**Failure by the Department of Justice**

I have chosen the case study “Failure by the Department of Justice and Equality to impose the correct access restrictions on access to medical data of an employee” (Case Studies | Data Protection Commission, 2018), which overviews a situation during which an employee’s medical report related data has been unsecured due to the negligence of the staff of the department. The said occurrence was in “breach of The Data Protection Act 1988 and 2003”. “The Data Protection Act 1988 and 2003 (the “Act”); the Data Protection (Amendment) Act 2003, implementing the European Data Protection Directive 95/46/EC; and the Data Protection (Amendment) Act 2003, which implements the European Data Protection (Amendment) Act “Data Protection Directive 95/46/EC”. The Act regulates how companies collect, store and use employees’ personal information (past, future and current)” (lawyerie, 2017).

For sensitive personal data, stricter requirements are required. “Violations of the Act may result in an investigation by the Data Protection Commissioner”, “a fine of up to €100,000 or a compensation claim for the affected worker” (lawyerie, 2017).

Employers, as data controllers, must ensure that their employees’ sensitive data is collected and processed fairly, is accurate and up-to-date, and is not kept longer than necessary. Employers must implement adequate security measures to prevent unauthorized access, alteration, disclosure or destruction of personal data. Companies should have an information security program that includes security notices, a clear retention policy for all private information, and adequate employee information security training (lawyerie, 2017).

As data subjects, staff can initiate subject access. Under certain conditions, they have the right to know what private data is held for them and to whom it is disclosed, seek a copy of their data, and have erroneous personal data corrected or deleted (Lawyer, 2017).

Subject requests should be processed as soon as possible, preferably within 40 days of receiving a written request. The subject access request includes personal data stored on electronic and physical media. Employers can charge €6.35 per technician to print their personal information on demand (lawyerie, 2017).

From 1988 to 2018, data protection rules were created to protect people’s privacy. Individuals have the right to information data privacy by law and are accountable to those who store and process such information (Enterprise.gov.ie, 2018).

The commissioner assessing the case determined that the organization had breached UK data protection regulations (the 1988 and 2003 Data Protection Acts), the same as the then-current GDPR. Employment contracts contain restrictive covenants prohibiting workers from performing specific actions after dismissal (Harper James, 2021). Only senior employees who need to understand the basics can access recruitment data (Maxfield, 2021).

## References:

Case Studies | Data Protection Commission. (2018). *Case Studies | Data Protection Commission*. [online] Available at: https://www.dataprotection.ie/en/pre-gdpr/case-studies#201711 [Accessed 30 Apr. 2022].

lawyerie (2017). *Data Protection Act 1998 & 2003 | Summary from Lawyer.ie*. [online] Lawyer.ie. Available at: https://www.lawyer.ie/employment-law/data-protection/ [Accessed 30 Apr. 2022].

GDRP. (2018) General Data Protection Regulation (GDPR). Available from: https://gdpr-info.eu/ [Accessed 25 April 2022].

Harper James. (2021) A guide to restrictive covenants in employment law. Available from: https://harperjames.co.uk/article/guide-to-restrictive-covenants-in-employment-law/#section-1 [Accessed 25 April 2022].

Maxfield, L. (2021) Managing Curricula Vitae (CVs) in Compliance with the Data Protection Rules. Available from: https://www.thorntons-law.co.uk/knowledge/managing-curricula-vitae-cvs-in-compliance-with-data-protection-rules [Accessed 25 April 2022].

Enterprise.gov.ie. (2018). *Data Protection and the General Data Protection Regulation (GDPR)*. [online] Available at: https://enterprise.gov.ie/en/Data-Protection/#:~:text=1988%2D2018%E2%80%9D.-,Data%20Protection%20legislation,holding%20and%20processing%20such%20data. [Accessed 30 Apr. 2022].