

Tip of the Month - July 2012

Employers Responsibilities under the Data Protection (Privacy of Personal Information) Act, 2023 (DPA)

Under the DPA employers (data controllers) must ensure that they collect, use, and disclose employees' personal information only for the purpose that a reasonable person would consider appropriate in the circumstances. Employers need to respect the following principles which are embedded in the DPA in one form or another:

1. **Accountability:** the employer is responsible for the personal information under its control, and should designate someone who is accountable for its compliance.
2. **Identifying purposes:** it is prudent for the employer to specify why it is collecting personal information from employees at or before the time it does so.
3. **Consent:** the employee's knowledge and consent is required for the collection, use, or disclosure of personal information. (The DPA permits certain specific exceptions to this principle).
4. **Limiting collection:** employers may only collect the personal information that's necessary for the purpose they've identified, and must collect it by fair and lawful means.
5. **Limiting use, disclosure, and retention:** unless they have the consent of the employee, or are legally required to do otherwise, employers may use or disclose personal information only for the purpose for which they collect it, and they may retain it only as long as necessary for those purposes. (Again, the DPA permits exceptions).
6. **Accuracy:** the employees' personal information must be accurate, complete, and up-to-date.

7. **Safeguards:** personal information must be protected by appropriate security safeguards.
8. **Openness:** the employer must make its personal information policies and practices known to its employees.
9. **Individual access:** employees must be able to access personal information about themselves, and be able to challenge the accuracy and completeness of it. (The DPA permits some exceptions.)

Complaints under the DPA

Employees who think that their employer has not respected the provisions of the DPA should try to resolve the matter internally. If this does not work, they may file a complaint with the Data Protection Commissioner. The Commissioner will investigate and try to resolve the matter, as appropriate.

Employees should also note that they have a right of appeal under Section 24 of the DPA if they do not agree with the decision of the Data Protection Commissioner.

For more information on this and any other data protection concern you may have, please e-mail us at dataprotection@bahamas.gov.bs or visit our website at www.bahamas.gov.bs/dataprotection

Remember “Privacy is the Best Policy.”