

The Data Protection Law 2017: What you Need to Know

What is Personal data?

“Personal data” means data relating to a living individual (a “Data Subject”) who can be identified and includes data such as –

- (a) the Data Subject’s location data, online identifier or one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the Data Subject;
- (b) an expression of opinion about the Data Subject; or
- (c) any indication of the intentions of the data controller or any other person in respect of the Data Subject.

The 8 Data Protection Principles

There are eight data protection principles that set out the framework within which personal data must be processed to comply with the DPL. These are:

1. Personal data shall be processed fairly.
2. Personal data shall be processed only for one or more specified lawful purposes.
3. Personal data shall be adequate, relevant and not excessive.
4. Personal data shall be accurate and up to date.
5. Personal data shall not be kept for longer than is necessary.
6. Personal data shall be processed in accordance with the rights of the Data Subject.
7. Appropriate technical and organisational measures shall be taken in relation to personal data.
8. Personal data shall not be transferred outside the Cayman Islands unless an adequate level of protection for the rights and freedoms of data subjects is ensured.

My business collects, uses or processes Personal Data – What do I need to know?

- The collection of this data will require the Data Subject's consent and can only be used for the purpose intended.
- Consent should be given by a clear affirmative act establishing a freely given, specific, informed and unambiguous indication of the individual's agreement to the processing of personal data relating to the Data Subject, such as by a written or oral statement. This could include ticking a box when visiting an internet website, choosing technical settings for information society services or another statement or conduct which clearly indicates in this context the individual's acceptance of the proposed processing of the Data Subject's personal data.
- Silence, pre-ticked boxes or inactivity should not constitute consent.
- Consent should cover all processing activities carried out for the same purpose or purposes.
- When the processing has multiple purposes, consent should be given for all of them.
- If the individual's consent is to be given following a request by electronic means, the request must be clear, concise and not unnecessarily disruptive to the use of the service for which it is provided.

How should a Data Subject's personal data be processed?

Personal data is processed by a Data Controller who is a person who, alone or jointly with others determines the purposes, conditions and manner in which any personal data is, or will be, processed.

A Data Controller must ensure that:

- Personal data is processed in a lawful and fair manner.
- It is transparent to natural persons that personal data concerning them is, or is to be collected, used, consulted or otherwise processed and to what extent the personal data is or will be processed.
- Personal data is collected for the purpose it was collected for.

- Personal data should only be collected if it is necessary for the purpose.
- Personal data must always be accurate.
- Personal data may not be kept for longer than necessary.
- Personal data is only be processed in accordance with the rights of the individual in mind.
- Personal data is always kept safe.
- Personal data is not transferred outside the Cayman Islands unless it is adequately protected.
- Personal data which are, by their nature, particularly sensitive in relation to fundamental rights and freedoms merit specific protection as the context of their processing could create significant risks to fundamental rights and freedoms. Those personal data include personal data revealing racial or ethnic origin, political opinion, religious beliefs, genetic data, medical data, sex life, commission or alleged commission of an offence, any proceedings for any offence committed or alleged, the disposal of such proceeding and any sentence imposed.

I am the Data Subject – What are my rights?

- As a provider of data, the individual is entitled to see the information that has been collected and to control its use.
- The individual is entitled to review the data, comment on its accuracy and require changes if discrepancies are observed.
- An individual should have the right of access to personal data which have been collected concerning him or her, and to exercise that right easily and at reasonable intervals, in order to be aware of, and verify, the lawfulness of the processing. This includes the right for individuals to have access to data concerning their health, for example the data in their medical records containing information such as diagnoses, examination results, assessments by treating physicians and any treatment or interventions provided.

- Every individual should therefore have the right to know and obtain communication in particular with regard to the purposes for which the personal data are processed, where possible the period for which the personal data are processed, the recipients of the personal data, the logic involved in any automatic personal data processing and, at least when based on profiling, the consequences of such processing.
- An individual has the right to have personal data concerning him or her rectified.
- An individual has a ‘right to be forgotten’ and have his or her personal data erased and no longer processed where the personal data is no longer necessary in relation to the purposes for which it was collected or otherwise processed.

Useful Links and Guides:

- The Data Protection Law 2017 can be found on the Cayman Islands’ Government’s website [Here](#)
- Guides for individuals and small and large organisations can be found by clicking the link to the Ombudsman’s Website [Here](#)

If you would like any further advice regarding your rights or obligations under the DPL, please:

- Call us on: +1345 949 7237
- Send us an email to: info@broadhurstllc.com

