



Thomas More Chambers

Data Protection in the Age of COVID-19

During the COVID-19 pandemic, much concern has focussed on the impact on public health and the economy. Most people would understandably place data protection lower down on their priorities. It has become clear, however, that the pandemic has prompted a variety of legal concerns in this area.

The Information Commissioner's Office (ICO) has set up the '[Data protection and coronavirus information hub](#)', designed to help individuals and organisations navigate data protection during the pandemic.

Below are some of the issues that the ICO has flagged:

- The ICO has acknowledged concerns that data protection practices might not meet usual standards and that responses to information rights requests may take longer. The ICO has confirmed that it will not take regulatory action in these circumstances, stating that it will not penalise organisations that they know need to prioritise other areas or adapt their usual approach during this extraordinary period.
- Whilst data protection is not a barrier to different types of homeworking and does not prevent staff using their own devices or communications equipment, the ICO has stressed the need to consider the same kinds of security measures for homeworking that are used in normal circumstances.



- Organisations can keep staff informed about COVID-19 cases within their organisation, however they probably do not need to name individuals and should not provide more information than is necessary.
- In relation to the collection of health data, the ICO has highlighted that organisations can ask staff reasonable questions for the purposes of protecting employee health, e.g. whether they are experiencing COVID-19 symptoms. However, it stressed that organisations should not collect more data than they need and that such information must be treated with appropriate safeguards.
- More people have set up groups to help the most vulnerable in their communities. The ICO have pointed out that often, these groups need to handle sensitive personal information and share it with others and must take account of data protection law. However, these groups will not need to pay the ICO's registration fee as some not-for-profit organisations are exempt.

As the situation develops, it is likely that more legal issues will arise. The ICO has already noted growing evidence of a spike in email and phone scammers as criminals look to take advantage of COVID-19.

A particular area to keep an eye on will be the use of smartphone location data to combat the virus. At present, a number of countries are already tracking mobiles as part of efforts to tackle the virus. Whilst data used for general population tracing could be suitably anonymised, continuing public health and economic concerns may lead to calls for some data protection rights to be suspended to combat the virus.

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The Thomas More Chambers Civil and Employment Law Team is able to assist instructing sources on any civil and employment law issues, including those arising from the Covid-19 pandemic. We are well used to working remotely and can arrange for confidential telephone or video conferences and meetings on a variety of platforms with you and our mutual clients. In addition, we all are well used to paperless working and to dealing with remote hearings and are always happy to assist in setting them up.

Equally important during these times is an appreciation of the practical reality of the court system and what it can currently offer and the priority being given to urgent business in relation to children and domestic violence. We can provide urgent advice in relation to whether an application is likely to come within the criteria to enable an urgent hearing to be obtained.

The Thomas More Chambers Civil Law and Employment Law Teams are able to assist instructing sources on any legal issues arising from the coronavirus crisis. If you need assistance, please contact us 020 7404 7000 or at clerks@thomasmore.co.uk.

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