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Goldstein Ryder News



In early May 2018 Jeff and Linda attended a week long course on Workplace Investigations run by the Association of Workplace Investigators in America. They would love to share their insights with our valued clients. As a result, Jeff and Linda will be holding a Workplace Investigations Seminar on 12 September 2018. Please see the attached flyer for more details. If you have any questions please call the office on 03 343 4419.

We would also like to congratulate Jane Taylor, who has recently been promoted to Senior Solicitor. Congratulations Jane!

Privacy—Obligations, Risks and Changes

Employers need to remember that they are “agencies” and that the information they collect about their employees is protected by the Privacy Act.

Here is a summary of the 12 Information Privacy Principles:

1. Personal information must be collected for a lawful purpose and must be necessary for that purpose;
2. Information must be collected directly from the individual concerned (unless certain exceptions apply);
3. The agency must take reasonable steps to ensure the individual is aware of the following:
 - a. The fact that the information is being collected;
 - b. The purpose for which the information is being collected;
 - c. The intended recipients of the information;
 - d. The details of the agency collecting and holding the information;
 - e. The law the information is being collected under (if relevant) and whether the supply of this information is voluntary or mandatory;
 - f. The consequences (if any) if the information is not provided;
 - g. The individual’s rights of access to and correction of the information;
4. Personal information shall not be collected by unlawful or unfair means;
5. Personal information must be protected against loss; unauthorised access, use, modification or disclosure; and other misuse;
6. The individual concerned is entitled to access their personal information;



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7. The individual concerned is entitled to correct their personal information;
8. The agency that holds the personal information must take reasonable steps to ensure the information is accurate, up to date, complete etc. before using that information;
9. Agencies must not hold information for longer than necessary;
10. Information collected for one purpose may not be used for another purpose;
11. Personal information may only be disclosed in certain circumstances;
12. Agencies may not assign unique identifiers to individuals unless it is necessary for the agency to carry out its functions efficiently.

Note: This is just a summary of the Information Privacy Principles. The full set of Principles can be found on www.legislation.govt.nz.

These Principles apply to the collection of any personal information, whether it is collected in recruiting for positions or during the course of employment.

The penalties for non-compliance with the Privacy Act can be high. For example, in March 2018 the Human Rights Review Tribunal awarded Kim Dotcom \$30,000 in damages for breaches of the Privacy Act, and \$60,000 in damages for loss of dignity and injury to his feelings as a result of the breaches of his privacy.



There have been several cases where individuals have been awarded damages under section 88(1)(b) of the Privacy Act 1993 (loss of any benefit which the aggrieved individual might reasonably have been expected to obtain). These cases all involved a failure to provide requested information. When employees raise personal grievances often their personal files and time and wage records etc. are requested. Employers must provide these to the employee.

There is a new Privacy Bill currently before the Parliamentary Select Committee. The Bill proposes to repeal and replace the Privacy Act and bring it up to date with modern technology. The new Bill also attempts to better protect personal information sent overseas and introduce mandatory reporting of privacy breaches, a power for the Privacy Commissioner to issue compliance notices, and new criminal offences for destroying documents that are the subject of a privacy request with a maximum fine of \$10,000.

If you have any questions about your Privacy obligations please call the office on 03 343 4419.