

Commercial

GDPR update and the new data processing fee

We may have now passed the implementation date for the General Data Protection Regulation ("GDPR"), but that does not mean that you can forget about it. Like it or not, there may still be work to be done!

By law, you should now have external-facing privacy notices that are displayed on your website and can be linked to in your email footers. You should also have fair processing notices for your staff and detailed policies telling your employees how they should treat personal data and respond to things like data breaches and data subject access requests.



Transfers of data to head office, or indeed to anyone outside the European Economic Area, remain important, and you should review any transfer to ensure that they can be justified and that you are doing everything you need to be doing to protect the data, both technologically and contractually.

Training your staff is important, as it will help you avoid issues if your staff know exactly what they are doing. You should also keep a record of staff training. If you ever have a breach and have to defend yourself, such records can be good evidence that you have taken data protection seriously and done everything you can to treat personal data appropriately.

While the GDPR did away with the need to register your data processing activities with the Information Commissioners Office, under the new Data Protection (Charges and Information) Regulations 2018, a new data processing fee has been introduced.

Companies who process personal data in their business may need to register and pay the fee, which will usually be £40 or £60, but for large organisations with high turnovers will be higher.

You will not have to pay the fee if you have a previous annual registration with the Information Commissioners Office that has not yet expired, and there are exemptions for companies who only process their own staff data.

You can check whether your company is obliged to pay the new fee here, by following a simple questionnaire:

<https://ico.org.uk/for-organisations/data-protection-fee/self-assessment/y>

And while you do not need to register your processing activities with the ICO any longer, you do need to keep your own record of your company's processing. This should be available for inspection by the ICO on demand, and it should show all of the processing of personal data that you do. So, it should include your processing of personal data for running the payroll, managing staff, recruiting, and transfers outside the EEA, for example.

On an ongoing basis you should also be reviewing your own compliance each year. And you should make sure that any contracts you enter into contain the necessary data protection clauses. Also, whenever you recruit you should ensure that applicants receive an appropriate privacy notice, and new starters receive proper data protection training.

If you are not yet up to speed with the GDPR, now is the time to catch up. Better to be late than never!

Should you require any assistance with data protection or any commercial area please contact our 3HR Commercial Law team which can advise accordingly.

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