

## Five Facts about...Data Protection

### Notification

Notification is the term used by the Data Protection Act 1998 to describe registration with the Information Commissioner. All data processors are required to notify unless they fall within one of the exemptions (e.g. many residential management companies will be exempt).

There has been a considerable amount of controversy over notification because businesses received letters offering to deal with notification for them and implying that the Information Commissioner's charges for notification are higher than they are. You can download the notification form directly from the Information Commissioners website ([www.ico.gov.uk](http://www.ico.gov.uk)). The Information Commissioner's charges changed on 1 October 2009 and are now based on the size of your business. The £35 fee remains for all businesses with a turnover of £25.9 million or less and less than 250 employees and for public authorities with less than 250 employees. Where these thresholds are exceeded, a new charge of £500 applies.

### Sensitive Personal Information

You must always have a person's consent before processing sensitive personal information. This includes medical information, a person's political preferences, trade union membership, sexuality etc. Most employers will have sensitive personal information about at least some of their employees. If you outsource any of your HR procedures, you need to be sure that your service provider will also comply with the Act.

### Business Email Addresses

Business email addresses are personal information when they identify an individual so you have to comply with the Data Protection Principles in relation to them. As an example, if you instruct me, you will have my email address [gillian.harding@hrjlaw.co.uk](mailto:gillian.harding@hrjlaw.co.uk). That is personal data. However, if you purchase goods from a business and always use an address like [sales@abc.co.uk](mailto:sales@abc.co.uk), that address wouldn't be personal data.

### Outsourcing abroad

If your business sends personal data outside of the European Economic Area, you need to be very careful. You must comply with the legal requirements relating to data migration and we strongly suggest that you take legal advice before entering into an agreement with anyone outside of the EEA where you will be transferring personal data. It's particularly important to remember that this rule applies to IT outsourcing outside of the EEA.

### Employees

Your employees have rights in relation to their own personal data. You should ensure that your internal HR procedures protect your employees e.g. sensitive personal information such as sickness records should only be accessible to those people who actually need access to them.



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Of course, your employees also have obligations in their use of other people's personal data. Training helps to ensure that your employees understand your policies on the use of personal data.

To ensure that your contracts of employment and staff policies comply with the Data Protection Act, please contact Andrew Macdonald and to ensure that your website's Privacy Notice and commercial contracts comply with the Data Protection Act, please contact Gillian Harding.