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Artificial Intelligence: Legal implications for the people profession

Legal Framework

- EU

In force:

- General Data Protection Regulation (GDPR)

Forthcoming:

- Artificial Intelligence Act (AI Act)

Proposed:

- Artificial Intelligence Liability Directive

- Ireland

- Data Protection Acts 1988-2018

What do we mean by AI? (1)

‘Artificial intelligence system’ (AI system) means:

- a system that is designed to operate with elements of autonomy
- and that, based on machine and/or human-provided data and inputs,
- infers how to achieve a given set of objectives
- using machine learning and/or logic and knowledge-based approaches,
- and produces system-generated outputs such as content (generative AI systems), predictions, recommendations or decisions,
- influencing the environment with which the AI system interacts.

What do we mean by AI? (2)

‘General-purpose AI system’ means:

- an AI system that
- irrespective of how it is placed on the market or put into service, including as open source software
- is intended by the provider to perform generally applicable functions
- such as image and speech recognition, audio and video generation, pattern detection, question answering, translation and others;
- a general purpose AI system may be used in plurality of contexts and be integrated in a plurality of other AI systems.

AI Act in the HR context (1)

- High Risk Systems, which are to be set out in Annex II and III of the AI Act, include:
 - Employment, workers management and access to self-employment:
 - a. AI systems intended to be used for recruitment or selection of natural persons, notably to place targeted job advertisements, to analyse and filter job applications, and to evaluate candidates;
 - b. AI intended to be used to make decisions on promotion and termination of work-related contractual relationships, to allocate task based on individual behavior or personal traits or characteristics and to monitor and evaluate performance and behavior of persons in such relationships.

AI Act in the HR context (2)

- High Risk Systems also include:
 - Examples of safeguards, to be included in the AI Act, include:
 - A mandatory fundamental rights impact assessment will be required for high-risk AI systems.
 - Individuals will have the right to file a complaint in relation to high-risk AI systems and request and receive explanations on decisions that are based on high-risk AI systems and impact their rights.
- Prohibited AI systems, include:
 - Emotion recognition in the workplace

Topics for discussion

- Implications of the planned EU AI Act to regulate general-purpose AI
- Legal and ethical concerns related to AI in the workplace
- Data governance
- Use of AI systems for:
 - Recruitment and selection
 - Employee performance tracking
- Automation of work through AI
- Use of biometrics and other tools

How to prepare for the AI Act?

- **AI applications register:** Identify the AI systems relied on by the HR team (this will form part of your organisation's inventory of AI systems), assess the risk these systems represent (low, medium, high), and document the measures implemented to mitigate these risks.
- **AI governance:** create internal guidelines to avoid the mishandling of employee personal data. Other business consideration to include in internal guidelines for employees are protections against copyright violations, trade secret exposure and breaches of confidentiality.

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Questions?