

**LCF** **LAW**<sup>TM</sup>  
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# Background and Key Principles



# Background to GDPR

- Background and history – how did we get here?
- Why it is still important: Risk of fines and litigation

# Key concepts: What is Personal Data?

- “Personal Data” is information relating to an identified natural person
- Data subjects can include employees, customers, suppliers/contractors and members of the public.
- “Processing” includes collection, storage, use etc. of the personal data.

# Key concepts: Controller or Processor?

- Who determines the purposes for which the data is processed and the means of processing?
- Most obligations fall on the Controller. A Processor will process personal data in accordance with the Controller's instructions.
- Data protection fee

# Data Protection Principles

- Lawfulness and transparency
- Purpose limitation
- Data minimisation
- Accuracy
- Storage limitation
- Integrity and confidentiality

# Legal Justification for Processing Data

- Consent (Avoid solely relying on Consent as the legal justification whenever possible)
- Contract
- Legal obligation
- Vital interests
- Public task
- **Legitimate interests**

# GDPR in Employment





# GDPR in Employment

- Data storage
- Sharing of information
- Data retention
- Data Protection Policy
- Special Category Data
- Privacy Notice
- Importance of updating

# Data Storage

- Secure servers
- Locked cabinets
- Who has access?
- Data removed from premises
- Home working considerations
- Morrison data breach

# Sharing information

- Necessary?
- Location?
- Appropriate procedures in place?
- Privacy notice

# Data Retention

- How long is too long?
- Legal requirements
- Process for checking
- Regular updates
- Right to be forgotten?

# Employee Data Protection Policy

- Contents:
  - General principles
  - Procedures including data security
  - Dealing with a breach
  - Consequences of failure to comply
  - Link to disciplinary
  - Criminal records data
  - Special category data
- Regular training

# Special Category Data

- What is it?
- What is 'special' about it?
- What do you need to do?

# Privacy Notice

- Employee privacy notice
- What, when, why, how

# Importance of updating

- Things change!
  - What has changed since 2018?
  - CCTV?
  - Additional IT monitoring?
  - Vaccination/ health information following pandemic?
- Not static document
- Update training as policies and procedures change



# Specific issues



# External Data Protection (privacy) Policy

- Used to notify the outside world how you collect, use and store third party (i.e. non-employee) personal data.
- What should the Privacy Policy should contain?
- Where/when should it be made available?

# Data Subject Rights

- Access
- Rectification of errors
- Erasure (the right to be forgotten)
- Restriction of processing (as opposed to full erasure)
- Portability of data
- Object to processing (data processor must consider the objection)
- (right not to be evaluated by) Automated decision making

# Data Breaches

- What is a data breach?
- When & in what circumstances should you report a breach to
  - Information Commissioner's Office;
  - Affected individuals
- Internal data breach policy required.

# Subject Access Requests

- What are they?
- What do you have to do in response? And by when?
- Can we charge for it?
- Subject Access Request policy is usually required.

# Data Processing Agreement

- Required when a Controller uses a third party Processor to process personal data
- Sets out the scope of data processor's instructions
- Potential liability of data processors acting outside of scope of instructions

# International data transfers

- Moving data outside the UK (e.g. when passing to third party providers)
- Data can now freely flow between UK and EU
- Transfers of personal data outside of EU

If we can help...

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# Thank you

We make the complex simple

No ifs, no buts

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