



May 2018 Update

Welcome to this month's update - where we discuss the latest legislation and guidance.

GDPR JOURNEY

We are still offering GDPR personal data mapping, GAP Analysis document, Privacy Policy for your website, Data Protection Policy, email footer draft, Spreadsheet of personal data for HR/customer data with retention periods for a limited fixed price throughout May 2018.

We are sending your update as someone who has agreed to receiving these bulletins.

Please find our privacy policy at

http://www.employmentlawsupport.co.uk/privacy_statement



In this month's edition, we report on:

- GDPR – We are there!!
- Giving References
- Notice of Termination

GDPR – We are there!!

We are all fed up with those 4 letters.

We have eight things you need to be thinking about as the GDPR comes into force this month. (Feel free to send it to your colleagues or clients as your own work - I release copyright!)

1. Consider processing some personal data in a way so that you can't tell from looking at it which person it relates to. You would need additional information (a key or code) kept separately (and securely) to decode it (Known as 'pseudonymisation')
2. Think about whether some data can be anonymised. Do you really need to be able to identify the employee to use the data? For example, if you are processing information for research or statistics then you could probably anonymise it. We see this a lot in the public sector when data is collated for the purposes of equal opportunities.
3. Use passwords and encourage employees to use more complex passwords, not to share them, and to change them regularly.
4. Encrypt data where possible, particularly if you are transferring data or allowing remote working.
5. Think about the devices that employees use and their security access. Will you still allow employees to use their own smartphones etc., or will you provide company phones and laptops now instead?
6. Only process personal data necessary for specific purposes.
7. Put in place measures to ensure you are compliant with the principles.
8. Keep records to prove you are compliant.

Employers: Sound complicated? We can help businesses with the Categories of Personal Data spreadsheet and ensure you have the right Privacy Policy in place.

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

Giving References

Employers have a duty of care to employees when writing a reference and exercise reasonable care and skill. It should be true, accurate and fair and not misleading by what is included or omitted from it. If you provide a reference and it contains information that is inaccurate then you could be sued for any resulting loss.

In a recent High Court, Mr Hincks argued that Sense Network Ltd had made a 'negligent misstatement' about him in a reference. Sense Network Ltd had set out negative opinions in a reference based on a previous investigation into Mr Hincks' conduct. Mr Hincks argued that the person giving the reference should have satisfied himself that the investigation was reasonable and procedurally fair, before making any mention of it in the reference. He said that some of the reference was inaccurate and gave an overall misleading impression.

The High Court dismissed Mr Hinks' claim. It was found that a reasonable reference writer did not need to look into the procedural fairness of earlier investigations. A referee should conduct an objective and rigorous appraisal of facts and opinions, particularly negative opinion. However, the referee should take reasonable care to be satisfied that the facts in the reference are accurate, there was a legitimate basis for the opinion, and that the resulting reference was fair and not misleading.

This case involved the financial services industry where the employer had a duty to provide a more detailed reference.

Employers: Most employers will be safer restricting their references to facts only and stating that this is the company policy.

Contact us: If you need assistance with reference requests.

Notice of Termination

Where an employment contract is silent on when notice is deemed to be given, notice of termination takes effect when it is actually received by the employee and it has been read by them, or they have had a reasonable opportunity to read it.

A recent case involved an employee who was at risk of redundancy, who went on holiday during the process. Her employer sent notice of termination by recorded delivery and ordinary post. She read it on her return from holiday, a few days after the letter was sent. If delivery was deemed effective on the day the letter was dated and sent, she would have received a much lower pension. But if it was deemed effective on the day she returned from holiday and read it, she would have received a much more generous pension.

The Supreme Court held that the notice was only deemed effective when it was read by the employee (or she had a reasonable opportunity to read it). Therefore, her termination of employment date was not deemed to have taken effect until she had read the letter, when she returned from holiday and was then entitled to the higher pension.

Employers: It is always good to communicate face to face to avoid these situations.

Contact us: We can assist with redundancy consultations and exiting an employee from the business.

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



Silverstone
Business Forum

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