



March 2018 Update

Welcome to this month's update - where we discuss the latest legislation and guidance. In this Edition, we report on:

- GDPR – 2 Months to go
- Pension Auto-enrolment Contributions Hike
- Internship – Paid or Unpaid?

GDPR – 2 Months to go.

Use Personal Data Map

Start off by mapping the personal data you hold for employees, contractors, customers, suppliers and third parties. You need to list all the types of personal data under each category. Company email addresses are now personal data as they identify a live individual.

By putting each category into a spreadsheet, with a breakdown of the personal data you hold under each category, you are then able to identify:

- * who has access to the data?
- * how long it is stored for?
- * where it is stored?
- * the lawful basis for processing the data

Lawful basis for processing:

The requirement to have a lawful basis under GDPR in order to process personal data, is not new. It replaces and mirrors the previous requirement to satisfy one of the 'conditions for processing' under the Data Protection Act 1998 (the 1998 Act).

However, the GDPR places more emphasis on being accountable for and transparent about your lawful basis for processing.

What are the lawful bases for processing? The lawful bases for processing are set out in Article 6 of the GDPR. At least one of these must apply whenever you process personal data:

- a) Consent: the individual has given clear consent for you to process their personal data for a specific purpose.
- b) Contract: the processing is necessary for a contract you have with the individual, or because they have asked you to take specific steps before entering into a contract.
- c) Legal obligation: the processing is necessary for you to comply with the law (not including contractual obligations).
- d) Vital interests: the processing is necessary to protect someone's life.
- e) Public task: the processing is necessary for you to perform a task in the public interest or for your official functions, and the task or function has a clear basis in law.
- f) Legitimate interests: the processing is necessary for your legitimate interests or the legitimate interests of a third party unless there is a good reason to protect the individual's personal data which overrides those legitimate interests. (This cannot apply if you are a public authority processing data to perform your official tasks.)

Generally for businesses (a) to (c) and (f) are the most relevant.

Consent in employment contracts can no longer be relied upon on its own. There are numerous alternative bases on which employers can process data of employees from May 2018, when the GDPR come into force.

You now need to state this in the contract.

Employers: We can help with many of your businesses' personal data and ensure you have the correct Privacy Policy and Data Protection Policy. We can also help make sure that you are clear about the lawful basis for processing.

Contact us: We can draft the documents you need and explain these to you for a fixed price.

Pensions Auto-enrolment Contributions Hike

April 2018 saw the first hike in the "minimum" requirements for auto-enrolment compliance.

So, employers who currently pay the statutory minimum for pension auto-enrolment, will see an increase in the pension contributions they need to make for employees from one per cent of their annual earnings between £6,032 and £46,350 (based on the 2018 figures) to three per cent.

This could be somewhat of a shock for employees who didn't read the fine print on their auto-enrolment announcements. If they have to make the same contributions, it will mean less money in their April pay packet, (although there is more going into their pension savings)

Employers will have to increase the amount they have to pay in as an employer from one per cent of those banded earnings, to two per cent.

The Pensions Regulator have the ability to fine employers who don't meet their auto-enrolment obligations.

Employers: In practical terms, where staff are affected by this change in contributions, it would be sensible to highlight this before the changes take effect.

Contact us: we can help with employment contracts and updating employees on the changes.

Internship – Paid or Unpaid

The government has launched a crackdown on unpaid internships, sending more than 550 warning letters to companies and setting up enforcement teams to tackle repeat offenders.

About 70,000 internships are offered each year in the UK. It is estimated that out of 10,000 graduates who are in internships six months after they leave university, a fifth are unpaid.

It is also estimated that the cost of doing an unpaid internship is more than £1,000 a month in London, and £827 in Manchester. This highlights the inequalities as it puts valuable work experience beyond the reach of those from families on low and middle incomes.

The government's views is that employing unpaid interns as workers to avoid paying the national minimum wage, is against the law and exploitative. No one should feel like they have to work for free to get the skills and experience they need to get ahead in their career.

As a result of this, over the last few months government enforcement teams have been targeting employers advertising for unpaid interns, reminding them of the law and the consequences of breaking it.

Employers: Assess whether the offering of an internship is to assist the business with work. Or, is it purely allowing someone to gain valuable skills in their chosen field?

Contact us: We can help you write internship contracts.

For more information or assistance Email: enquiries@employmentlawsupport.co.uk



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Business Forum

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