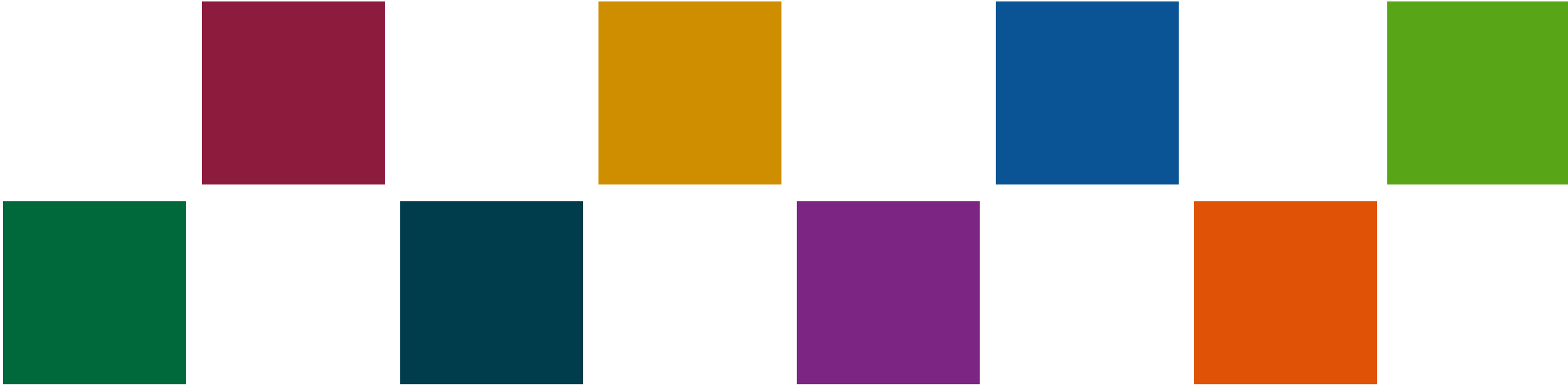




Getting Ireland Back to Work – GDPR Issues

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Intro & Housekeeping

- Part 2 of our Getting Ireland Back to Work Webinar Series
- Conversational Style, so please put your questions into the Q&A box
- Return to Work Safety Protocol
- Likely to see updated DPC Guidance soon



Topic 1

What are the types of things Companies should be thinking about from a Privacy Standpoint?

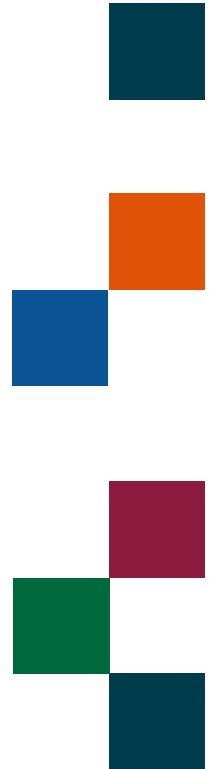
- Lots of options being considered
- Fine line between H&S obligations and Privacy obligations
- Workplaces are going to look different for the foreseeable future
- Key guiding principle is proportionality



Topic 2

What are the main DP issues that we are looking at when managing COVID-19 within an organisation?

- Important privacy considerations when handling personal data, particularly health data and other sensitive data
- Concern about invasive privacy measures without a reasonable basis
- Irish DPC says decisions to be proportionate, informed and guided by public health authorities
- Return to Work Protocol is a living document – Expect more Guidance



Topic 2

What are the main DP issues that we are looking at when managing COVID-19 within an organisation?

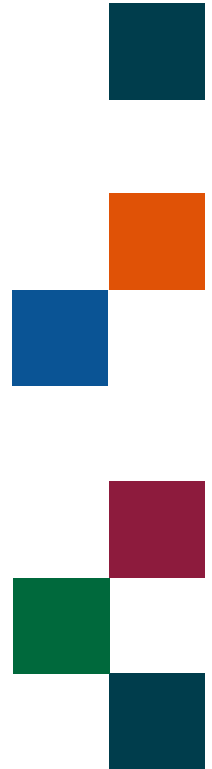
- Figuring out the correct legal bases.
- Processing of health data under Article 9 of the GDPR.
- Legal bases being relied on:
 - Consent - Article 9(2)(a): Steer Clear (in most instances)!
 - Processing necessary for the purposes of carrying out obligations of the employer - Article 9(2)(b)
 - Processing justified to protect the vital interests of a data subject - Article 9(2)(i)



Topic 2

What are the main DP issues that we are looking at when managing COVID-19 within an organisation?

- Transparency of measures: purposes of collection, retention, accessible, easy to understand, in clear and plain language
- Confidentiality: to ensure security of the data (particularly where health data involved)
- Data Minimisation: only the minimum amount of data should be processed
- Retention/Deletion: Have a plan in place, some information will have a limited shelf life only



Topic 2

What are the main DP issues that we are looking at when managing COVID-19 within an organisation?

- Data Protection Impact Assessments
 - Used to identify and mitigate risks
 - The mandatory categories under GDPR
 - Even if not mandatory can carry out a DPIA-style voluntary assessment
 - Useful if proposal is outside of the firm regulator guidance

Topic 3

Creating a Back to Work Plan and the Role of Privacy in those Plans?

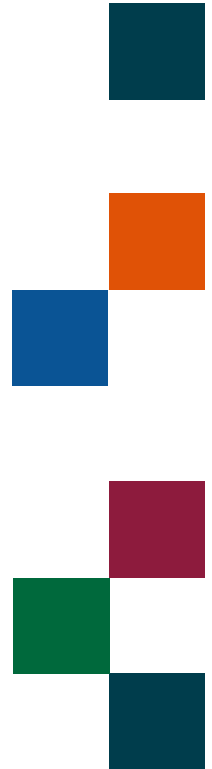
- Irish Government Roadmap and Return to Work Protocol can be used as a guidebook
- Phased openings and rotas for employees coming into the office
- Preference to continue WFH for some staff
 - Maintaining privacy aspects of WFH policies e.g. IT security, not removing files from the office, proper use of video conferencing apps
- Making sure staff coming back are not sick
- Consider what information can you can legally collect from employees and visitors



Topic 3

Some Options:

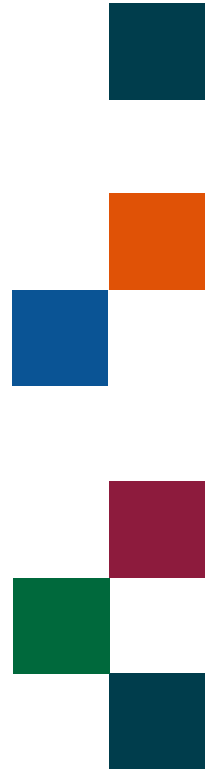
- What does the Return to Work Protocol say?
- Self-certifying vs Questionnaire
- Temperature Checking- varying approach across Europe. Likely to be guided by health authorities.
- Testing (antigen/antibody testing)
- Technology - workplace apps/swipe cards/employee monitoring



Topic 4

Cross-jurisdictional re-opening. What are the different regulators saying?

- A lot of different approaches
- Temperature Checking is a good example
 - France
 - Belgium
 - Spain
 - Netherlands
- How should you run a cross-jurisdictional program?



Topic 5

How do you manage the information flow within the organisation when dealing with COVID-19 cases or suspected cases?

- Have a Staff Portal available and provide training
- Inevitably, a large amount of health information will be generated
- Consider who manages the information
- DPC- names of confirmed cases not be released except in special circumstances
- Consent not a valid legal basis most employment contexts



Key Takeaways

- Proportionality and minimisation – tangible benefit
- Document / accountability
- Transparency
- Reporting lines, education and training
- WFH policies
- Position changing



Questions & Answers



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