



## WHAT DOES THE GDPR MEAN FOR...THE **FOOD & DRINK SECTOR?**

The General Data Protection Regulation comes into effect on 25 May 2018 and will introduce a number of substantive changes to data protection laws across Europe. The changes are likely to be supplemented by new rules in relation to electronic marketing and online tracking.

The GDPR will require all organisations to review how they collect, hold and process personal information and how they communicate with individuals. Organisations will need to adopt new measures and update their internal processes to demonstrate their compliance with the GDPR. The new rules will be backed up by enhanced enforcement powers.

### Changes include:



#### **Consent**

There is a new requirement for 'clear affirmative action' and an end to pre-ticked boxes and bundled consents.



#### **Transparency**

Organisations must provide much more information to individuals.



#### **Lawful Processing**

There are stricter rules on processing data for new purposes.



#### **New access rights**

Greater rights are given to individuals, including rights of erasure, protection against profiling, and a right of data portability.



#### **Privacy by design and default**

Existing good practice recommendations must be hard-wired into day to day operations.



#### **Breach notifications**

New express obligations to notify privacy regulators and affected individuals in the event of certain data privacy breaches.



#### **Accountability**

Organisations will have to demonstrate compliance to regulators on an ongoing basis and maintain records.



#### **Sanctions**

The power for regulators to issue fines for up to €20m or 4% of worldwide turnover, (including substantial fines for administrative breaches).

“ We always get excellent service from them. They always understand what we're looking for, they communicate in plain English, stick to timelines and always deliver. ”

## How will this affect me?

Many businesses in the food and drink sector will hold personal information in sales and marketing databases. Information will be collected directly from individuals, but may also be collected through intermediaries such as delivery fulfilment partners and marketing agencies. Some businesses may also use website and email tracking tools to help better target marketing campaigns.

The GDPR requires organisations to review the information held, why they hold it and their policies and procedures for how they handle that information.

Food and drink businesses will also hold large amounts of personal information on their workforce – whether directly employed or engaged through contractors. Organisations should review the information held and their procedures to ensure that the basis on which it is collected and used is GDPR compliant.

## Specific issues:

- **Data collection** - do your privacy notices, client engagement and processes for collecting personal information meet the new rules on transparency and consent?
- **Marketing consent** - do you obtain appropriate consent to send individuals electronic marketing?
- **Marketing lists** - if you acquire marketing data from third parties, are you confident that you have the right to use that information?
- **Policies and processes** - have you reviewed your data policies and processes for allowing individuals to opt out of future marketing?
- **Third parties** - If you use third parties to collect or process personal information on your behalf, do you have a contract in place that clearly sets out the responsibilities of the parties in relation to that information?
- **Data retention** - how long do you retain information on your marketing databases? Do you have a data cleansing policy?
- **Profiling and tracking** - what tools do you use for profiling individuals and tracking online activity (for example, cookies and web beacons)? Do you obtain appropriate consent and provide fair notice?
- **Workforce data** - what information do you hold? How long do you retain it for? Do you need to hold that information? Is the processing fair and lawful?

## What do I need to be doing?

- Identify **your team** and **plan your strategy** for compliance.
- Create an **information asset register** – what personal information and where, why, how and with whom do you process it.
- Review the **legal basis** for your data processing activities.
- Review your **data collection forms** and **privacy notices** to ensure they meet the new requirements.
- Review your **processes and systems** for dealing with data subjects rights, including new rights in relation to erasure of data and data portability and your use of profiling.
- Review your CRM system and third party marketing tools.
- Implement data governance policies and measures and training to ensure your organisation operates in accordance with the requirements of the GDPR.
- Review your **supply chain arrangements** with data processors, such as marketing and recruitment agencies and delivery fulfilment.
- Ensure that new technology and systems are **GDPR ready**.

## Key contacts

To discuss how the GDPR will impact on your organisation, or how Brodies can assist you with your preparations, please get in touch with a member of Brodies' data protection and information law team.



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### More information

You can follow the latest developments on the GDPR, including the latest guidance from regulators, on our GDPR microsite:

**brodies.com/GDPR**

or our blog:

**<http://techblog.brodies.com>**