



The importance of data protection for football clubs

June 2015

Direct contacts



Jeanette Burgess, Partner, Regulatory
+44 (0)113 283 2632
jeanette.burgess@walkermorris.co.uk



Andrew Northage, Partner, Regulatory
+44 (0)113 283 4543
andrew.northage@walkermorris.co.uk

Walker Morris LLP
33 Wellington Street
Leeds
LS1 4DL

T+44 (0)113 283 2500
F+44 (0)113 245 9412
www.walkermorris.co.uk

INTRODUCTION

The Data Protection Act 1998 (the **DPA**) imposes restrictions and obligations on how personal data is processed. It applies to all organisations that handle personal data, including football clubs. The Information Commissioner's Office (**ICO**) is the regulator responsible for dealing with breaches of the DPA and promoting good practice. It currently has the power to impose fines of up to £500,000 if data is not managed appropriately.

From a commercial perspective, failing to adhere to privacy principles will typically have an adverse impact on reputation among fans and hinder marketing and commercial objectives. The following introduces what you need to think about.

COLLECTION AND PROCESSING OF PERSONAL DATA

Personal data is any information from which a living individual can be identified. Sensitive personal data is information about issues including race or ethnic origin, religious beliefs or criminal convictions and is subject to more stringent restrictions under the DPA.

Football clubs collect many types of data including the personal details of players, employees, fans and members of academies. You will process fans' data (including names, card details and addresses) in many ways, through your website for merchandise sales and for use in season ticket applications. All processing must be done in accordance with the DPA and the ICO's best practice guidance. Football clubs will ordinarily be required to register with the ICO. If you are not already registered, you should ensure you do so immediately to avoid criminal fines.

MARKETING

Marketing activity is clearly important to generate revenue for the club but must be done in accordance with the DPA and associated Regulations. For example, you may wish to:

- share personal data with commercial partners by letting them access to fans' details to deliver mailshots or vice versa, if you want to market to your partner's customer database;
- collect personal data from people in other jurisdictions. For example, a club may have an international soccer school and want to send marketing communications to the attendees;
- market your own products and merchandise (electronically and by post).

You can send unsolicited direct marketing by email or text message to your existing customers but you cannot pass on their details to any third parties for these purposes unless your customers have given their express permission for you to do so. You need to structure your data collection forms to ensure you have compliant opt-in or opt-out permissions and make sure you tell customers what you will do with their personal information via a privacy notice. Careful due diligence is also required when relying on bought-in marketing lists from third parties. If you cannot demonstrate that you had valid consent when it was required, you may be subject to complaints and ICO enforcement action, not to mention criticism from commercial partners.

Whatever form of marketing you are using, you must always ensure compliance with the DPA's eight data protection principles. These include the obligations to process data fairly and lawfully for specified purposes only, to keep it accurate and up to date, protect it from accidental loss or disclosure and hold it no longer than is necessary. Compliance should be embedded in the Club's day-to-day practices.

Football is of course increasingly international and it is likely that player information will be shared with agents, and others, worldwide. Sharing data in this way must be managed effectively in

accordance with the DPA. Where data is transferred outside the European Economic Area (**EEA**), you are required to take additional steps (including in your contracts) to guarantee it will be properly protected to the European equivalent standard.

WHAT DOES THIS MEAN FOR YOU?

You must ensure that you have in place adequate processes and procedures at the Club for dealing with personal data. These should be implemented through effective data protection policies which are communicated to all employees and privacy statements which are clear and easy to understand and comply with the ICO's detailed guidance. It is typical for many organisations to employ dedicated compliance officers, in their legal, marketing or HR departments, that take responsibility for data protection.

The personal data held is one of any businesses' most valuable assets; if the privacy principles are properly understood and implemented by the Club, you will undoubtedly maximise the commercial value of the customer data (and marketing lists) while minimising the risks of complaints and enforcement action.

HOW CAN WE HELP?

Comprising two partners, six lawyers and one consultant, our expert Regulatory and Compliance Team has a broad practice base in advising on privacy matters for a variety of national and international clients across the retail, sport, financial services and manufacturing sectors. We provide specialist advice on all aspects of risk management, including the preparation and implementation of policies and procedures governing compliance in data protection and bespoke training.

OUR DATA PROTECTION EXPERTISE

The Regulatory and Compliance Team is a multidisciplinary team offering our clients a full range of data protection expertise. We regularly advise clients regarding the development of detailed, tailored data protection policies and procedures, obtaining relevant registrations and certifications and the collection and transfer of data between entities and jurisdictions. We offer expert advice in relation to the sale and acquisition of customer databases and outsourcing arrangements including sending data outside the EEA.

We provide specialist advice to our clients on marketing via post, email and text along with website process reviews and internet sales. In addition we have extensive experience working with clients on the exploitation of data including electronic marketing initiatives.

We frequently intercede with the ICO on behalf of clients, have advised on data security breaches and data losses as well as responding to contentious data subject access requests.

OUR EXPERIENCE

We have recently advised an international medical business on compliance in the collection and use of personal data which included working in over 25 countries worldwide to devise and implement a single data protection policy. In addition, we have acted for a leading government agency on an appeal to the Information Rights Tribunal.

We are currently assisting a number of retail and financial services clients consider the extensive changes to privacy compliance which are expected in 2016, when the DPA is replaced by a new European Data Protection Regulation. The new Regulation will provide for tougher regulatory

powers with fines related to worldwide turnover and organisations are well advised to consider compliance sooner rather than later.

Members of our team have been commissioned a number of times to author and co-author specialist publications including journal articles in relation to sport law. We are regularly instructed by our clients to provide bespoke seminars and training on data protection matters.