

Managing Data and its Implications

Lecture Title: Compliance with Data Privacy Legislation



Lecturer: Angelito Sciberras

Date: 21 June 2023

Undergraduate Diploma in
Business Administration

Last Lecture

- Introduction to GDPR
- Data Breaches
- Identity Theft
- GDPR Fines
- 6 Principles of GDPR and Accountability
- Data vs Personal Data
- Special Category of Data
- Definitions of Processing, Pseudonymisation, Controller, Joint Controllers, Processor
- Data Protection Officer



1. Which of the following can be considered personal data? (Select all that apply)

a) Phone number

b) Recipe for chocolate cake

c) Social security number

d) Weather conditions

e) Home address



2. Which of the following can be considered personal data? (Select all that apply)

a) Favorite color

b) Publicly available news article

c) Passport expiration date

d) Financial market trends

e) Email newsletter



3. Which of the following can be considered personal data? (Select all that apply)

a) Historical landmark coordinates

b) Bank account number

c) Social media post

d) Publicly available court ruling

e) Traffic light sequence



4. Which of the following can be considered personal data? (Select all that apply)

- a) Movie review
- b) Public transportation schedule
- c) Passport number
- d) Publicly available song lyrics
- e) Social media profile picture



5. Which of the following can be considered personal data? (Select all that apply)

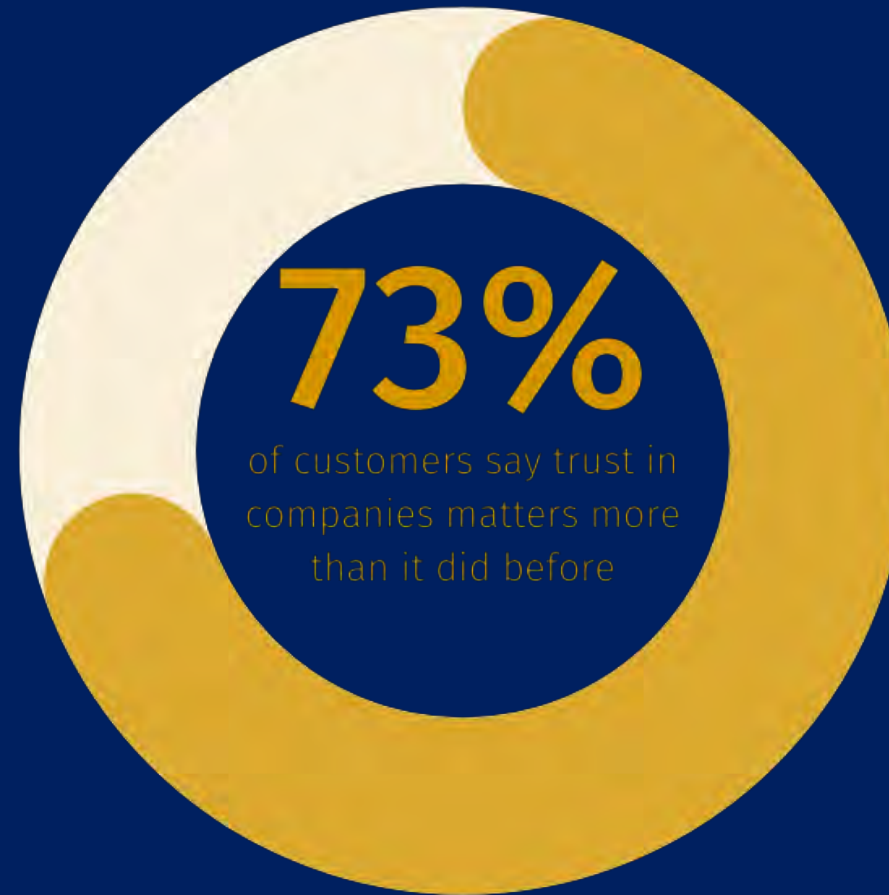
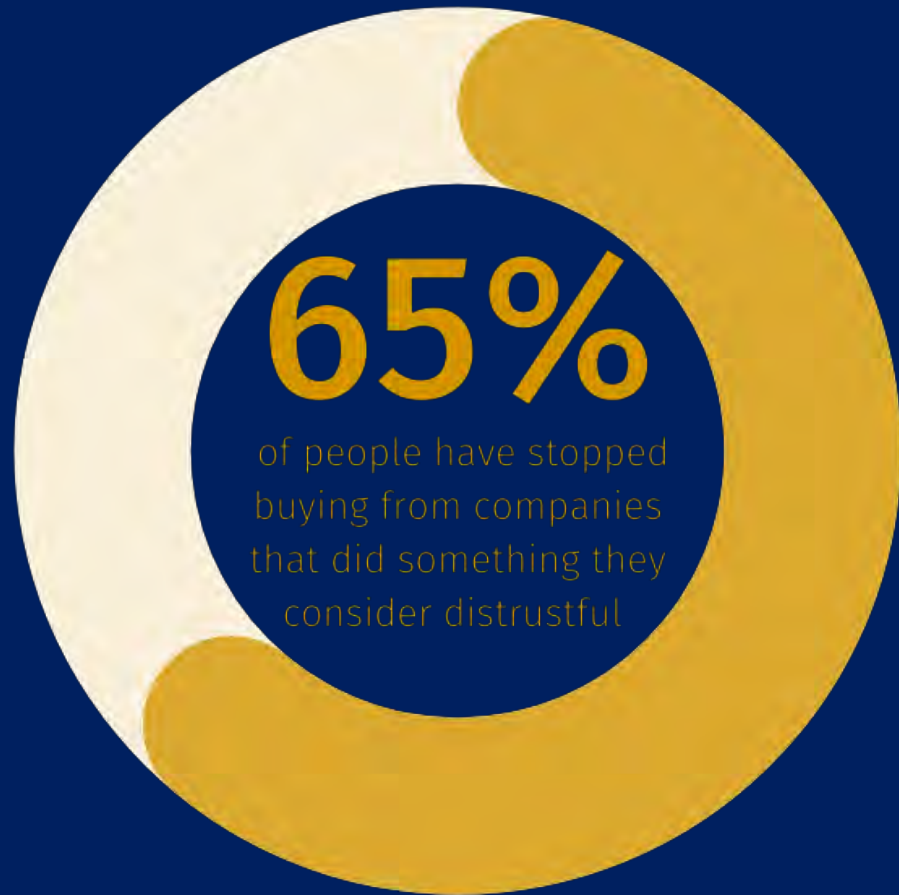
- a) Publicly available scientific research abstract
- b) Credit card transaction record
- c) Clothing size chart
- d) Social media direct message
- e) Historical facts about a country



Compliance



Compliance vs Non Compliance



Salesforce reasearch: "State of the Connected Customer"

Compliance vs Non Compliance

Most organizations are seeing positive returns on their privacy investments.

More than 40% are seeing benefits at least twice that of their privacy spend



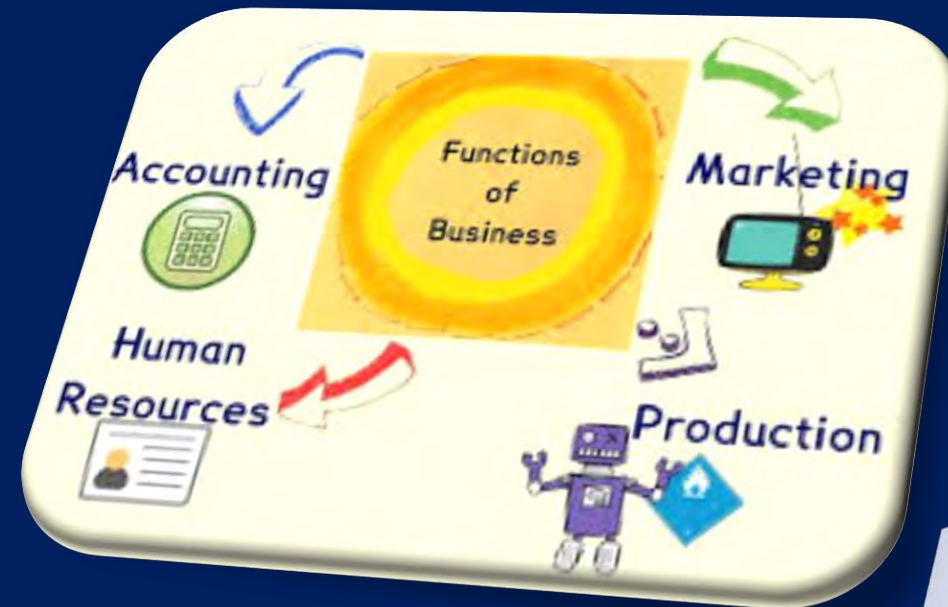
Most effected departments in a company?



00:30

Most effected departments in a company?

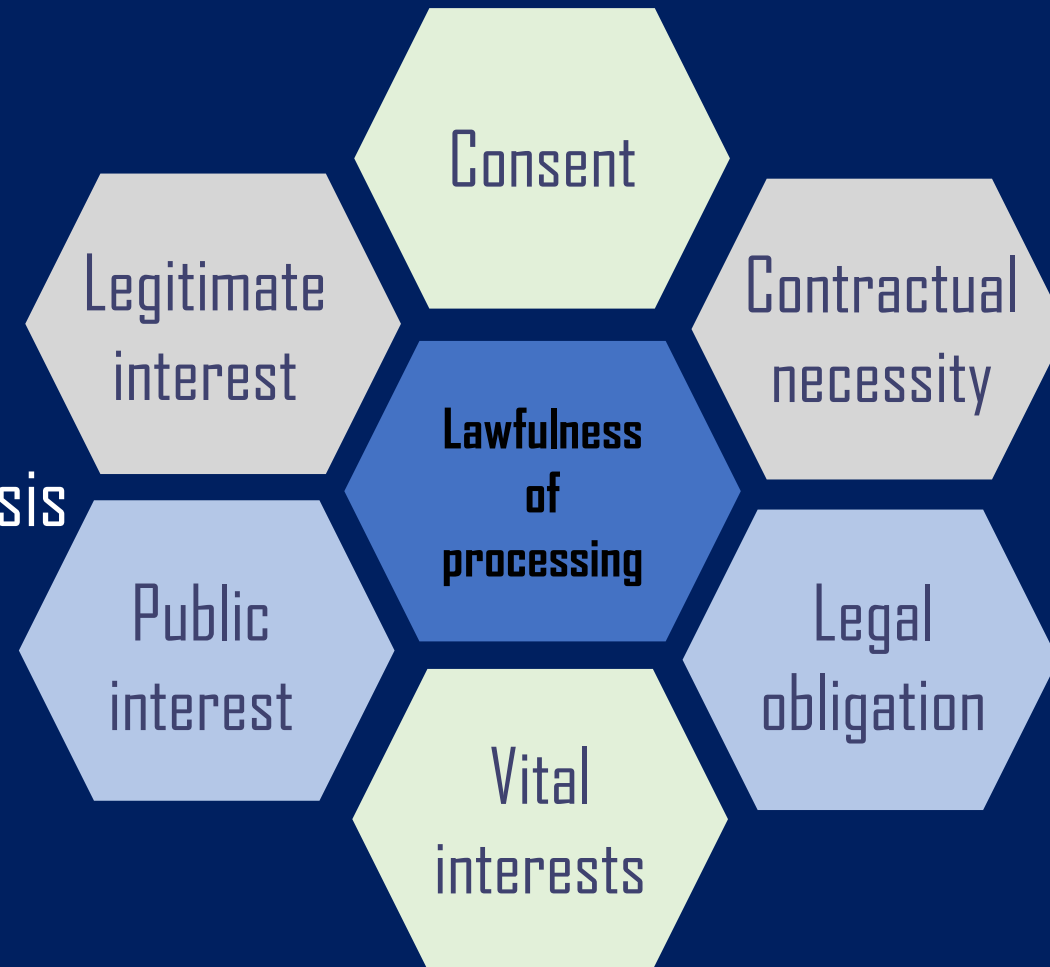
- IT
- Human Resources
- Marketing (Sales)
- Finance



Principles - from lecture 03



Processing is lawful if based on at least one of the following lawful basis



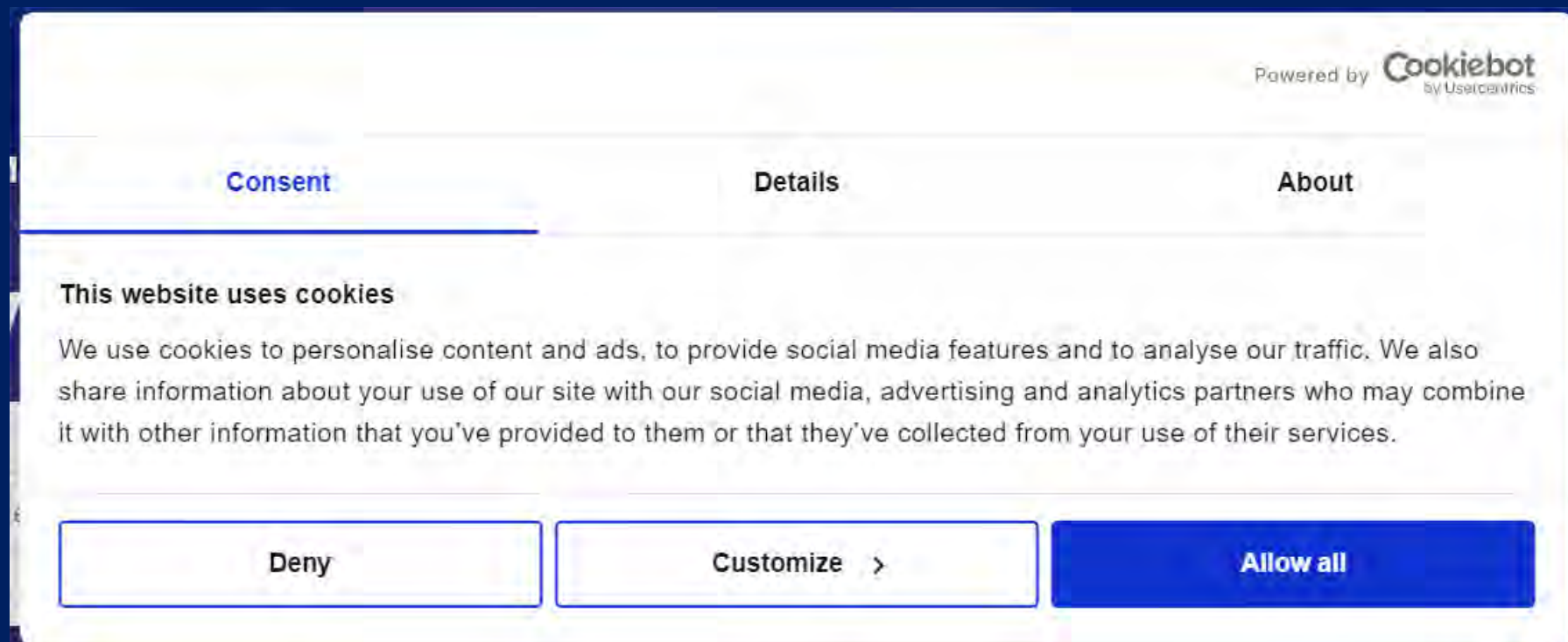
Consent

- The weakest to rely on
- It can be withdrawn at any time
- It has to be explicit
- Obligatory in *Marketing*
- Cannot be used in HRM



Consent

Cookie Banners



The image shows a screenshot of a Cookiebot consent banner. At the top right, it says "Powered by Cookiebot by Usercentrics". Below this are three tabs: "Consent" (which is selected and underlined), "Details", and "About". The main text reads: "This website uses cookies. We use cookies to personalise content and ads, to provide social media features and to analyse our traffic. We also share information about your use of our site with our social media, advertising and analytics partners who may combine it with other information that you've provided to them or that they've collected from your use of their services." At the bottom, there are three buttons: "Deny", "Customize >", and "Allow all".

Consent

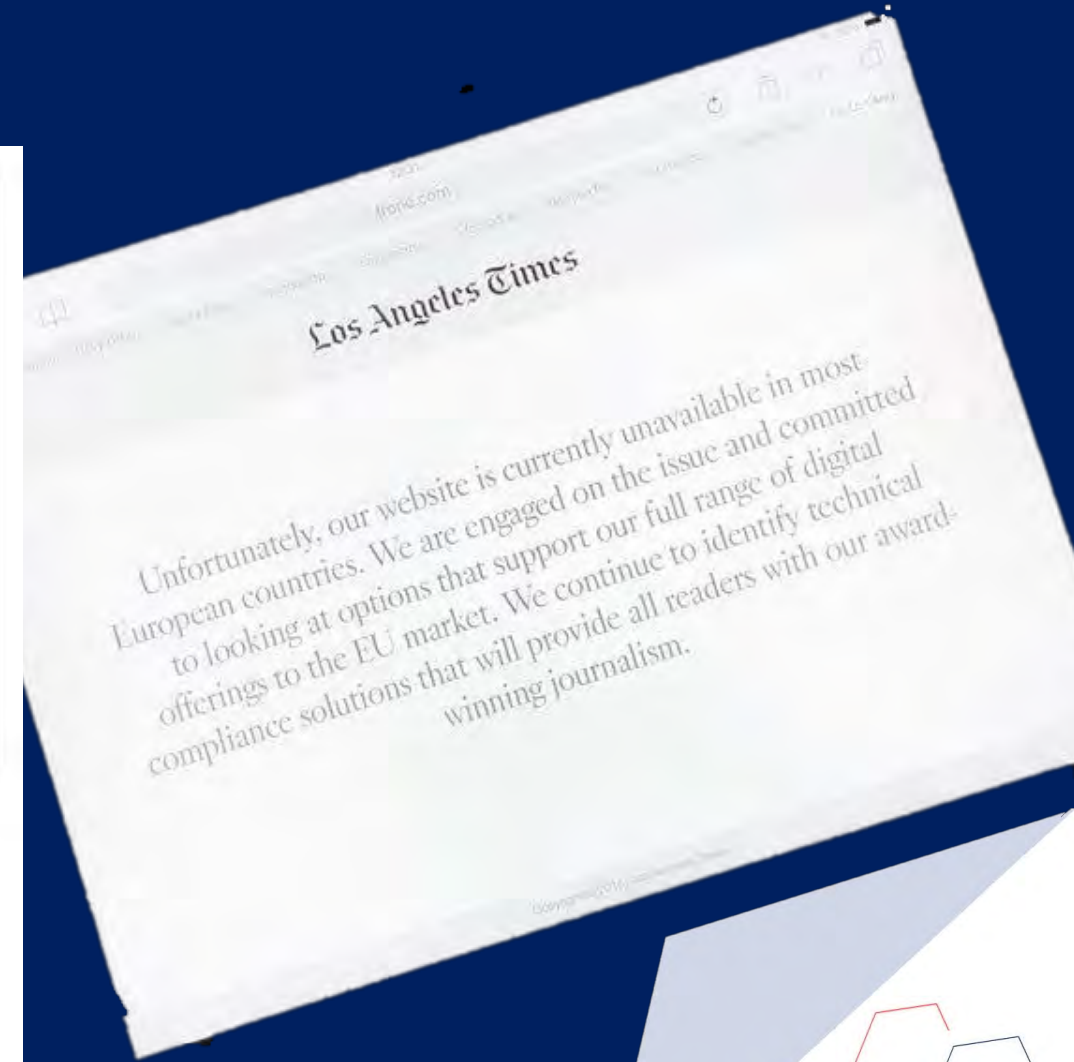
Visitor from European Union

We have detected that you are visiting us from a country located within the European Union.

Global Data Protection Regulation (GDPR)

Due to requirements placed upon ANA as a result of the EU's Global Data Protection Regulation (GDPR), we are not permitting internet traffic to our website from countries within the European Union at this time. If you believe you've received this message in error or would like more information about our position, please email us at eugdpr@ana.net.

No tracking or performance measurement cookies were served with this page.



Consent

€390 million
Forced Consent

€27.8 million
No Consent

€150,000
Use of consent in HRM

 Meta

 TIM


pwc

Consent

Acceptable in HRM only when



Contractual Necessity

- You have a contract with someone and need to process their personal data to comply with your obligations as part of that contract.
- You don't yet have a contract with someone, but they've asked you to do something as an initial step (for example, provide a quote) and you need to process their personal data to do so.



Legal Obligation

- if you need to process personal data to comply with a common law or statutory obligation.



Vital Interest

- It is unlikely to apply except in cases of emergency medical treatment.
- if it's necessary to process personal data to protect someone's life.



Public interest

- for the performance of a task carried out in the public interest or in the exercise of official authority
- administration of justice is an example

THE Public Interest

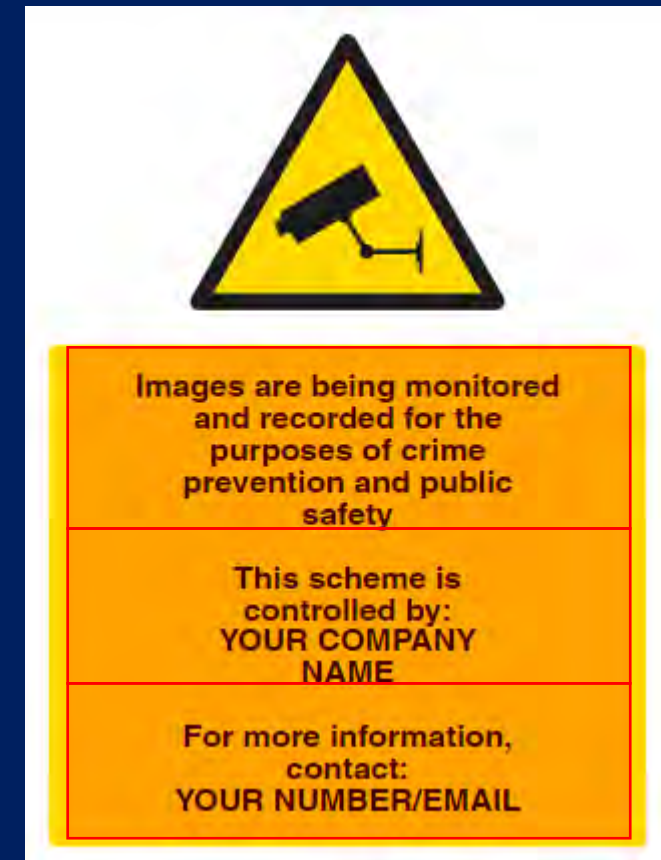
Legitimate interests

- the most flexible
- burden is on you to determine whether or not your interests in processing the personal data are legitimate
- if you are using an individuals' data in a way that **they would expect or otherwise deem reasonable** - and where the processing has a **minimal impact on their privacy**



Legitimate interests

- Fraud prevention
- Network and information security
- Indicating possible criminal acts or threats to public security





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00:00



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Data Subjects' Rights



Data Subjects' Rights

1 Right to
information

2 Right of access

3 Right to rectify

7 Right to object

5 Right to
restrict

4 Right to be
forgotten

6 Automated
processing

8 Data portability





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Subject Access Requests



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The Right to SAR

A fundamental right under the Charter of Fundamental Rights of the European Union (2012/C 326/02)

Article 8(2) of the Charter states that "*everyone has the right of access to data*" which is collected about them.



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Summary of rights

An employee has the right to obtain from an employer information as to whether or not personal data is being processed about him or her.



What's being advised to employees?

Alex Monaco
Senior Employment Solicitor



Summary of rights

If personal data is being processed, the employee is entitled to be given a copy of his or her personal data together with the following information:

- the **purposes** of the processing;
- the **categories** of personal data concerned;
- the **recipients** or **categories** of recipients to whom data has been or will be **disclosed**;
- the period during which personal data will be **retained**



Summary of rights

- information on the **source** of the data;
- information regarding complaints and disputes;
- **transfer** of data outside the EEA (if any);



Transfer of Data outside the EEA

- Countries in the EEA
 - EU + Iceland, Liechtenstein and Norway
- Adequacy Decisions
 - Andorra, Argentina, Canada (commercial organisations), Faroe Islands, Guernsey, Israel, Isle of Man, Japan, Jersey, New Zealand, Republic of Korea, Switzerland, the United Kingdom, and Uruguay.
- Standard Contractual Clauses
- Binding Corporate Rules



Summary of rights cont.

The information must be provided free of charge
(Article 12.5).

The employer must provide the information without
undue delay and, in any event, within one month of
receipt of the request.



Approach

Employer should approach compliance in a positive and helpful way:

- The employer must facilitate the exercise of the subject access right (Article 12.2).
- The request must be handled fairly and transparently (Article 5.1(a)).
- Information must be provided in a concise, transparent, intelligible and easily accessible form, using clear and plain language (Article 12.1).



Receiving a SAR

A SAR may be made:

in writing

email

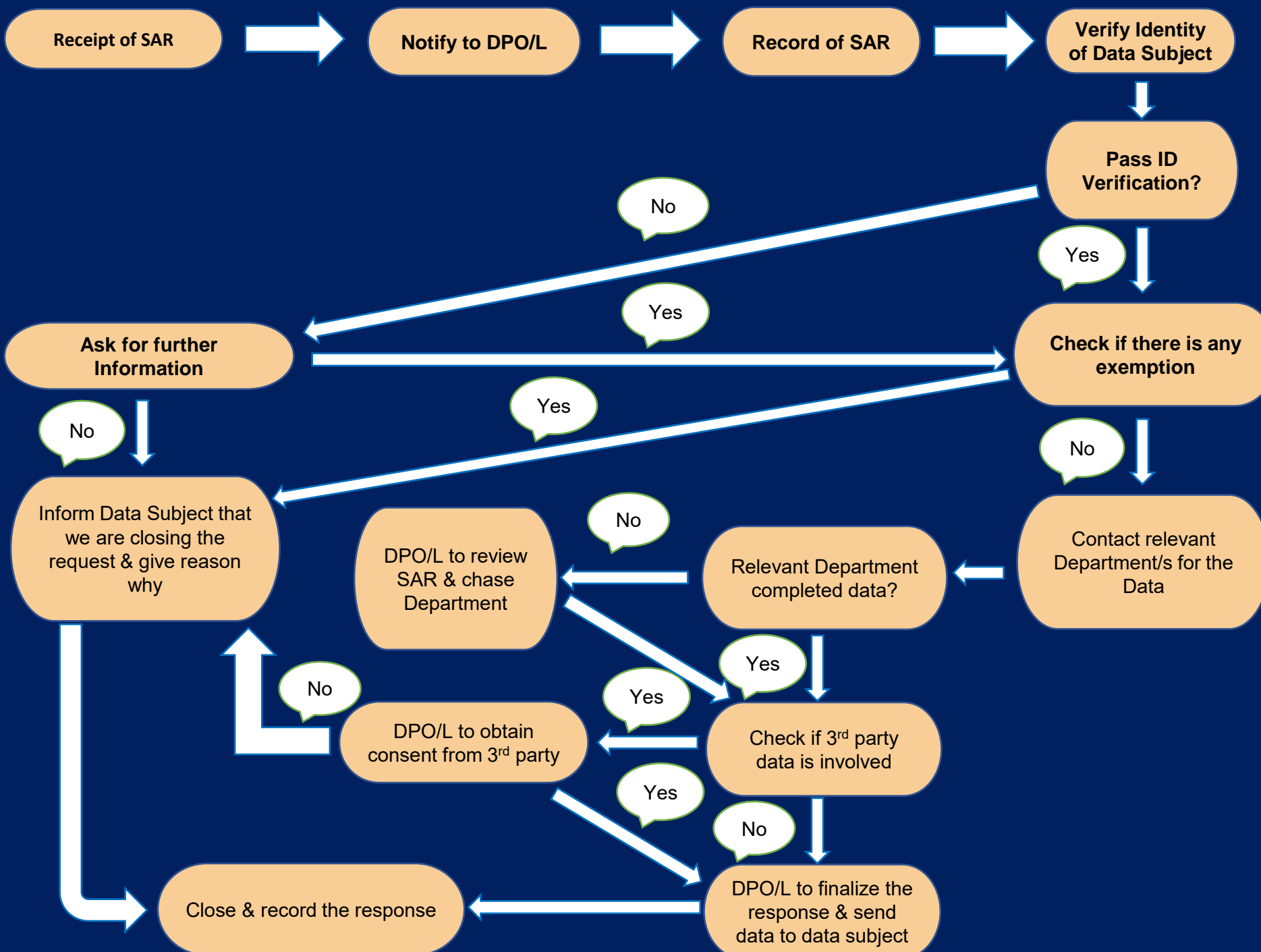
other electronic means and,

verbally

Employer should provide means for requests to be made electronically

Set out a preferred method of contact





Responding to a request

Initial assessment

- Is data concerning the employee processed?
- Respond or not?
- Scope behind the request?
- Approach to find the data and response.



Responding to a request

Checking identity of person making request

- make sure that a person is lawfully authorised to act on behalf a data subject
- no exceptions for family members



Responding to a request

Timing

- basic rule is that requests must be handled without undue delay and, in any case, within one month of the receipt of the request
- (may) extend by 2 months where necessary (complexity and number of requests)
- inform data subject within a month



Responding to a request

Understanding what the data subject wants

- ask the data subject in more detail what information he or she is after
- aim of the request should not be to narrow the scope



Responding to a request

Manifestly unfounded or excessive requests

- Charge a reasonable fee.
- Refuse to act on the request.

Need to demonstrate that the request is indeed manifestly unfounded or excessive



Responding to a request

Form of response

- Writing
- Electronic means
- Orally (following a request by employee)



Ideal Scenario

Policy on handling a SAR

Response procedure

Form (one for each subject right)

Tracking form

Letters

Logbook





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