

Data Processor Obligations

Data Processors (individuals/organisations who process data on behalf of data controllers) have specific legislative obligations under UK GDPR.

Design

Data processors need to have regard to the concepts of accountability, privacy by design and risk assessment when designing and offering their services

Data Protection Officers

There are a couple of questions you need to ask when considering appointing a Data Protection Officer: 1. Are we a public Authority? 2. Do our 'core activities' involve large scale, regular and systematic monitoring of individuals or large scale processing of special categories of data? If the answer is yes to either then you are required to appoint a Data Protection Officer whether you are a controller or processor. If not you may still want to appoint a data protection lead anyway.

Security

Direct security obligations are imposed on data processors which include a requirement to inform data controllers of serious security breaches

Contracts

Data processors need to have a written contract with data controllers for whom they process data.

Clauses required as a minimum in the written contract should cover:

- subject matter and duration of processing
 - type of personal data and categories of data subject
 - nature and purpose of the processing
 - obligations and rights of the data controller
 - confirmation that the data processor only processes on documented instructions from the data controller
 - an obligation on the data processor to ensure that anyone authorised to process data under the contract is committed to a confidentiality obligation
 - reference to compliance with security measures
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Contracts cont

- confirmation that the data processor cannot appoint a sub-processor without consent and that obligations will flow down into sub-processor contracts (and a clause confirming that the data processors will provide supporting information to demonstrate compliance)
- confirmation that the data processor will assist the data controller (i.e. with data subject rights)
- details of what happens to the data at the end of the contract
- confirmation that the data processor will assist in contributing to the data controller's audit

Records

Data processors must maintain records of their processing activity

Overseas transfers

The requirements for data transfer overseas will apply directly to data processors

Cooperation

Data processors must cooperate on request with supervisory authorities (for example the ICO)

Data subjects

Data subjects can complain directly to the ICO about data processors and the ICO can fine data processors for breach of data processor obligations. Data subjects can also bring court claims against data processors.

For further information



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