

Drafting and working with internal documents on data privacy matters: Things you need to know

A glowing lightbulb with a cracked glass globe, set against a dark background with blue and red particle effects. The lightbulb is the central focus, with its filament visible and emitting a bright blue glow. The glass is shattered in several places, with shards of glass floating around it. The background is dark with a dense field of small, glowing blue and red particles, creating a sense of motion and energy.

AEB Legal and IT & Telecom Committees Meeting
"Personal Data: new regulation and practice"

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Morgan Lewis



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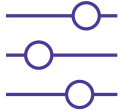
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Reasons to have internal privacy documents



Demonstrate compliance with data protection laws to supervisory authorities and avoid liability



Streamline your processes, allocate roles and responsibilities, and make your internal privacy protection system work



Show respect and transparency of your processes to data subjects, whose data you process



Prove your credibility to your partners and be sure that you are able to perform your contractual privacy obligations

Key documents to have and multi-layered approach (1/2)

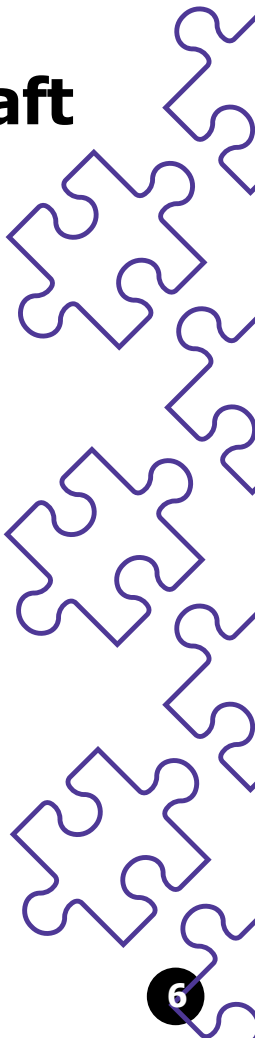
Document Type	What is in?
Policies	Company's general vision and principles it follows to protect individuals' privacy rights and comply with privacy laws (these principles should not be simply copied from the PD Law!)
Guidelines and procedures	Key procedures and processes that company and its employees follow in connection with specific operational mechanics of company, including core privacy processes (e.g., handling of data subjects' requests) and business processes (e.g., development of new solutions or entering into agreements affecting individuals' privacy); allocation of roles and responsibilities in connection with internal privacy management
Records	Granular and detailed information about company's personal data processing practices (categories of data subjects, types of processed personal data, processing purposes, retention terms, third parties involved, etc.)

Key documents to have and multi-layered approach (2/2)

Document Type	What is in?
Documents facing employees involved in processing	Template confidentiality commitments, acknowledgement forms, training materials and questionnaires
Documents facing data subjects	Templates of consents, notices and responses to data subjects' inquiries, template data protection/privacy provisions for contracts with individuals
Regulator-facing documents	Template notifications to be filed to the regulator (e.g., to register as a data operator or to notify of cross-border transfer of personal data) and related correspondence with the regulator
Third-party facing documents	Template data transfer and data processing agreements to be concluded with third-parties engaging company or being engaged by company for processing of personal data, standard privacy and confidentiality clauses to be included into commercial contracts (according to allocation of parties roles)

Working on a document: questions before you draft

- ① What is a key purpose of a document?
- ② Who is the target audience of the document?
- ③ How the document is supposed to work from operational standpoint?
- ④ Who will be responsible for its implementation?



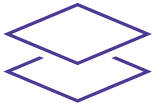
Working on a document: dos and don'ts



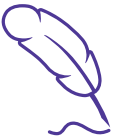
Don't draft the document before you understand the process **AND INSTEAD** audit the process first (know your processes and make your documents work!)



Don't try to use a standard solution/document for any company **AND INSTEAD** do your best to customize your document specifically for your company



Don't put everything in a one document **AND INSTEAD** try a multi-layered approach



Don't copy-paste the law or apply formalistic approach **AND INSTEAD** use clear, plain language, short, concise and specific sentences

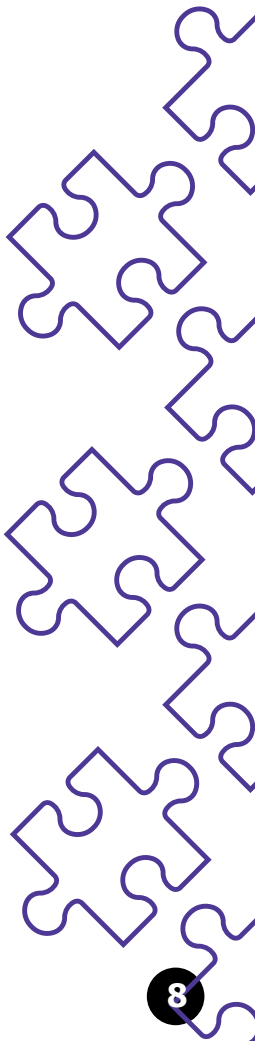


Don't use generic and broad descriptions **AND INSTEAD** try to make the documents granular, where reasonable

Granularity rules: are they really new?

Privacy policy must be very specific and explain with respect to each processing purpose:

- 1 Categories of data subjects whose personal data is processed
- 2 Terms of data processing and retention terms
- 3 Precise exhaustive list of processed personal data
- 4 Conditions to destroy personal and data destruction procedures

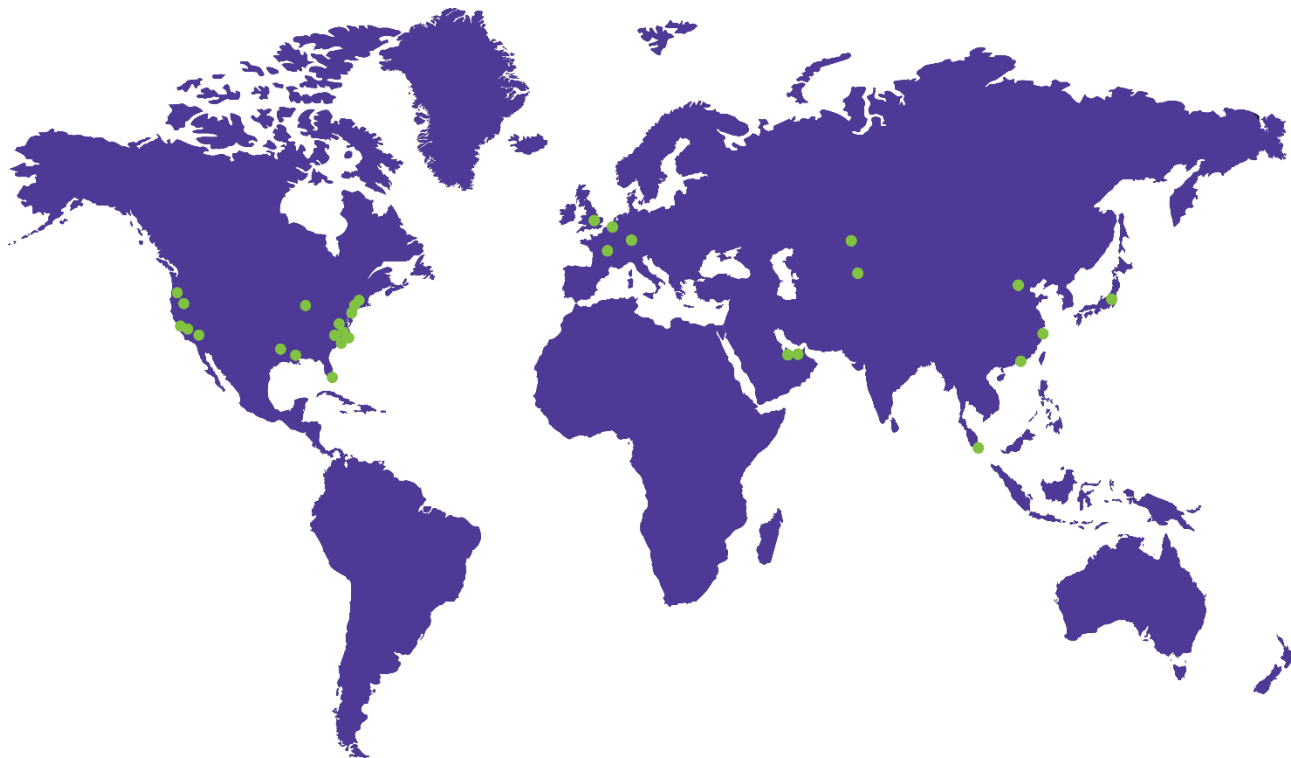


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