

Annual Payroll & HR Update 2018

Thursday 8th February 2018

Wyboston Lakes, Bedford



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Agenda

- **Welcome and Introduction**
James Pinchbeck, Marketing Partner, Streets Chartered Accountants
- **GDPR for HR**
Hannah Clifford, Associate Solicitor, Irwin Mitchell Solicitors
Anita Wynne, Director, Beststart Human Resources
- **Break**
- **Payroll Update**
Debbie Thompson, Payroll Manager, Streets Chartered Accountants
- **Azmat Rashid, Star Payroll Professional**
- **Lunch**

GDPR for HR

**Hannah Clifford – Senior Associate Solicitor,
Irwin Mitchell**

**Anita Wynne – Director, Beststart Human
Resources**



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GDPR – an introduction

- 25 May 2018
- First EU wide DP legislation for 20+ years
- Applies to EU companies **and** any company processing data of individuals in EU
- “Processing” e.g. goods, services, monitoring of behaviours and internal workplaces/employees

Why is this relevant to HR?



Key changes

Improved processes – makes fulfilling obligations simpler

More procedures – more information for data subjects

More documentation for policies/procedures

Greater scrutiny and scope

Higher potential penalties

What is employee personal data?

Personal data

- Names, ID numbers, Location data, online identifier, email address

Sensitive personal data

- genetic data, biometric data and data concerning sexual orientation, race/ethnic origin, trade union membership, health and criminal records.

Consent

- Can employees continue to process information about staff if they consent to it?

Lawful purposes - consent

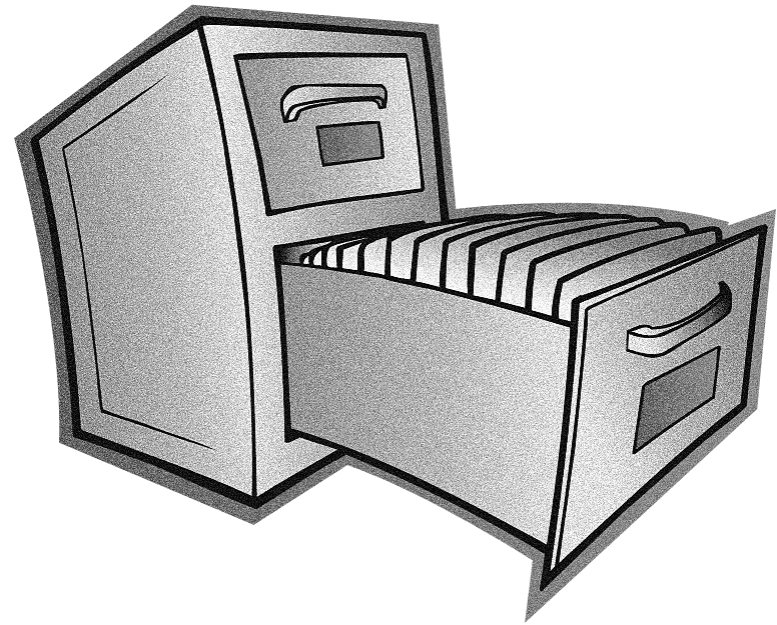
- Consent must be:
 - unambiguous
 - freely given
- Requires clear affirmative action
- For sensitive data, must be explicit
- Not available where there is a clear imbalance in the relationship
- Multiple purposes need multiple consents
- Can be withdrawn at any time

Alternative basis for processing?

- GDPR lawful purposes for **ordinary personal data** include processing on the basis of:
 - [Consent]
 - Legitimate interests of the data controller
 - Necessity for the performance of a contract
 - Compliance with a legal obligation
 - In order to protect the vital interests of the data subject or of another natural person
 - Necessary for performance of a task carried out in the public interest

Retention

- Do you know what information you hold?
- How are you holding it?
- Why are you keeping it?



Data audit

- Carry out a data audit
 - Understand the employee/ applicant data you hold
 - Analyse the personal data and determine lawful purposes
 - Just because processing was permitted under DPA does not mean that it will be permitted under the GDPR
- Accountability – document your analysis of lawful purposes

Data retention

- Set a data retention policy
 - One size does not fit all
 - For what purpose is the data kept?
 - Has the purpose been fulfilled?
 - Do you need to keep the data for any potential future claims?
 - How will the data be destroyed?
 - Ensure you have policies in place

Fair processing – Privacy notices

- How employee personal data is;
 - collected
 - processed
 - retained
- Subject access rights
- Any international transfer?
- Transparent, accessible, plain language

Subject access rights

- What enhanced rights will staff have?



Enhanced data subject rights

- The **right to be informed** (obligation on employers to be transparent)
- The **right to be forgotten** under certain circumstances
- The **right of access** (including subject access requests)
- The **right to rectification** of data that is inaccurate or incomplete (again similar to the DPA)
- The **right to block or suppress processing** of personal data (similar to the DPA); and
- The **new right to data portability** which allows employees to obtain and reuse their personal data across different services under certain circumstances.

Right to be informed

- Data privacy notices
- Legal basis upon which data will be processed
- How long personal data will be retained
- If data is transferred overseas
 - Outside of EEA
 - Safeguards
- Data subject rights

Right to be 'forgotten'

- Circumstances when request can be made include:
 - use of the data no longer necessary
 - consent withdrawn AND there is no other legal ground for processing
 - data unlawfully processed
 - to comply with legal obligations

Subject access requests

- What is changing?



Subject access requests

- Increased right to information:
 - Retention periods?
 - Does the Controller intend to transfer data abroad?
 - Information on right to rectification and right to complaint
- Increased right of access:
 - No fee in every case but a right to charge or refuse to comply if the request is “manifestly excessive”
 - Reduced time frame from 40 to 30 days although can be extended where the request is complex

Subject access requests – next steps

- Set policies and procedures for dealing with enhanced rights of individuals and SARs
- Plan how to handle SARs and provide any additional information within the new timescales
- Ensure that employees are trained to recognise and respond quickly and appropriately to SARs
- Develop template response letters
- Assess the organisation's ability to isolate data relating to a specific individual quickly and to provide data in compliance with the GDPR's format obligations

Third party processors

- Have you reviewed your contracts with third parties to ensure they comply with GDPR requirements?



Next steps

Prevention

Risk assessment

Security measures

Training

Planning

Processes

Assessment /audit

Testing /systems

Training at all levels

Responding

Assessment e.g. SARs

Team in place

Reporting of breach

Training

Notification

Mitigating

Next steps

- Consider need for **DPO**
- Carry out a **Data Audit**
- Review data flow, use and reason for processing
- Be ready for **SARs**
- Implement new **Data Processing Policy**
- Review internal **HR policies, employment contracts** and any **third party processor contract**.
- Set a **Data Retention Policy**
- Carry out **Staff Training**
- Plan for **breach**

Training

- Tailor the training to the right level
- **All** staff should understand the importance of data privacy
- Specific training for those:
 - handling SARs
 - responsible for processing sensitive data
 - dealing with breach notifications

Questions?



Hannah Clifford, Senior Associate
Solicitor

DDI: 0121 214 5296

hannah.clifford@irwinmitchell.com

Anita Wynne, Director
DDI: 01438 747 747
awynne@beststarthr.com



Payroll

Debbie Thompson

Payroll Manager

Email: dthompson@streetsweb.co.uk



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Agenda

- Data Audit and getting RTI right
- Budget Announcements
- Key changes for 2018
- Workplace Pensions – re-enrolment and increases
- Little things.....

Data audit and getting RTI right

- Time for some house-keeping – try and make it a regular thing.
- Common mistakes:-
 - Previous employment details from P45's
 - Employee ID/reference numbers – don't re-use and if you change make sure it is shown on the FPS
 - Payment date on the FPS
 - Correct pay period is used
 - Nil FPS or Nil EPS?
 - Using the wrong tax code – failure to use the correct code can lead to penalties

Budget Announcements

- Personal Allowance increases from £11500 to £11850 – tax code changes from 1150L to 1185L
- Scottish Tax Rates are different for the first time.
- Student Loan
 - Plan 1 threshold will increase to £18330.
 - Plan 2 threshold will be £25,000

UK 2018/19 Tax Rates

Personal Allowance	£228pw/£988pm/£11850pa
Basic Rate	20% on annual earnings above personal allowance up to £34,500
Higher Rate	40% on annual earnings from £34,501 to £150,000
Additional Rate	45% on annual earnings above £150,000

Scottish 2018/19 Tax Rates

Personal Allowance	£228pw/£988pm/£11850pa
Starter Tax Rate	19% on annual earnings above the personal allowance and up to £2,000
Basic Rate	20% on annual earnings from £2,001 to £12,150
Intermediate Rate	21% on annual earnings from £12,151 to £32,423
Higher Rate	41% on annual earnings from £32,424 to £150,000
Top Tax Rate	46% on annual earnings above £150,000

Student Loans

- Right Plan, right time
- Advised online, by post and occasionally by phone
- Should be actioned **as soon as possible**
- Deduction rate is 9%

Plan	2017/18	2018/19
1	£17,775	£18,330
2	£21,000	£25,000

Class 1 NI Thresholds 2018/19

Lower Earnings Limit (LEL)	£116 pw, £503 pm, £6,032 pa
Primary Threshold (PT)	£162 pw, £702 pm, £8,424 pa
Secondary Threshold	Same as above
Upper Secondary Threshold (under 21) (UST)	£892 pw, £3863 pm, £46,350 pa
Apprentice UST (AUST apprentice under 25)	As above
Upper Earnings Limit (UEL)	Same as UST

Employee Class 1 NI Rates

NI Category	Earnings at or above LEL up to PT	Earnings above PT up to and including UEL	Balance of earnings above UEL
A	0%	12%	2%
B	0%	5.85%	2%
C	Nil	Nil	nil
H (apprentice under 25)	0%	12%	2%
J	0%	2%	2%
M (under 21)	0%	12%	2%
Z (under 21 – deferment)	0%	2%	2%

Employer (secondary) Rates

NI Category	Earnings at or above LEL up to PT	Earnings above PT up to and including UEL	Balance of earnings above UEL
A	0%	13.8%	13.8%
B	0%	13.8%	13.8%
C	0%	13.8%	13.8%
H (apprentice under 25)	0%	0%	13.8%
J	0%	13.8%	13.8%
M (under 21)	0%	0%	13.8%
Z (under 21 – deferment)	0%	0%	13.8%

Statutory Absence Rates

- SMP, SAP, ShPP and SPP 90% of average weekly earnings or £145.18 whichever is lower
- Recovery remains at 92% or 103% for small employers (total NIC in previous yr below £45k)
- SSP £92.05 per week

Key Changes for 2018

- National Minimum/Living Wage rates increase

Age	25+	21-24	18-20	Under 18	Apprentice
Currently	£7.50	£7.05	£5.60	£4.05	£3.50
From 1 st April 2018	£7.83	£7.38	£5.90	£4.20	£3.70

Key Changes for 2018

- All PILON payments will be subject to tax and NI from April 2018
- Class 1a NI on termination payments and sporting testimonials above £30k postponed until April 2019

Workplace Pensions

- £10,000 threshold for automatic enrolment will not change for 2018/19
- QE link to LEL remains and will be £6,032 for 2018/19
- Mandatory Employer contributions still capped at UEL £46,350 for 2018/19

Workplace Pensions

- Minimum contributions increase from 6 April 2018 to 2% employer and 3% employee
- Increases again from 6 April 2019 to 3% employer and 5% employee
- Re-enrolment on three year anniversary of staging date. Six month window. Re-declaration must also be done. Penalties are starting to be issued for non-compliance.

Holiday Pay

- Statutory paid holiday of 5.6 weeks including bank holidays
- 12 week averaging for 4 weeks
- Include overtime and commission
- Days or hours?

Little things that make a big difference

- Register for online taxes dashboard and check regularly – agents don't have access!
- Employees tax codes are personal – employers and agents can't change them.
- Include employer bank details on EPS's – refunds will then be automatic
- You can no longer pay HMRC at the Post Office or by personal credit card. If you are relying on the post leave plenty of time for it to get there and check your bank that the payment has cleared.

Little things

- Operate Attachment of Earnings orders at the earliest opportunity – make sure you pay them on time. Failure to do so can result in fines for the employer
- Submission receipt just means HMRC have received it – it doesn't mean it's on time or right!
- If you submit late make sure you use a reason code especially if it is an amendment to a previous submission.
- Correction or EYU? Additional FPS on or before 19th April, EYU if 20th or later
- Payrolling Benefits in Kind for the first time? Register before the start of the tax year.

Little things

- Employment status tests and right to work checks.
- Make your payslips clear to your staff – you know what they mean – do they?
- Importing payments into the bank? BACS?

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