



**ActifHR**

Where people matter...

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## March 2018 Update

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

In this Edition we report on:

- GDPR – Only 2 Months to go!
  - Pension – The Auto-enrolment Contributions Hike
  - Internship – Paid or Unpaid
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## GDPR – Only 2 Months to go!

### Personal Data Map

Initially, start by mapping the personal data you hold for employees, contractors, customers, suppliers and any third parties. Then, categorize all the types of personal data that you have. Be mindful that company email addresses are now personal data, as they identify a live individual.

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

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

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## **Lawful basis for processing:**

It is not a new requirement to have a lawful basis under GDPR in order to process personal data. 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 greater emphasis on being accountable for and transparent about your lawful basis for processing.

## **So, what are the lawful bases for processing?**

The lawful bases for processing are set out in Article 6 of the GDPR. A minimum of 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 significant.

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

**Employers:** We can assist you 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:** For a fixed price, we can draft the documents you need and explain these to you.

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## The Pensions Auto-enrolment Contributions Hike

April 2018 saw the initial 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 an eye opener 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 need 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, and are within their rights, to fine employers who fail to meet their auto-enrolment obligations.

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

**Contact us:** We can assist you with employment contracts and updating employees on the changes.

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## Internships – Paid or Unpaid?

The government has launched a crackdown on unpaid internships, sending more than 550 caution letters to companies and introducing 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.

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It is against the law and exploitative to employ unpaid interns as workers to avoid paying the national minimum wage, according to the governments views. No one should feel like they must work for free to gain the skills and experience they need to progress in their career.

The outcome of this is that over the last few months government enforcement teams have been targeting employers advertising for unpaid interns, reminding them of the law and the ramifications of breaking it.

**Employers:** Consider whether offering 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 assist you with writing internship contracts.

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### Caroline Robertson, CEO

Caroline has a wealth of experience supporting business clients with practical hands on HR and Employment Law advice. Caroline's pragmatic approach helps businesses of all sizes deal with complex HR situations. She qualified as a Solicitor in 1999 and now acts as a specialist Human Resource / employment Law Consultant to business.





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