

Commercial Insurance Profile

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Article 30 of the GDPR outlines how an organisation must store and catalogue its data inventory.

Despite being a key compliance responsibility, **25%** of organisations still have yet to decide how to approach the task.



Source: Deloitte

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Neat and Tidy GDPR Documentation Could Save You £8 Million

The General Data Protection Regulation (GDPR) is nearly upon us and—regrettably—many organisations are still unprepared. In fact, 55 per cent of organisations still don't have a structured plan to ensure compliance, according to a recent survey from software suite developer, SAS. Regardless of where your organisation is in the process, it is essential that you don't overlook the documentation of your processing activities. Because, if you're disorganised in your efforts, you can be fined up to roughly £8 million or 2 per cent of your annual turnover, whichever may be higher.

To ensure that your organisation's documentation process is neat, tidy and thorough, it must include the following information:

- The name and contact details of your organisation
- The purposes of your processing
- A description of the categories of personal data
- The categories of recipients of the personal data
- Details of your transfers to third countries, including documenting the transfer mechanism safeguards in place
- Retention schedules
- A description of your technical and organisational security measures

As a best practice, the Information Commissioner's Office (ICO) also recommends you record the following:

- Information required for your privacy notices, such as the lawful basis and the legitimate interests for the processing
- Records of consent
- Controller-processor contracts
- The location of personal data
- Data protection impact assessment reports
- Records of personal data breaches

Your organisation must document all processing activities if you have at least 250 employees. Otherwise, you only need to provide information about your document processing activities that are not occasional, that could result in a risk to the rights and freedoms of individuals, or that are involved the processing of special categories of data.

Nevertheless, regardless of the size of your organisation, you should take the following steps to prepare your documentation:

- Perform an information audit or data mapping exercise.
- Find out and record why your organisation collects, stores, uses and shares personal data.
- Keep a written copy of your records.

How Prepared are Organisations for the GDPR?

The GDPR comes into force on 25 May, which has left some organisations scrambling to make the necessary changes to comply. In fact:

- **65%** of organisations **do not** have a data breach reporting procedure that is aligned to GDPR requirements.



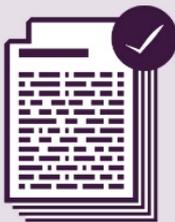
- **60%** of organisations **have not** begun identifying and updating privacy notices.



- **90%** of organisations **do not** expect their data protection officers to sit on the board.



- **52%** of organisations **do not** have a privacy impact assessment procedure in place.



Source: Deloitte

Carillion's Demise—Could You Be Held Responsible for Insolvency?

Carillion, formerly the second-largest construction company in the United Kingdom, went into compulsory liquidation on 15 January. Unfortunately, this type of situation is not uncommon, as the number of companies that entered insolvency in 2017 rose by 4.2 per cent to 17,243, according to the Insolvency Service.

Regardless of the size of the organisation, insolvency has significant repercussions for everyone involved—especially its directors and officers. The personal liability of your organisation's leaders can arise in several ways, including the following:

- **Wrongful trading**—The directors kept trading despite knowing that the company was insolvent.
- **Fraudulent trading**—The directors carried on business with an intent to defraud creditors.
- **Misfeasance**—The directors wilfully took actions that injured another party.
- **Redundancy notifications**—The directors failed to notify the government of the collective redundancies.

While hopefully it never happens, if your organisation should go bankrupt, your directors and officers need to know how to ensure that they are not held personally responsible. The most effective protection is with comprehensive directors' and officers' liability insurance.

Don't Miss These 2018 Employment Law Dates

With 2018 well underway, stay abreast of upcoming important law developments to ensure that your organisation remains compliant:

- **1 April – Increases to National Minimum Wage (NMW) and National Living Wage (NLW):** Both the NMW and the NLW are set to increase once again. You can review the new rates [here](#).
- **4 April – Gender pay gap reporting:** Your organisation is required to have your [gender pay gap report](#) published by this date, if you had at least 250 employees on 5 April 2017.
- **9 April – Increases to statutory rates and limits:** Maternity allowance, statutory maternity pay, shared parental pay, paternity pay and adoption pay will increase to £145.18 per week. Statutory sick pay will increase to £92.05 per week.
- **25 May – GDPR comes into force:** Your organisation faces severe fines up to €20 million (roughly £16 million) or 4 per cent of your global annual turnover, whichever is higher, if you are found to be non-compliant with the basic data processing principles. Review the [ICO's 12 steps](#) to ensure that you're properly prepared.
- **Q3 and beyond:** The Financial Conduct Authority is expected to release a policy statement on extending the senior managers and certification regime.

The content of this Profile is of general interest and is not intended to apply to specific circumstances. It does not purport to be a comprehensive analysis of all matters relevant to its subject matter. The content should not, therefore, be regarded as constituting legal advice and not be relied upon as such. In relation to any particular problem which they may have, readers are advised to seek specific advice. Further, the law may have changed since first publication and the reader is cautioned accordingly.

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