Benefits of Working with Destin and Ascendant

- Improved collection – targeting resources in the right areas.
- Ensuring we monitor and capture new builds promptly increasing our tax base.
- Targeted empty property reviews so Inspectors time used effectively.
- Saving precious time for our staff and other departments.
- Meaningful and useful data at the click of a mouse.
- Doesn't impact or slow down the core system.
- Useful for forecasting.
- Working in partnership to continually develop and improve the quality of information provided.
- Helping us to be proactive on business rate cases in preparation for 100% retention.
- Development is an ongoing two way process.



CONTACT DETAILS

Julie Smethurst IRRV (Hons)
Revenues Manager
Revenues and Benefits Service
Preston and Lancaster Shared Service

Tel: 01772 906785

Mobile: 07920 779006

Email: j.smethurst@preston.gov.uk

j.smethurst.secure@preston.gcsx.gov.uk

Thank you for listening.

Refreshments & Networking

(Please be back by 12.15)



Business Rates Fresh Look

Lesley O'Halloran
Assistant Director Customer Services
15th June 2017



Background – Wigan Context

Fresh Look Programme Objective

- Currently 9500 business assessments
- Total income £84.5m
- Performance rate 97.7%
- From 2020 Business Rates will become one of only two main streams of income
- Maximising collection and growing Business Rates is critical for the future provision of council services
- Data is currently held about businesses within other council systems

Everything we do is rooted in the Deal



Our part

- Keep your Council Tax as one of the lowest
- Help communities to support each other
- Cut red tape and provide value for money
- Build services around you and your family
- Create opportunities for young people
- Support the local economy to grow
- Listen, be open, honest and friendly
- Believe in our borough

Signed

A handwritten signature in black ink that reads "Pete Smith".

Lord Peter Smith of Leigh, Leader of Wigan Council

Your part

- Recycle more, recycle right
- Get involved in your community
- Get online
- Be healthy and be active
- Help protect children and the vulnerable
- Support your local businesses
- Have your say and tell us if we get it wrong
- Believe in our borough

Signed

Challenges

- Grow the local economy
- Already completed £100m, £60M savings by 2019
- Grow business register and rates, supporting Council services, by 2020.
- We need NNDR on-line by 2018
- Systems not been joined up, fragmented approach across services.

Where are we now

- Pushing interaction with business on-line through Wigan works and transaction forms.
- Asking for on-line responses – e.g. Small Business Rates Review (lots of responses on-line.) Removed telephone numbers.
- Need to create a ‘one front door’ approach for businesses.

Our Priorities

- Produce a single view of a business
- Develop and implement a digital business hub
- Development of the Wigan Works Website
- Maximising the usage of rateable business assessments in the borough
- Bringing empty properties back into use – database



What is it all about ?

- Support business development
- Support economic growth
- Inward investment / business retention
- Create / retain jobs
- Support career development
- Provide a competitive offer



Objectives

- To create a dynamic electronic business data hub of information about businesses in the borough to improve our service and gather intelligence about businesses, make efficiencies and increase Business Rates income
- To provide a digital service to businesses and create a One Front Door and Tell Us Once portal for businesses who communicate and transact with us
- To improve the online information available to businesses through a single route
- To improve the quality of data gathered by service areas to maximise its use

Solutions

- Joined up professional business-like offer that:
 - Saves businesses time
 - Saves us time
 - Shares data and creates intelligence decision making and use of data – privacy notices
 - First point of contact to gain the best possible interaction for both businesses and council, e.g. including: planning, licensing compliance, business rates etc.. avoids ‘play-offs’ between services.
 - Professional attractive offer, accessible to all businesses, regardless of size

In partnership with Destin Solutions we have...



- Created a new solution within the Portal called 'SVOB' (Single View of a Business). The base data for this is the NNDR property/account information.
- Additional data files have been provided from Regulations, Planning Enforcement, Planning and Valuation Office.
- Search facility to show all engagements with the Authority (from the above datasets).
- Reports been created to profile businesses by type, location, property size, rateable value range, occupation status
- Discrepancy reports to show address/postcode mismatches across systems – this will assist in data cleansing.
- Identified a number of properties with active accounts which appear to be non-trading.
- Started the process of obtaining credit status, Director details on Limited Companies (Data Intelligence)

Confident Place, Confident People.



**Thank you for your time
and attention**

Questions and Answers

The logo for Weightmans, featuring the name in white text on a dark teal rectangular background with rounded corners.

Weightmans

Weightmans

Using Data Intelligence to Tackle Council Debt and
Insolvency

15 June 2017

Key contact:

Gary Byrne

Solicitor

0151 242 9870

gary.byrne@weightmans.com

A decorative graphic at the bottom of the slide consisting of several overlapping, wavy teal lines that create a sense of movement and depth.

What we will cover today.....

- Brief introduction to the GDPR;
- Discuss its more prominent principles as they relate to debt collection within local authorities; and the sharing of data between local authorities (and third parties) for that purpose and
- Provide some useful advice as to what you can do now to prepare.

What is the GDPR...? (1)

- Since 1998 we have seen:
 - significant advances in information technology;
 - fundamental changes in the way in which individuals/organisations communicate; and
 - divergent approaches adopted by EU member states in their application of the legislation.

What is the GDPR...? (2)

- GDPR therefore:
 - is more forward-looking, future proof and technology agnostic;
 - introduces some new concepts; and
 - but retains many of the core concepts of the existing legislation.
- 25 May 2018 (11 months and 11 days away!!)
- But....don't panic

Words of potential comfort

- ICO has said:

“Many of the principles in the new legislation are much the same as those in the current Data Protection Act. If you are complying properly with the current law, then you have a strong starting point to build from. [But] there are important new elements and some things will need to be done differently”.

Data Protection Officer (“DPO”) (1)

- Mandatory requirement for public bodies to appoint a DPO.
- Minimum tasks of DPO:
 - inform and advise the organisation about their obligations;
 - monitor compliance (internal processing activities, assist with impact assessments, train staff and conduct internal audits);
 - act as first point of contact for supervisory authorities and for individuals whose data is processed.

Data Protection Officer (“DPO”) (2)

- DPO must have expert knowledge and acting independently.
- DPO may be a staff member or a hired contractor.
- Public bodies can share a DPO.
- If in doubt speak with your DPO!

Enforcement Action – DPA

- Under the DPA fines tend to vary and are comparatively low.
- UK maximum fine is £500,000.
- Highest fine given out to date is £400,000:
 - Keurboom Communications Ltd – nuisance calls;
 - TalkTalk – security failings.

Enforcement Action – GDPR (1)

- Up to 2% of annual worldwide turnover or €10,000,000 (whichever is the greater).
- Relating to violations for:
 - internal record keeping;
 - data processor contracts;
 - data security;
 - breach notifications;
 - data protection officers; and
 - data protection by design or default.

Enforcement Action – GDPR (2)

- Up to 4% of annual worldwide turnover or €20,000,000 (whichever is the greater).
- Relating to violations for:
 - breaches of data protection principles;
 - conditions for consent;
 - data subjects rights; and
 - international data transfers

Enforcement Action – comparison

- Recent study by the NCC Group as to how the fines to date would have differed under the GDPR enforcement powers.
- TalkTalk – £400k to £59m.
- Pharmacy2U – £130k to £4.4m.
- Business now forced to re-evaluate their position!
- Can you afford to get it wrong?

Data Protection Principles (1)

- GDPR sets out a number of conditions for processing under which Authorities will be permitted to process personal data.
- Will govern an Authority's ability to process personal data for the purposes of debt collection.
- The most relevant are as follows:

Data Protection Principles (2)

- **Lawfulness, fairness and transparency:**
 - “Lawfulness” requires compliance with Article 6(1) GDPR.
 - Broadly replicate those in the current legislation:
 - consent;
 - necessary for performance of a contract;
 - necessary for compliance with a legal obligation;
 - necessary to protect the vital interests of a data subject;
 - necessary for a task carried out in the public interest or in the exercise of official authority vested in the authority; and
 - necessary for the purpose of legitimate interests.

Data Protection Principles (3)

- **Lawfulness, fairness and transparency:**
 - Likely that your organisation is already relying on one or more of those conditions listed on the previous slide as to its processing of personal data for the purpose of debt recovery and collection.
 - There have been some key changes to certain of those conditions which may be important to local authorities.

Consent as a legal basis for processing (1)

- Will become harder to obtain.
- Higher standard of consent.
- *“freely given, specific, informed and unambiguous indication of the individual’s agreement to their personal data being processed”.*
- Demonstrate that consent was given – burden of proof.
- Ensure affirmative agreement (e.g. tick box, signature).
- Avoid “mere acquiescence” (e.g. failing to untick a pre-ticked box).

Consent as a legal basis for processing (2)

- General consensus is that it will be harder for public bodies to rely on consent as the legal basis for processing personal data.
- Recitals to GDPR: consent should not form the legal basis for processing where an imbalance of power exists.
- Such imbalance can arise where controller is a public body.
- Need to rely on one of the other potential grounds (e.g. public interest grounds).
- Although it is still advisable to obtain consent – should not be the sole ground.

Legitimate Interests

- Under the DPA, available as one of the legal grounds for processing personal data.
- No longer available to public bodies under the GDPR.
- Again, need to establish another ground for processing.

Transparency & Privacy Notices (1)

- Specific transparency requirements include the data subject's right to receive information:
 - On the identity of the data controller and the nature of the processing;
 - About whether or not their personal data is being processed and if so the nature and purpose of that processing.

Transparency & Privacy Notices (2)

- Ensure data subject is aware of:
 - how you will process their personal data;
 - the data processing conditions on which you have established your grounds for processing;
 - why you are going to process their personal data;
 - who will process their personal data;
 - what personal data will be processed.

Rights of Data Subjects

- Right to object to processing on the basis of:
 - the accuracy of the data being disputed;
 - the legitimate interest on which the processing is being carried out;
 - the proposed “public interest” on which the data is being processed.
- If exercised the processing must stop until the matter is resolved.

Privacy by design and default (1)

- Obligated to implement data protection measures by “by design and by default”.
- Must implement “technical and organisational measures”.
- Taking into account:
 - state of the art;
 - the cost of implementation
 - the nature and scope, context and purposes of the processing; and
 - risks of harm to the data subject based on the type of data and processing activities.

Privacy by design and default (2)

- Mandatory privacy impact assessments for use of new technology which is likely to result in a high risk to data subjects.
- SAs will publish a list of kind of processing operations that will require a privacy impact assessment.
- Likely to include systematic and intensive evaluation of personal aspects based on automated processing that will produce legal effects for this person or significantly affect him or her (i.e. profiling).

What should you be doing now?

- Consult with your DPO officer – if not appointed – establish the organisation’s plans for doing so.
- Ensure decision makers within your organisation are aware that the law is changing.
- Review current privacy policies.
- Consider on what grounds your organisation currently processes its personal data.
- Data protection by design and default.

Disclaimer

- These notes are prepared for the personal use of the presenter and do not obviate the necessity to take full legal advice.
- No responsibility is accepted for the accuracy of the contents, this being a basic guide only.

Thank You for attending
Lunch, Networking & Demos