General Data Protection Regula

Introduction

The General Data Protection Reg a significant modernisation of data new developments in technology the time of the Data Protection Act

Residential lettings agencies are prospective and actual landlords, to obligations on data controllers, Commissioner (ICO) and require storing, altering, sharing data with

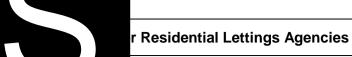
The GDPR brings with it a number including:

- Enhanced documentation a
- Enhanced privacy notice (d
- Stricter rules on consent to
- A new mandatory requiren of a data breach;
- Enhanced rights for data st
- New obligations for data pr
- New rules requiring the apr
- · New, tougher penalties for

In addition to these headline chan subject matter of all data protect personal data means: "any inform ("data subject"). An identifiable rindirectly, in particular by reference location data, an online identification physiological, genetic, mental, eco

The core principles of the GDP Personal data shall be:

a) processed lawfully, fairly b) collected for specified, (in a manner that is incomp purposes in the public inte purposes shall not be cons c) adequate, relevant and which they are processed; d) accurate and, where not taken to ensure that person for which they are processe e) kept in a form which penecessary for the purposes may be stored for longer pefor archiving purposes in the purpose in the pu



n simply as the GDPR, represents that takes into account significant al data that simply did not exist at

any information they hold about rantors. The GDPR places various to register with the Information a processing" (collecting, using, pying/deleting data).

rovements to data protection law

rements;) requirements;

nd data subjects in certain cases)

tion Officers; and law.

inition of "personal data" – the key considerably. Under the GDPR, ified or identifiable natural person ho can be identified, directly or a name, an identification number, factors specific to the physical, identity of that natural person.

responsibilities for organisations.

nner in relation to individuals; rposes and not further processed s; further processing for archiving al research purposes or statistical with the initial purposes;

ary in relation to the purposes for

e; every reasonable step must be ate, having regard to the purposes without delay;

ata subjects for no longer than is data are processed; personal data sonal data will be processed solely fic or historical research purposes or statistical purposes sul organisational measures re freedoms of individuals; an f) processed in a manner including protection agai accidental loss, destruction measures.

Under Article 5(2) of the GDPR demonstrate, compliance with the

Data Protection Audit

An essential starting point in com compliance, is a Data Audit. This it is held and on what lawful basis record what data is shared with completed Data Audit can be use below).

Lawful Basis for Process

In order for the collection and proletting agent must have a lawful be which personal data processing vagents:

- You have the <u>consent</u> of purposes;
- The processing is <u>necessar</u> or to take steps to enter int
- The processing is necessa
- The processing is necessathe data controller (the lesinterests or fundamental reprotection of personal data

Different conditions apply if the "special categories of personal damay be relevant to letting agents:

- You have the explicit cons prohibited by law;
- The processing is necess social security or social pro
- The processing is necess another person where the consent;
- The processing concerns subject; and
- The processing is necess claims, or where the courts

of the appropriate technical and order to safeguard the rights and

te security of the personal data, nlawful processing and against opriate technical or organisational

responsible for, and be able to

nd being able to demonstrate that to identify what data is held, why ined below. The audit should also eason for the data sharing. The etting agent's Privacy Notice (see

to be lawful under the GDPR, the DPR specifies six conditions under our of these are relevant to letting

respect to one or more specific

of a contract with the data subject

egal obligation; and

ne legitimate interests pursued by n interests are overridden by the ne data subject which require the ata subject is a child.

on is sensitive personal data or, GDPR. The following conditions

inless reliance on such consent is

ligations under employment law, pllective agreement;

interests of the data subject or le, physically or legally, of giving

nanifestly made public by the data

nt, exercise, or defence of legal all capacity.

The standards of consent unde concerned is sensitive personal d more control over what happens to

Under the GDPR, in order to be va

- Be freely given;
- Specifically state the contr the letting agent require undertaken;
- Be requested prominently, is user-friendly, easy-to-un
- Be obvious, requiring a pos opt-out boxes should be av
- Be expressly confirmed in v

Consent under the GDPR must b action on the part of the data sul the following:

- Consent should be separated be a precondition to signing
- If you use opt-in boxes to these from being pre-check
- The GDPR requires "gran separate consent for different consent for differen
- Clear records must be kept

It is also important to note that withdraw that consent at any time easy means to exercise it. Moreo lasts will depend on the context in

Having obtained consent, ensure consent, including the identity of the what information they were provided notice).

It is also important to remember the another criterion can be satisfied example, a certain amount of performance of a contractual obliging

Privacy Notice

Letting agents must provide certa be provided in your Privacy No depending upon whether you ha whether you have obtained it from

Information
Identity and contact details of the
data controller's Data Protection C

even more so where the data he GDPR is to give data subjects

ng agent), the purposes for which and the type(s) of processing erms and conditions, in a way that aning that pre-checked boxes and

lve some kind of clear affirmative mechanisms should comply with

ement. It should also generally not nat the GDPR expressly prohibits

t data processing operations (i.e.

consent.

onsent, data subjects are free to subjects of this right and provide time limit for consent. How long it

suitable system for recording that by consented, when, to what, and onsent (for example, your privacy

processing as described above. If necessary to obtain consent. For sing will be necessary for the ncy and property.

ubjects. This information will often that must be provided will vary rom the data subject directly, or

Obtained Directly	Obtained from Third Party
Yes	Yes

Purpose of collection and process for it.

(Where applicable) the legitimate if the categories of personal data.

Details of any third party recipients

Details of any "third country" (non-safeguards in place.

How long the data will be retained determine how long).

The existence of data subjects' rig

The data subject's right to withdraw applicable).

The data subject's right to complai authority (e.g. the ICO).

The source of the personal data, a publicly accessible sources.

Whether the provision of the person or contractual requirement or oblig consequences of not supplying it.

The existence of any automated d profiling) with details of how the designificance, and the consequence

This information should be provid obtained directly from the data s must be provided to the data sub when communicating with the dat them); or, if the data is to be discl place.

The Right of Access

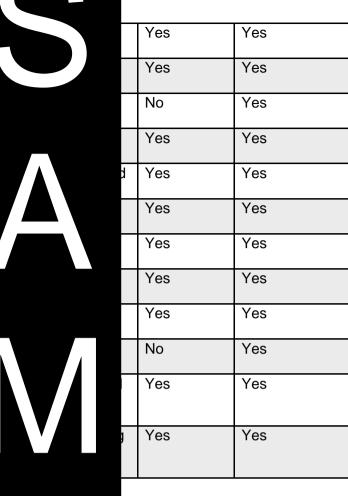
Data subjects have the right to supplementary information. In re-("SAR") you must provide confirm personal data you hold on the da terms, the same information you w

Under the Data Protection Act, it valually £10 - however the GDPR request is "manifestly unfounded charged. Further copies of the san

You should respond to SARs no and numerous requests, this can be

The Right to Rectification

Personal data should be accurate



onal data is obtained if it is being rom a third party, the information time (not more than one month); being used to communicate with party, before that disclosure takes

I data held by you along with in as a Subject Access Request is being processed; access to the oplementary information (in broad ide in a privacy statement).

e a fee for complying with SARs - s to be free of charge unless the case a "reasonable fee" can be e charged for.

er receipt. In the case of complex months.

subject requests the rectification of



4

any personal data you hold about If the request is complex, this can

If the personal data in question should be informed of this.

The Right to Erasure

This is also known as the "right t terms, data subjects have the rig unless there is a sound reason for

The most obvious way of exercisi to your use of their personal da legitimate interest that justifies cor

- When it is no longer neces for which it was originally c
- The personal data has bee
- The personal data has to b

There are some circumstances circumstances that might be releva

- When exercising the huma
- In order to comply with a le or the exercise of official at
- For the exercise or defence

If any personal data affected by a that third party must also be inform disproportionate effort to do so).

The Right to Restrict Pro

If a data subject asserts this right, In practice, this may require retai ensure that the restriction is respe

The right to restrict processing app

- If a data subject has inf inaccurate, processing of the inaccurate.
- If a data subject objects to whether your business's le subject's interests (this a performance of a public int
- Where the processing is u restriction; or
- Where you no longer requestablish, exercise, or defe

If any personal data affected by sthird party must also be informed

within one month of their request. months.

ny third parties, the data subject

an unqualified right, but in broad on or destruction of personal data

subject to withdraw their consent ng it (and there is no overriding nces are:

I data with respect to the purpose

and a legal obligation;

se to erase personal data. The

ression and information; rformance of a public interest task

s been disclosed to a third party, so it is impossible or would require

onal data, but must not process it. n about the data subject so as to

mstances:

al data you hold about them is ted until its accuracy is verified; onal data and you are considering sessing that data override the data processing is necessary for the gitimate interests);

erasure, the data subject requests

out the data subject requires it to

en disclosed to a third party, that it is impossible or would require

disproportionate effort to do so).

The Right to Data Portabi

Data subjects, under the GDPR, h data controller in a commonly-us controller. This enables data sub services. As with many other righ portability applies only:

- To personal data provided
- Where the personal data is for the performance of a co
- Where the processing of th

Letting agents must respond to re extended by up to two months where requests.

The Right to Object

Under the GDPR, data subjects he and must be informed of the right the data processing is based on the stop unless you can demonstrate the interests, rights, and freedoms processing is necessary for the estimate the statement of the statement o

Sharing of Personal Data

Letting agents may need to sha solicitors, utility companies and co parties will be data processors.

Letting agents, as data controller any third party data processors. H share data will themselves be data data processing agreement is req a self-employed tradesperson) it n

- The subject matter and the
- The nature of the processir
- The type of personal data
- The rights and obligations

As a guide, contracts between of following requirements:

- The processor acts only o by law to act without);
- The processor ensures that of confidentiality;
- The processor takes suitab

copy of their personal data from a it transferred to a different data eir personal data across different not unqualified. The right to data

ct:

with the data subject's consent or

d out by automated means.

ity within one month. This can be lex or if you receive a number of

certain uses of their personal data parately from other information. If ate interests data processing must ounds to continue which override ernatively, you may continue if the defence of legal claims.

range of third parties, such as ervices to a property. These third

data processing agreement with d parties with whom letting agents ment may not be appropriate. If a uired where the data processor is

hg;

categories of data subject; and

a processors should contain the

of the controller (unless required

personal data are subject to duties

at the data is processed securely;

- The processor may not consent, and then not with
- The processor must assis otherwise allowing data sul
- The processor must assist with respect to security, PI
- At the end of the contract, personal data; and
- The processor must comp carry out, provide the cont both parties are meeting the immediately if the processor data protection laws (wheth

Data Retention and Delet

Personal data must be kept in a follonger than is necessary for the processed.

Data relating to a prospective ten landlord client who does not contra for one year. Information relating to be retained for seven years from plus an extra year to allow for a cla r without the controller's written lace with the sub-contractor;

necessary, in handling SARs and DPR rights;

g its obligations under the GDPR data breaches;

te and/or return (as requested) all

spections that the controller may formation required to ensure that GDPR, and inform the controller that infringes the GDPR or other

entification of data subjects for no e personal data is collected and

ne an actual tenant or a potential for its services, should be retained its, residents or guarantors should (i.e. the six year limitation period

