

Employee Privacy Notice – Guidance and Points to Note

Before using the template Employee Privacy Notice, it is essential that you read these guidelines and points to note, and that you have read the overarching document “General Data Protection Regulations – NTF Templates”.

The template has been updated to include reference to the BHA Covid 19 screening measures in place for racecourse access which require the employer to share an email address with the BHA and that special category personal data may need to be shared with the BHA in respect of racecourse access.

Who does it cover?

It covers employees, former employees, workers (contractors, agency workers, consultants, volunteers, partners and directors)

Why do you need it?

From 25th May 2018, employees (and others listed above) cannot give a general consent to you using their personal data.

Who do you issue it to and when?

Once you have customised the document to reflect the reality within your business, you must issue it to all new employees and you should already have issued it to your current employees and workers. There is no need to get the employee to sign that they have received it although you should keep a record of how and when it was given to the employee. You could ask them to sign if you wish.

You must make it clear to the employees in your communication to them that the Employee Privacy Notice replaces any previous privacy notice and the consent clause in their contract of employment. A short template letter is available in the GDPR area of the NTF website.

You must issue the Notice to any new employees when they commence employment.

There is a separate privacy notice for job applicants.

What you need to do with the template

You must work through it and ensure that it meets your business requirements. There is no one size fits all so ensure that it reflects what your business does with personal data and customise it accordingly. It must reflect reality within your business.

If you have a group company and share information with them then you should insert the following into the paragraph headed “Who is the controller”.

This Privacy Notice also covers how [name and contact details of any such group company] uses any personal data about you that we share with them. For more information see Table in the Appendices “Who we share your data with”. [name of group company] is the controller of any personal data they hold and use about you and they apply the same high standards to data protection compliance as we do. If you have any questions or concerns about how your personal data is being used by [group company name] you can contact their HR Data Protection Lead on [put in details].

Solely automated decision-making

If you use profiling/solely automated decision-making, then include the following paragraph:

Solely automated decision making takes place when an electronic system uses personal information to decide without human intervention. [put in then meaningful information about the logic, significances and consequences of any automated decision making processes, i.e. for example if you use solely automated decision making to access eligibility for a contractual attendance allowance you would put in “We determine your eligibility for the contractual attendance allowance automatically using our clocking in and clocking out software based on the times at which you clock in and out of work”].

You have the right to object to a decision based on profiling/solely automated decision making, including the right to voice your opinion, and obtain human intervention in the decision making.

Transferring personal data outside the EEA

If you transfer data outside the EEA then you need to leave in the clause relating to this and amend it to suit your business by inserting the countries to which it is transferred.

The reference to an adequacy decision is that personal data can flow from the EU (and Norway, Liechtenstein and Iceland) to that third country without any further safeguard being necessary. The European Commission has so far recognised Andorra, Argentina, Canada (commercial organisations), Faroe Islands, Guernsey, Israel, Isle of Man, Jersey, New Zealand, Switzerland and Uruguay as providing adequate protection.

If you are going to transfer data, for example if you are sending staff to accompany runners, outside of the above countries, it is likely that you will need to put in place data protection safeguards for sharing and processing personal data of employees (and indeed owners) with such countries.

Appendix to document – the Tables

It is particularly important that you read through these and tailor them accordingly to what your business does with data and that it reflects your data retention policy. This has been drafted to reflect how most employers will hold and process data, but it is essential that you adapt it to your own business.

A privacy notice must include information on how long you are going to retain personal data or where you cannot specify the retention period details of the criteria you take into account when deciding how long to retain personal data. The retention periods in the Tables are “long stop” dates and again you need to ensure that they reflect what happens in your business. If you cannot delete data as quickly as suggested in these long stop dates you may need to set out longer periods but work on reducing them going forwards by improving systems. It is a key concept of data protection that you do not keep data longer than necessary.

You will need a separate “Employee Data Retention Process” document as a more detailed internal process for your employees who deal with your HR which break down some categories of data further and suggest guideline retention periods on a stricter basis. A template document is available on the NTF website.

Some particular areas to note:

CCTV

If you have CCTV you need to insert how long you keep CCTV footage If you do not have CCTV then you could delete this.

Biometric data

If you use biometric data such as a finger print laptop security or building entry systems, then you need to include the right, reason and legal grounds for using and holding that information.

New processes/Just in time privacy notices

When you process new data in certain situations (for example beginning a grievance process), it may also be appropriate to provide fair processing information in a more specific just in time privacy notice. The NTF will be updating its template letters in the NTF employment guide to refer to the Employee Privacy Notice.

The template document has been prepared to help you comply with the new data protection regulations in place from 25th May 2018.

You must customise the text in the template document to ensure that all the information matches what actually happens in your own organisation – any audit you have carried out in order to prepare for GDPR will help you do that.

Detailed information is available on the ICO website (www.ico.org.uk).