

Data privacy law for the real estate industry

The General Data Privacy Regulations (GDPR), alongside other data privacy law, places a greater responsibility on all businesses to protect the personal data of those they deal with. All those involved in the real estate industry should be up to speed on their obligations.



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Lucas is a specialist data privacy lawyer and advises on all aspects of data privacy law at national, EU and global levels. He advises on the data privacy aspects of fundraising and corporate marketing and the exercise and management of data subjects' rights, as well as how to deal with data security breaches, carry out data protection audits and the data privacy aspects of innovative technology.

Specialist data privacy lawyer Lucas Atkin outlines the data privacy impacts for property businesses

Data privacy law (in the UK, principally the GDPR, Data Protection Act 2018 and the Privacy and Electronic Communications (EC Directive) Regulations 2003 (PECR)) significantly impacts organisations that collect and use 'personal data'. In effect, personal data is any information from which a living individual can be identified, whether from that information alone or from that information in combination with other information that the organisation either has or is reasonably likely to come into possession of. The sheer breadth of this definition means that it will apply in a property context, whether for landlords, tenants, property managers and/or contractors and sub-contractors – for example, it covers names, contact details, identification documents, individual roles at organisations and even matters such as energy usage patterns or IP addresses where Wi-Fi is provided in buildings.

Key areas that are likely to be impacted include:

- rent and payment collection data;
- energy usage data;
- contact details of individuals who correspond in relation to obligations under a lease;
- building and car park security data;
- property occupancy data;
- turnover or trading information from occupational tenants (which may include customer information ranging from account details to spending interests).

It is essential that property businesses understand and comply with their obligations under data privacy law, not least because the GDPR prescribes potentially severe penalties for non-compliance, including (only in the worst cases) fines of up to €20 million or 4% of annual worldwide turnover.

If they have not done so already, property businesses need to ensure that they:

- carefully consider what personal data they collect and how they collect and use it (for example, how they store and disclose it);

- review existing property management arrangements to ensure that they satisfy the requirements of the GDPR;
- properly allocate risk between relevant parties;
- ensure that they have a GDPR-compliant privacy notice;
- consider what other compliance steps they should take (for example, implementing policies relating to data retention, individual rights under the GDPR and personal data breaches; or carrying out data protection impact assessments for any processing that may pose a high risk to individuals);
- consider appropriate governance structures, such as whether a data protection officer is required and how data protection issues can be handled internally;
- consider whether any staff training is required;
- comply with the strict rules in relation to electronic marketing;
- ensure they disclose information to other parties, such as property managers and letting agents, in a manner compliant with the GDPR;
- ensure that risk of contravention of the GDPR is adequately dealt with in contractual agreements where another party either receives personal data from you or handles it on your behalf;
- Monitor for continued developments in data privacy law, for example developments related to Brexit or the new e-Privacy Regulation, which is scheduled to replace PECR in the UK in late 2019/early 2020.

Find out more

We can advise on any aspect of data privacy and the impact of the GDPR on your business – you can find out more on our data privacy pages on the website at <https://www.bwbllp.com/services/data-privacy/>.

You may also be interested in finding out more at one of our seminars, including **Data Security Incidents: What are we expected to do and when?** on Tuesday 12 February 2019 and **Data Protection Impact Assessments and Legitimate Interests Assessments** on Tuesday 2 April 2019.