



**THE LABOUR COURT**  
*An Chúirt Oibreachais*

# Labour Court Privacy Policy

## **Introduction**

The EU General Data Protection Regulation (GDPR EU 2016/679) which replaces the Data Protection Directive 95/46/EC is designed to harmonise data privacy laws across Europe, protect and empower all EU citizens' data privacy and reshape the way organisations across the region approach data privacy.

The Data Protection Act 2018 gives effect to the GDPR. This policy reflects the GDPR and the changes implemented by the Data Protection Act 2018 and sets out how the Labour Court processes personal data and ensures users and staff understand the rules governing the use of personal data.

## **Scope and purpose**

This policy applies to all the Labour Court's personal data processing functions in relation to identified or identifiable natural persons, including those classed as litigants, employees, suppliers and any other personal data the Labour Court processes from any source.

## **Definitions**

Personal Data is defined as any information relating to an identified or identifiable natural person ('data subject'). An identifiable natural person is one who can be identified, directly or indirectly, by reference to an identifier such as their name, identification number, location data, online identifier or one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

Special Categories of Personal Data includes personal data on racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, health or sex life, genetic data and biometric data.

## **Policy responsibility**

The Labour Court is committed to compliance with all relevant EU and Irish laws in respect of personal data, and the protection of the rights and freedoms of individuals whose

information the Labour Court collects and processes.

## **Data Protection Principles**

### **Personal data must be processed lawfully, fairly and transparently**

The Labour Court's statutory functions are grounded on the Industrial Relations Act 1946, the Workplace Relations Act 2015 and related legislation. Much of the data collected and processed by the Labour Court is done as part of its statutory function. In any other circumstance, the Labour Court will: (1) request the consent of the data subject to collect and process their data at the time that the information is being sought or (2) collect and process data in so far as it is necessary for the performance of a contract or for entering into such a contract.

For processing to be fair, the Labour Court is required to make certain information available to the data subject(s) and certain third parties. This applies whether the personal data was obtained directly from the data subject(s) or from other sources.

The Labour Court will provide the required information on the utility of the data collected to data subjects at the time personal data is collected. Any such information provided will be detailed and specific, and notices are understandable and accessible.

Information must be communicated to the data subject in an intelligible form using clear and plain language. The Labour Court may make such information available on its website, mobile platforms, social media, or booklets.

### **Personal data may only be collected for specific, explicit and legitimate purposes**

The Labour Court will collect and process personal data only for the purposes for which it is collected. Labour Court staff need to be alert to requests for processing of personal data for purposes for which it was not collected, no matter how related the processing may appear.

### **Personal data must be adequate, relevant and limited to what is necessary for processing**

The Labour Court will ensure that in designing methods of data collection, whether

online, on forms or through user interaction, that only the personal data required to identify the data subject(s) and provide the service will be processed.

#### **Personal data must be accurate and up-to-date**

All data subjects have a right to ensure that their data is accurate and complete. The Labour Court requires accurate and up-to-date data about data subjects to ensure that the data subjects receive the appropriate services. All data collection procedures require that reasonable steps are taken to update personal data where new data has been provided.

All changes to personal data will be shared with each third party with whom the previous data had been shared, unless this is impossible or requires disproportionate effort.

#### **Personal data is kept in a form such that the data subject can be identified only if necessary for processing**

The Labour Court will implement appropriate policies and procedures to ensure that personal data is retained only for the minimum period required to provide the benefit or services requested. This may be done by destroying the personal data, by anonymisation or any other appropriate method. At present, the Labour Court retains such data indefinitely but, in the context of discussions with the Archives Office, the Labour Court is the process of developing a tailored Data Retention and Archiving Policy.

#### **Personal data Must be processed in a manner that ensures appropriate security**

In conjunction with DBEI, the Labour Court will implement appropriate technical and organisation measures to ensure that appropriate security of the processing of personal data is implemented.

#### **Demonstrating compliance**

The Labour Court will ensure that it maintains adequate records of its processing and evidence that it has complied with this policy and related policies and procedures.

## **Rights of Labour Court Data Subjects**

The Labour Court has and will update appropriate policies, procedures and training to ensure the following data rights of data subjects.

All data subjects have the following rights, as outlined in this section. However, restrictions may apply in certain situations.

### **Right of access**

Data subjects have the right to:

- receive confirmation from the Labour Court that their personal data is being processed;
- access to their personal data; and
- certain other details in relation to how the Labour Court uses personal data

Data subjects can request copies of paper and electronic records about what the Labour Court holds, shares or uses. To deal with a request, the Labour Court asks for proof of identity and sufficient personal information to enable the Labour Court locate the personal information requested.

When requesting this information, the Labour Court requires that the data subject complete the Data Protection Subject Access Request (SAR) Form available from the website.

When submitting the request, the data subject must supply information to help the Labour Court verify identity, such as a photocopy of passport and utility bill and as much detail as possible to help the Labour Court identify the information the data subject wants to access (i.e. date range, subject of the request).

### **Right to rectification**

Where information is inaccurate or incomplete, a person may contact the Labour Court to request that the information be rectified subject to the limitation that

the appellate function of the Labour Court is a quasi-judicial function and for that reason the right to rectification of documentary evidence contained in submissions or decisions may not apply.

### **Right to be forgotten**

Data subjects have the right to seek the erasure of personal data relating to them in the following circumstances:

- The personal data is no longer required for the purposes for which it was obtained.
- Where data is being processed based on consent, consent is withdrawn, and no other lawful basis exists.
- The personal data is being unlawfully processed.
- The person objects to the processing of personal data and there are no overriding legitimate grounds for the processing.
- The personal data requires deletion in line with legal requirements.

The Labour Court will be unable to fulfil an erasure request if the processing of personal data is necessary for the following:

- Exercising the right of freedom of expression and information.
- Compliance with a legal obligation or for the performance of a task carried out in public interest.
- Reasons of public interest around public health.
- Archiving or statistical purposes in the public interest.
- The establishment, exercise or defence of legal claims.

The primary legal basis for the Labour Court's processing of personal data is based on a legal obligation, as outlined under the Industrial Relations Act 1946 as amended and the Workplace Relations Act 2015. In this regard, some processing in relation to personal data may not be subject to the right to erasure.

## **Right to restriction**

A data subject has the right to restrict the processing of their personal data by the Labour Court in circumstances where:

- She/he believes the personal data is not accurate, in which case the Labour Court must restrict any processing while the accuracy of the personal data is verified.
- The processing of the personal data is unlawful, but the person wishes to restrict the processing of data rather than erase it.
- Where the personal data is no longer required by the Labour Court, but the data subject requires the data for the establishment, exercise, or defence of a legal claim.
- The person has a pending objection to the processing of she/his personal data, it should be restricted pending verification by the Court whether its legitimate interest overrides that of the data subject

When processing is restricted, personal data will only be processed:

- with consent;
- for the establishment, exercise or defence of legal claims;
- for the protection of the rights of other people; or
- for reasons important to public interest.

The Labour Court will contact the data subject to confirm the request for restriction.

## **Right to data portability**

The right to data portability only applies:

- to personal data provided to the Labour Court by the data subject (i.e. not any other data generated by the Labour Court),

- where the Labour Court is processing personal data based on the data subject's consent or, for the performance of a contract and,
- the processing is carried out by automated means.

As the primary basis for the processing of personal data by the Labour Court is based on a legal obligation and as it does not currently carry out any fully automated processing of personal data, the right to data portability will rarely if ever apply.

### **Right to object to processing**

The data subject has the right to object at any time to the processing of personal data which is undertaken based on public interest or legitimate interest by the Labour Court. As the primary legal basis for the processing of personal data by the Labour Court is based on a legal obligation, the right to object will most likely only apply in very limited circumstances.

### **Right not to be subject to automated decision making, including profiling**

A data subject has a right not to be subject to a decision based solely on automated processing or profiling, where such decisions would have a legal effect or significant impact on him/her. The Labour Court does not currently carry out any fully automated decision making or profiling using personal data.

### **Request Channel**

Requests should be sent to [info@labourcourt.ie](mailto:info@labourcourt.ie) or Data Protection, The Labour Court, Lansdowne House, Lansdowne Road, Dublin 4.

### **Communications with Data Subjects**

The Labour Court may contact data subjects occasionally for information relevant to the data subjects with the Court. The Court will endeavor not to contact the data subject outside of usual business working hours.



## **Responsibilities of the Labour Court**

The Labour Court has responsibility for the following:

### ***Ensuring Appropriate Technical and Organisational Measures***

The Labour Court will implement appropriate technical and organisational measures to ensure protection of personal data.

### ***Maintaining a Record of Data Processing***

The Labour Court will maintain an inventory of its data processing activities in the manner prescribed by law. The will be reviewed on an annual basis.

### ***Implementing Appropriate Agreements with Third Parties***

The Labour Court will ensure that where such transfer of personal data is required, appropriate agreements, memoranda of understanding, bilateral agreements and contracts (collectively “agreements”) with all third parties shall specify the purpose of the transfer, the requirement for adequate security, the right to terminate processing, restrict further transfer to other parties, ensure that responses will be given to requests for information and the right to audit.

### ***Transfers of Personal Data Outside of the European Economic Area***

No such transfer is envisaged. If such occasions arise, the Labour Court will not transfer the personal data of its data subjects outside of the European Economic Area unless an adequate level of protection is ensured.

### ***Data Protection Impact Assessments***

The Labour Court will carry out a data impact assessment prior to any decision to implement new technologies likely to result in a high risk to the rights and freedoms of natural persons.

## **Personal Data Breaches**

The Labour Court defines a 'personal data breach' as meaning a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data transmitted, stored or otherwise processed. (e.g. the most common breach incidents that can occur are correspondence issuing to an unauthorised third party). The Labour Court deems any loss of personal data in paper or digital format to be a personal data breach.

The Labour Court has a protocol for dealing with personal data breaches. This protocol sets out the methodology for handling a personal data breach and for notification of the breach to Data Protection Commissioner and to data subjects where this is deemed necessary.

## **Governance**

The Labour Court monitors compliance of this policy. In this regard, the Court:

- Reviews data protection impact assessments and the design of data protection elements of projects
- Instigates data protection matters of interest
- Approves internal audits or compliance with this policy, and
- Any other such activities relating to data protection.

## **Data Protection Officer**

The Data Protection Liaison Officer of the Labour Court reports directly to the Court. The responsibilities of the Data Protection Liaison Officer include the following:

- i. Keeping the Court informed about data protection responsibilities, risks and issues
- ii. Monitoring compliance with the relevant data protection legislation.
- iii. Ensuring that all data protection policies and policies are reviewed and updated on a regular basis.
- iv. Ensuring that the Labour Court provides appropriate data protection

training and advice for all staff members.

- vi. Acting as a contact point and providing cooperation with the Data Protection Officer.

### **Responsibilities of Staff and Similar Parties**

Any person (staff or contract) who processes personal data on behalf of the Labour Court has a responsibility to comply with this data protection policy.

All staff receive training on this policy. New staff receive training as part of the induction process. Completion of training is compulsory.

Staff are reminded of data protection obligations through annual training and e-mails to staff from Data Protection Liaison Officer.

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