

Checklist for Managing Personal Data Breaches and Notification

1. Identify the Breach - does it involve “Personal Data” relating to an individual, was it encrypted or otherwise protected and is the breach likely to involve a “high risk” to Data Subjects?
2. Have you recorded the Breach and all available information relating to its circumstances, nature and effects?
3. Do you have an effective Data Breach Management Plan and process?
4. Do you have a Data Protection Officer?
5. Consider when to escalate the Breach internally and to the ICO (within 72 Hours of becoming aware of it)
6. Consider when to notify affected individual Data Subjects
7. Communicate with the ICO, but be prepared to negotiate with them and do so openly
8. Seek advice from the ICO, from your IT Security Team, your Legal Advisers and Insurers
9. Know your timings - response deadlines are short!
10. Who needs to know about the Breach - DPO, Head of Legal, Insurer, Broker, any Processors, the C-Suite and your PR and Communications Team
11. Keep detailed records of each step in your investigation, documented and time-stamped so it can be relied upon if needed
12. Work backwards from your 72-hour notification deadline, and use the opportunity to update and refine existing processes, policies and procedures
13. Know who will take responsibility for communicating with the media, and ensure that they are appropriately trained to convey the right message
14. Identify the impact of any Breach upon individual Data Subjects - what has been exposed, how likely is it to be exploited and what impact may it have?
15. Consider going “above and beyond” in terms of engagement and notification to limit reputational damage.

DISCLAIMER:

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