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GDPR: Fourth Principle (Article 5(d))

Personal data shall be . . . accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay.

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DPA 2018 s.205:

- "inaccurate means incorrect or misleading as to any matter of fact"

DPA 1998 s.70(2):

- "data are inaccurate if they are incorrect or misleading as to any matter of fact"

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NT1 & NT2 v Google Inc [2018] QB 344

Warby J

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DPA 1998 s.70(2):

"data are inaccurate if they are incorrect or misleading as to any matter of fact"

NT1 & NT2 [81]:

"This does not take the matter much further, though the reference to fact emphasises that this principle is not concerned with matters of comment, opinion or evaluation. The reference to "misleading" indicates that the court should not adopt too narrow and literal an approach."

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Working Party:

“In general, ‘accurate’ means accurate as to a matter of fact. There is a difference between a search result that clearly relates to one person's opinion of another person and one that appears to contain factual information. Data Protection Authorities will be more likely to consider that de-listing of a search result is appropriate where there is inaccuracy as to a matter of fact and where this presents an inaccurate, inadequate or misleading impression of an individual.”

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NT1 & NT2

[82]: "it may be legitimate to draw on national legal traditions when implementing the broad principles established by European law."

[83]: "the defamation rules seem well-adapted to testing whether the words satisfy the Working Party criterion of giving "an inaccurate, inadequate or misleading impression of an individual"."

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- **Context**
- **Inferential meanings**
- **Repetition rule**
- **Single meaning rule**

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Koutsogiannis v The Random House Group

[2020] 4 WLR 25 at [12]

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Oriental Daily Publisher [2013] E.M.L.R. 7 per Lord Neuberger

[141] Although things may be very different in the world of linguistic philosophy, the single meaning rule makes obvious good sense in the world of legal interpretation; indeed it is essential. While the consequences of applying the rule may sometimes seem a little harsh, if a court could hold that a provision in a statute, a contract or a notice could, as a matter of law, have more than one meaning, it would self-evidently lead to chaos and uncertainty in many cases, both in outcome and in procedure.

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Aven, Fridman & Khan v Orbis Business Intelligence Limited

[2020] EWHC 1812 (QB) at [150]:

" . . . a comment is something in the nature of a deduction, inference, conclusion, criticism, remark, observation, etc.; it must be recognisable as such; and the key question is how the words would strike the ordinary reasonable reader:

see *Koutsogiannis v The Random House Group Ltd* [2019] EWHC 48 (QB) [2020] 4 WLR 25 [16-17] (Nicklin J). For this purpose, as ever, words must be looked at in their context. This, and the subject-matter, may be important indicators of whether they would strike the reader as fact or comment. Other important factors may be whether the statement is capable of verification, and whether the words in question stand by themselves, or accompany others."

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Millett v Corbyn [2021] EMLR 19 CoA at [24]:

- So, although a statement that “the claimant said X, in Y tone, and in Z manner, and that was very, very abusive” would contain a comment on factual allegations, Mr Corbyn’s statement was different.
- He said of the Zionists that “they had been incredibly disruptive” and that “they were very, very abusive”, without more; and those—as Saini J held—were statements of fact.

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Lloyd v Google LLC v ICO & others [2021] 3 WLR 1268,
Supreme Court

[153]: "Without proof of some unlawful processing of an individual's personal data beyond the bare minimum required to bring them within the definition of the represented class, a claim on behalf of that individual has no prospect of meeting the threshold for an award of damages."

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Article 16 Right to rectification:

"The data subject shall have the right to obtain from the controller without undue delay the rectification of inaccurate personal data concerning him or her. Taking into account the purposes of the processing, the data subject shall have the right to have incomplete personal data completed, including by means of providing a supplementary statement."