

Green Light HR Solutions

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You will be aware that the General Data Protection Regulations (GDPR) come into force on 25 May.

As an employer, you are "data controller" for the personal data of your employees (the "data subjects"), which means that you have obligations concerning the type of data you hold, how you store that data and who you share it with. You also have a duty to inform your employees of their rights in respect of their data.

This briefing refers only to your obligations to your employees. Any other personal data you hold within the business will need to be GDPR compliant. This may include data about your clients, prospective clients, contacts and anyone else. We advise you to seek further guidance specifically on these aspects of your business.

Before we start, we need to be upfront. At Green Light HR we cannot claim to be experts in GDPR. We have attended briefings, taken legal advice and read and re-read the regulations in order that we can provide the guidance below, which to the best of our knowledge, is accurate. We have included some links to resources that we found helpful at the end of this email.

GDPR - what exactly is it?

On 25 May GDPR will replace the Data Protection Act. The key principles of GDPR are similar but go much further to ensure compliance and transparency of data held by organisations.

Personal data is any data in which data subjects are identifiable. This may be as little as an email address and/or a name. Clearly, the data you hold on your employees will fall into this category. Organisations must be able to demonstrate that any personal data they handle is:

- Processed lawfully, fairly and transparently

- Collected for specified, explicit and legitimate purposes
- Adequate, relevant and limited to what is necessary
- Accurate and kept up to date when necessary
- Kept for no longer than is necessary where data subjects are identifiable
- Processed securely and protected against accidental loss, destruction or damage

There must be a valid lawful basis to process data. There are six available lawful basis for processing: consent, contract, legal obligation, vital interest, public task and legitimate interests. [Further detail on the six categories can be found here.](#)

Data subjects (which will include your employees) have the right to:

- Be informed about the processing of their personal data
- Rectification, within one month, if their personal data is inaccurate or incomplete
- Access to their personal data and supplementary information, and the right to confirmation that their personal data is being processed
- Be forgotten by having their personal data deleted or removed where there is no compelling reason for the organisation to continue to process it
- Restrict processing of their personal data, for example, if the data is inaccurate
- Data portability of their personal data for their own purpose
- Object to the processing of their personal data for direct marketing, scientific or historical research, or statistical purposes.

What are the obligations of employers?

The key message is that employers have a greater responsibility than they have ever before had regarding the data that they hold for their employees.

- It means that only data that is actually needed to carry out the employment relationship (or leading up to it, eg, recruitment) should be kept, so that no irrelevant data or data which may be detrimental to an individual is retained
- Employers must ensure that the systems they have in place to store data (be that electronic, paper, manual and/or other) are secure and GDPR compliant to prevent any potential loss, destruction or damage to data
- Some categories of data, such as medical information, criminal records and contacting third parties, eg, obtaining references prior to employment, require the employees explicit consent to process
- You should inform your employees what data you hold on them and for what purposes, who it is shared with and their rights in respect of obtaining, removing or amending their data.

Some organisations may need to appoint a specially trained Data Protection Officer (DPO), but this is if the organisation is a public authority, or carries out the regular and systematic monitoring of individuals on a large scale, or is an organisation that

carries out the large scale processing of special categories of data. For further advice see ICO guidance (see resources below).

What does this mean in practical terms?

Our advice to employers is that they do the following:

1 - Conduct a thorough audit of all the data they hold on their employees and potential employees, ie recruitment. An audit should include:

- what data is held
- the reason for holding that data to check that it meets one of the 6 lawful basis for processing. Most employee data will fall under "contract" (ie, the employers ability to meet the terms of the contract of employment) and "legal obligation"
- all the means by which data is stored
- any third parties that the data is passed to for processing, eg, payroll provider, pension and other benefits provider, HR service, IT provider and any others
- how long the various data types are stored after the employee has left the organisation.

2 - Following the audit it may be necessary to data cleanse any data which is not compliant with the principles of GDPR because it is not required, irrelevant, or out of date. The audit should then be updated accordingly.

3 - Notify employees of what data is held and for what purpose, the third parties it is shared with and their rights to access, amend and remove their data. This notice does not form part of employees' terms and conditions of employment and should be separate to their employment contract. The term being used for this is an "Employer Privacy Notice". Please contact us if you wish to discuss using our Employer Privacy Notice template.

4 - Put in place a policy or procedure should an employee wish to see, amend or remove their data,



About Green Light HR Solutions

Green Light HR Solutions is a North Leeds based HR Consultancy run by Antonia Nicholls and Julie Shimmin. We have experience of working with small businesses and understand the people management challenges you face on a day-to-day basis.

Julie and Antonia are fully CIPD Qualified with, between us, over 30 years experience of working in HR and managing staff in both the public and private sector. All the work is performed by us. Our rates are competitive and we are keen to extend our client base. We are a small outfit who take pride in getting to know our clients and provide a high quality and bespoke service.

www.gl-hrsolutions.co.uk

You will have received a separate email from us regarding our obligations to your data under GDPR as a

with the details of an appropriate named person within the organisation who is clear on the process and has an understanding of GDPR.

5 - Update any references to the Data Protection Act in employee contracts, handbooks and any other relevant policies, to refer to GDPR instead.

6 - There are some specific provisions regarding automated processes (which may be used in recruitment or trigger points for sickness absence) without any human checks or intervention. We believe that it is unlikely that clients the size of ours will have such processes in place but if you'd like to discuss this please contact us.

client and / or a recipient of our email newsletters.

If you have any queries please [email us](#)

What are the risks?

The GDPR is a piece of EU legislation and has been designed for large businesses and organisations who deal with huge quantities of data.

However, each and every organisation has a legal obligation to comply so being a smaller organisation does not mitigate your responsibilities.

Organisations must be able to demonstrate their compliance to regulators - in the UK's case this is the Information Commissioners Office (ICO). Employees and other data subjects have the right to complain to ICO at any time if they have concerns over how their data is held and processed.

Breaches of the GDPR can be subject to fines up to €20 million, but again, the likelihood is that the focus, certainly initially, will be on the larger corporations and public bodies who have access to huge quantities of personal data..

Finally, remember what we said at the start:

The advice above, although referring in general terms to GDPR, is focussed on your obligations as an employer. You are highly likely to have other obligations as a controller or processor of client, marketing / prospective and other data and if you haven't already done so, we advise you to seek advice on this aspect of your business.

Secondly, the regulations are complex and lengthy. The above guidance is our attempt to summarise your responsibilities to employees and are given to the best of our research, knowledge and understanding. This briefing is written in our own words in language that we understand and are familiar with, so may be different to advice you have been given elsewhere either in connection with your obligations as an employer or otherwise under GDPR. We are not lawyers, but we recognise our responsibility to our clients to give practical and user friendly information on new legislation which will impact on their employment practices and procedures.

Further resources you may find useful:

[Information Commissioners Office - General Guide to GDPR](#)

[Practical Guidance from ICO on data security for small businesses:](#)

Suzanne Dibble is a specialist lawyer in this area who has put together a handy resource with template documents, including an Employer Privacy Notice and checklists, practical guidance and podcasts. This covers all of GDPR, so extends beyond merely your obligations as an employer. You can sign up for £147.00 via [this link](#)

We hope you have found this briefing useful. If you have any questions on GDPR or on any employment or staffing matter please get in touch;

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Our Expertise,
Combined Solutions**

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