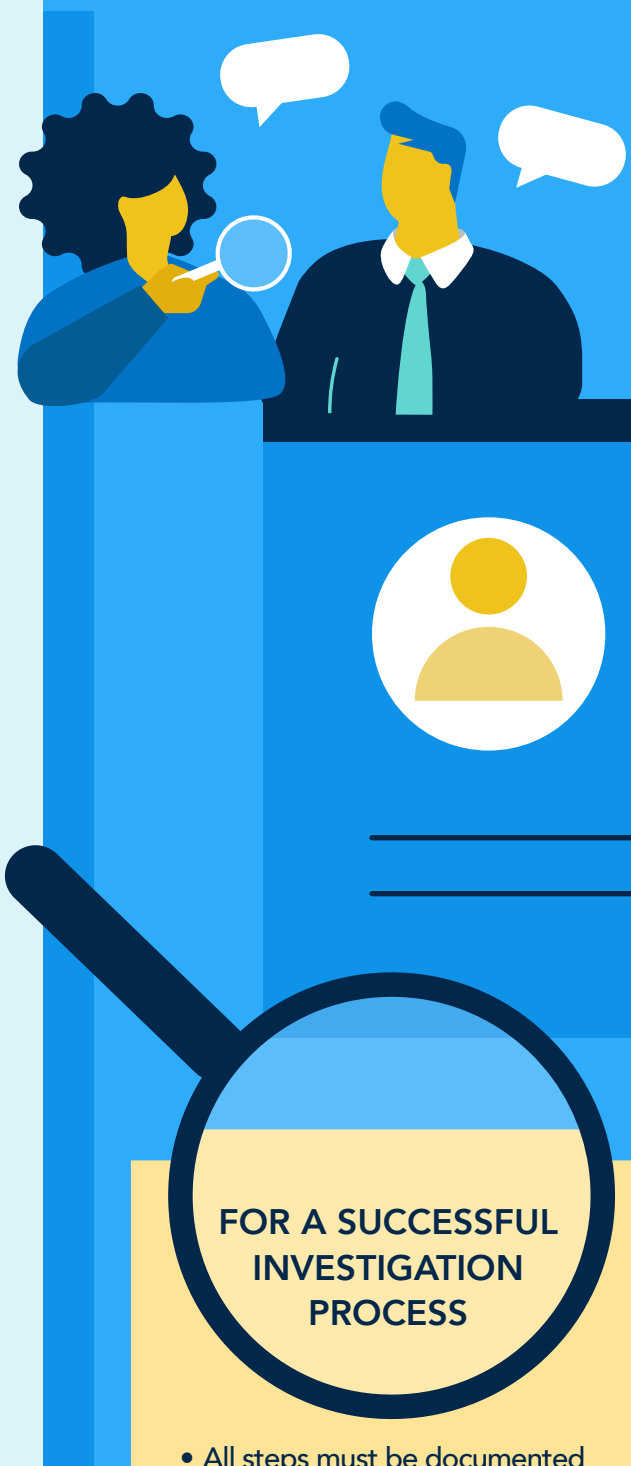
EDPS INVESTIGATION

a step-by-step guide

EDPS investigations are a way of establishing whether EU institutions, bodies, offices and agencies (EU institutions) have breached applicable data protection rules.



1 OPENING AN INVESTIGATION

The EDPS notifies the EU institution of its formal decision to open an investigation. This includes a request for evidence. The EDPS sets a deadline by which the EU institution should reply.

2 OPENING MEETING

The EDPS can organise a meeting to explain why the EU institution is being investigated, and for the EU institution to explain complex evidence orally, if necessary.

3 EVIDENCE-GATHERING MEETING

The EDPS can organise a meeting to discuss the evidence. It can also do so at the request of the EU institution or another party that could be adversely affected by the EDPS' final decision.

4 TIME TO INSPECT

The EDPS may request an onsite or remote inspection to understand concretely how data is processed by the EU institution.

5 PRELIMINARY ASSESSMENT

The EDPS informs the parties of the facts, documents, legal assessment and corrective measures envisaged that are to be included in its final decision. This step allows the parties to share their observations on the EDPS' preliminary assessment before any enforcement action takes place.

6 HEARING

The EDPS may organise a hearing at a party's request, so that it can present its observations on the EDPS' preliminary assessment.

7 EDPS' FINAL DECISION

The EDPS' final decision determines whether the EU institution has infringed data protection rules. The final decision also includes corrective measures and the deadlines by which the EU institution is to put these in place.

8 PUBLICATION OF FINAL DECISIONS

The EDPS usually publishes final decisions of its investigations. Before doing so, the EDPS always asks parties if some elements of the final decision are to be kept confidential.

9 AFTER THE INVESTIGATION

The EDPS checks whether its corrective measures have been put in place by the EU institution. If the EU institution hasn't, the EDPS may issue a fine, or refer the matter to the Court of Justice.

If the corrective measures have been correctly put in place, the EDPS closes the case.

FOR A SUCCESSFUL INVESTIGATION PROCESS

- All steps must be documented precisely.
- EDPS staff must respect their obligations of confidentiality and professional secrecy.
- EU institutions must cooperate with the EDPS. The EDPS must respect parties' right to defend themselves. This includes the right to be heard.

EDPS

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