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GDPR – When it comes to information about your employees, are you ready?

On 25 May 2018, the changes to current Data Protection law (GDPR or the General Data Protection Regulations) come in to force. This practical summary will help you prepare and ensure that you are compliant when it comes to processing and retaining your HR related data.

What is GDPR?

In case you need a recap, the GDPR is part of the EU Data Protection Regulation and it will replace the existing Data Protection Directive. The aim of the new regulation is to standardise and strengthen the rights of European citizens to data privacy.

This means that any organisation that deals with people's private data must meet new standards of transparency, security and accountability.

The onus is on data controllers (employers) and processors (HR) to identify potential compliance issues within their Company, to analyse the private data that is currently being held, and to review the consent procedures by which employees agree to the processing and retention of their personal data.

The following steps focus on the data you hold in relation to your employees (past, present and future).

As an Employer, what does this mean for you?

Consent

At the moment, when we process HR related data, we usually rely on a clause in a Contract of Employment that provides consent to do so. Under GDPR we can no longer rely on this as consent must be 'freely given, informed, specific and explicit'.

Whilst consent will still be required for certain data such as for Occupational Health referrals, going forward you will need to clearly set out the lawful grounds for processing personal data, such as a legal obligation, the performance of a contract or other legitimate interests.

Subject Access Data Requests

Whilst there is no change in the right employees have to request to see the data their employer is holding about them, under GDPR the data now has to be provided within one month – and you will no longer be able to make a charge for providing it. All the media and information around GDPR may well lead to increased employee awareness of the right to request the data held about them so it is important to be prepared for such requests. Additionally, if the accuracy of the personal data is contested by the employee, it can only be processed with the employee's consent, which could potentially hold up performance management or change management processes.

Information at the point of data collection

Under GDPR, you will need to provide more information to people about how their data will be processed at the time you collect it, and if data is then processed for a new purpose the employee must be notified again.

Data Impact Assessments

Where a type of processing, in particular using new technologies, is likely to result in high risk to the rights and freedoms of employees, it will be necessary to carry out an assessment of its impact on the protection of personal data e.g. mobile monitoring.

Data Breaches

If your employee data is subject to a data breach, IT related or otherwise, you must now pro-actively report this to the ICO (Information Commissioner's Office). You will also need to have a process in place to ensure that this happens.

Claims

GDPR will make it easier for individuals to bring claims against employers in the event of a data breach – and receive financial compensation for loss or hurt feelings. At the same time, fines against companies for non-compliance will be much higher than under current data protection legislation.

More on the GDPR

Designed to safeguard personal data of citizens from EU member states, the General Data Protection Regulation (GDPR) will become law from 25 May 2018.

For more information visit our FREE download on what the GDPR means for businesses.

View download

Preparing your firm for GDPR

Make sure your team and your firm are prepared for the GDPR. We have a range of training and planning tools available. All our GDPR products are set out to help you comply with new regulations.

To see what's available, visit our website for more information.

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