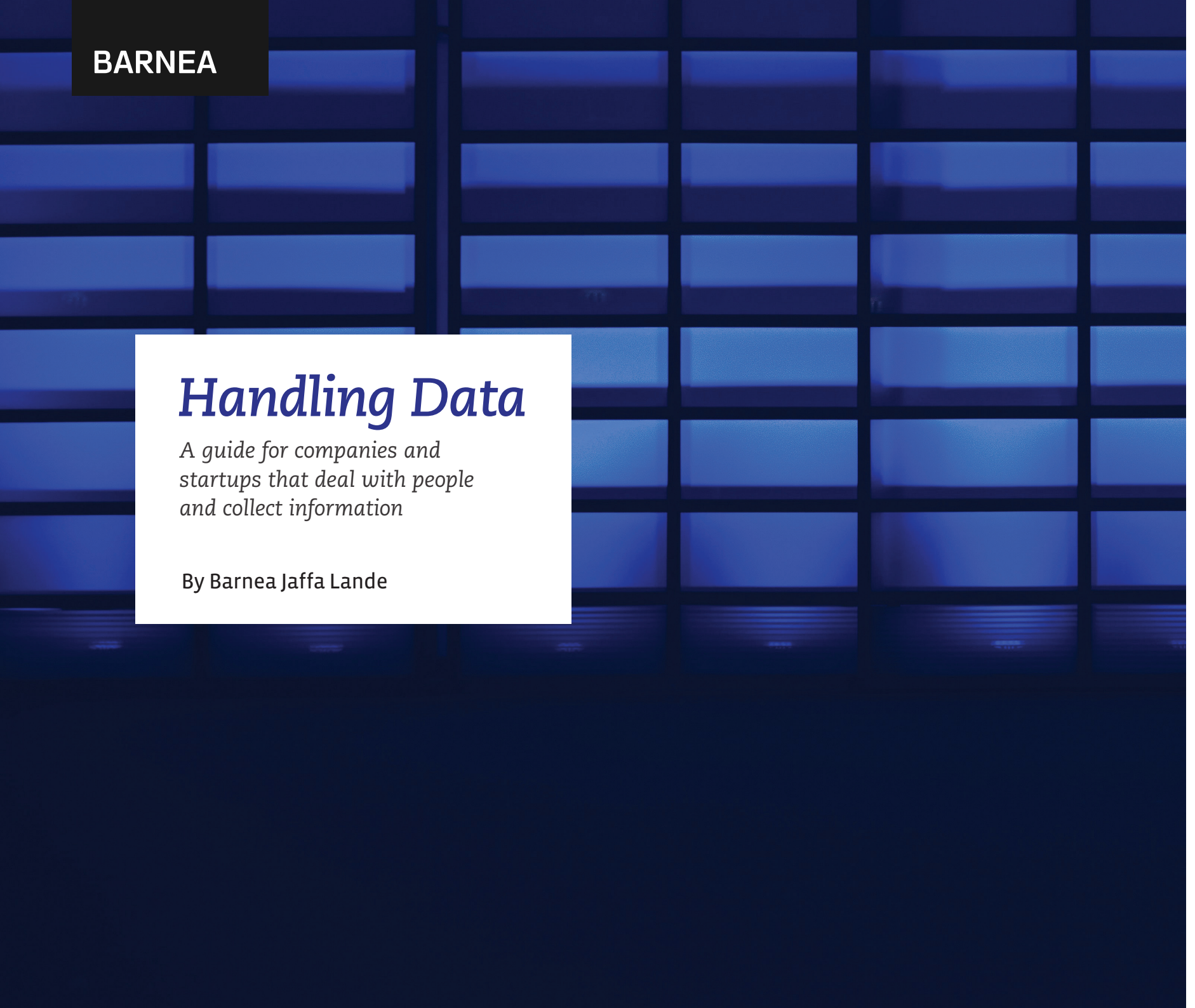

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Handling Data

A guide for companies and startups that deal with people and collect information

By Barnea Jaffa Lande

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Your business and data

You are certainly collecting data about people. Whether it is customers, suppliers, or employees, everyone has a right to privacy, and therefore the law imposes upon you a set of obligations toward these people.

No organization can run without information. For some, information is the most important strategic tool they have. This is the case in sectors like healthcare, retail, banking, and insurance.

Therefore, you cannot take the risk of being limited in your data processing by a regulator or data users. Accordingly, you must invest resources in ensuring lawful data collection, handling, processing, and storing.

Beyond that, in light of the growing ability to infringe on privacy and the understanding that privacy is a basic human right, privacy regulation has evolved and become more threatening than ever. This is reflected in the increase in fines that can be imposed by the various legal systems, as well as in the proactivity of global privacy regulators.

Indeed, each legal system imposes its own privacy requirements. However, understanding the following principles will provide you a solid foundation on how to guard the privacy of the people about whom you collect information.

For whom is this relevant?

For everyone – because you always deal with people and always collect information.

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Be transparent

As part of the duty to be fair to the people about whom you collect information, you must allow them to understand what information is being collected and how it is being used.

To meet the transparency requirement, companies publish the necessary privacy-related information in their websites' privacy policies. However, it is important to note that not only website users need to receive this information, but also customers and employees with whom you do not engage through your website. Therefore, an organization must have a number of privacy policies and find the right way to make them accessible to the people about whom personal information is collected.

Disclosure is required from all businesses – on-line and off-line. A privacy policy is not only for websites.

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Respect the rights of data subjects

Each legal system affords the individuals within its jurisdiction different rights in respect of their personal information. The most common rights afforded to the individuals about whom the information is collected are the right of access and the right of erasure ("right to be forgotten").

Thus, if an individual requests that you provide access to his or her personal information or that you delete it, you must first locate all the information you maintain about such individual in your systems, and then send him or her a copy of that information or delete it.

To fulfill your obligations to the individuals about whom you collect information, you must invest in internal corporate compliance procedures.

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Be proportionate

Most modern privacy laws require you to collect and store only the information you need for the purposes for which it was collected.

Thus, you may not collect information you do not need, nor keep it for longer than the period you actually need it.

The laws do not always prescribe for what period you need to hold information, so you should define for yourself how long you need each type of information you hold.

Don't collect and store personal information just in case you may need it.

Carefully consider your business plan and identify what you may need in the future and make sure to be transparent about it.

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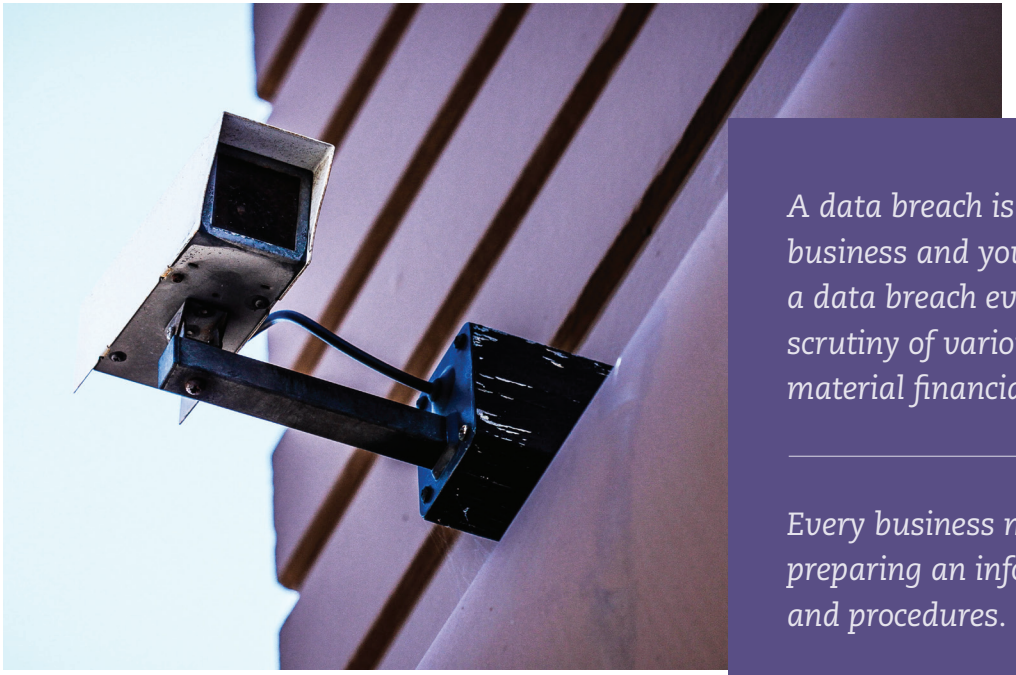
Keep the information secure

You are responsible for protecting the information you collect. The notion of information security usually consists of these three elements: confidentiality, integrity, and availability of information.

There is no uniform standard of security every entity should apply. Rather, you must define for yourself the information security measures you need to implement to address the risks involved in the processing of the information.

Therefore, you must perform a risk assessment process to determine the measures your organization should put in place.



A data breach is a material risk for your business and your reputation. Suffering a data breach event puts you under the scrutiny of various regulators and under material financial exposure.

Every business must devote resources to preparing an information security plan and procedures.

Even if you only provide services to third parties and do not have direct relationships with individuals, you may be liable for a data breach.

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Share information with third parties legally

All organizations share information with third parties. The processes involved in sharing information with third parties are extremely diverse, and include the most basic and trivial. Most organizations use third-party service providers to hold or process information about people or even to provide products or services to their customers.

Remember:
1. When you use cloud storage, you share personal information.
2. When you outsource, you share personal information.

When you share personal information, it is your legal obligation to make sure your counterparty keeps it intact.

If you are the third party that receives the information, it is in your interest to make sure the party sharing personal information with you has the right to do so and is aware of all of your processing activities.

Before you engage in an activity that involves sharing information with a third party, you must first make sure you are allowed to do so.

Many considerations affect this question. For instance, sometimes information is collected under circumstances that impose a duty of confidentiality upon the entity that collected the information (such as in the medical practice or in the banking sector). From the privacy perspective, the main consideration is whether the individuals to whom the information relates are aware that their information may be disclosed to the receiving party.

Even when the sharing of information is made within a group of companies, the same considerations should apply, as if there is no connection whatsoever between the disclosing and receiving entity.

Assuming there is a legal basis for sharing information, an information sharing agreement may be needed. Such agreements may be required either due to a regulatory requirement or to a commercial interest you may have.

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Export information legally

In the digital age, it is common for personal information to move from one jurisdiction to another. Organizations are doing more and more business with companies in other countries, and there is growing use of cloud services.

A major concern is that the personal information collected will become subject to different regulation. Therefore, the law in the information's country of origin will seek to apply certain safeguards to ensure the personal information remains protected after it crosses its borders.

The safeguards you will need to apply to legitimize international data transfers vary according to the law that applies to you in the processing of personal information. However, whenever you share information with a party, it is important to identify if the data sharing will involve an international data transfer. If so, make sure to do it in accordance with the law that applies to you.

Remember, some jurisdictions limit your ability to export personal information about their subjects.

Make sure to do your due diligence and know where your counterparty is processing the personal information you shared.

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Manage your human resource for privacy

Privacy, like any other compliance matter, is a project for the entire organization.

Most procedures involving personal information processing are actually performed by employees, including junior employees. Therefore, it is not enough for the general counsel or other senior staff to be aware of privacy issues. Rather, you must raise awareness of these issues among all of your employees who have access to personal information. This is achieved by running privacy-training sessions across the organization.

It is important that your employees be reliable and that you can trust their integrity. They are the ones who perform the processes in your organization and are those exposed to information about individuals. Therefore, when recruiting employees, you should take into account that they will be exposed to information about individuals, and take measures to verify they are trustworthy enough to protect privacy on your behalf.

In addition, since any disclosure of information involves a certain risk, you must make sure every employee in your organization is allowed to view only the data he or she needs to fulfill the role in your organization.

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Meet registration obligations

Some jurisdictions, Israel included, require entities that hold personal information to register their database in a public registry.

Therefore, you should check if such a duty applies in the territories in which you operate. If so, adjust yourself to it.

The need to register or other required formalities increase your exposure, as they provide the regulator with information about your databases and your processing activities.

If you are active in such a jurisdiction, staying on top of internal compliance is even more important.

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Who we are

Barnea Jaffa Lande is an Israeli law firm with an excellent reputation for its work in the cross-border arena.

Our clients include Israeli companies operating abroad and foreign companies, from all over the world, operating in Israel.

These clients include technology companies, retail organizations, infrastructure corporations, leading banks and other financial institutions, telecommunications companies, and medical device companies.

We are recognized as a leading law firm by both prestigious international and local legal directories, such as Chambers and Partners, Legal500, Who's Who, IFLR1000, Dun's 100, and BDI Code.

Our firm offers clients an interdisciplinary team of lawyers focused on all matters related to privacy and data protection.

We help clients analyze their situations and also customize a variety of solutions for various legal issues relating to privacy protection and data security, particularly in the fields of internet and mobile.

We provide our clients with comprehensive legal advice about how their operations may be subject to privacy protection laws in Israel and abroad.

We also analyze all relevant business processes and explain how they are required to comply with local and international regulations.

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Who we are

Barnea Jaffa Lande is an Israeli law firm with an excellent reputation for its work in the cross-border arena.

About 70% of our firm's activities have an international aspect.

In the privacy sphere, we provide practical, commercial, and strategic advice on all matters related to privacy and data protection.

We offer significant expertise in helping clients access legal exposures and in customizing solutions for various legal risks relating to privacy and data security.

We are held in high regard for our handling of data breach incidents and have acted for some prominent companies in responding to such incidents.

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