

Diversity Monitoring Survey Checklist - EMEA Region



1. In your jurisdiction, is an employer permitted to request data for the purposes of monitoring diversity?	2. In what form is it permitted to capture the data?	3. What data is permitted to be captured?	4. How should the data be stored and accessed?	5. Are there time limits on retention of data?	6. Are there any other specific rules which apply? eg relating to intra-group cross-border transfers of such data	7. Any other comments
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Austria

Herbst Kinsky

Yes – applicants and employees	<ul style="list-style-type: none"> •By individual's name •Anonymised 	<ul style="list-style-type: none"> •Gender •Religion •Disability •Age •Socioeconomic status •Familial/Parental status 	<p><i>Storage</i></p> <p>Must be stored separately from other data.</p> <p><i>Access to underlying data</i></p> <ul style="list-style-type: none"> •Only designated employees 	Yes. For applicants 6 plus 1 months, none for employees.	No if data transfer occurs pursuant to EU General Data Protection Regulation.	Still rare.
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Belgium

van Cutsem Wittamer Marnef & Partners

No	N/A	N/A	<p><i>Storage</i></p> <p>N/A</p> <p><i>Access to underlying data</i></p> <p>N/A</p>	N/A	N/A	Processing (sensitive) personal data for diversity purposes is not allowed under Belgian law, as a principle. There exists an exception in Brussels only by virtue of a Decree of the Brussels Government dated May 7, 2009.
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Bosnia and Herzegovina

Karanovic & Partners in cooperation with local lawyers

No	N/A	N/A	<p><i>Storage</i></p> <p>N/A</p> <p><i>Access to underlying data</i></p> <p>N/A</p>	N/A	N/A	Employers are prohibited from collecting or processing data which is not directly relevant to the specific post. As a consequence, it is generally not possible to conduct diversity surveys.
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Croatia

Ilej & Partners in cooperation with Karanovic & Partners

Yes – applicants and employees	•Anonymised	<ul style="list-style-type: none"> •Gender •Sexual orientation •Ethnic origin •Religion •Disability •Age •Socioeconomic status •Social mobility •Familial/Parental status 	<p><i>Storage</i></p> <p>No restrictions on where data are stored.</p> <p><i>Access to underlying data</i></p> <p>•Only designated employees</p>	No	N/A	N/A
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Cyprus

Michael Kyprianou & Co

No	N/A	N/A	<p><i>Storage</i></p> <p>N/A</p> <p><i>Access to underlying data</i></p> <p>N/A</p>	N/A	N/A	N/A
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Czech Republic

Rowan Legal

Yes – applicants and employees	<ul style="list-style-type: none"> •By individual's name •Anonymised •Pseudonymised •Survey conducted by a third party, employer would see only aggregated data 	<ul style="list-style-type: none"> •Gender •Disability •Age •Social mobility •The law is silent about the data that are permitted to be captured for diversity monitoring. However, the Czech Labour Code expressly prohibits the employer from collection of data about pregnancy, family and socio-economic situation, sexual orientation, origin, membership in trade union organization or political party or movement, religion or confession, unimpeachability (clean criminal record). 	<p><i>Storage</i></p> <p>Must be stored separately from other data.</p> <p><i>Access to underlying data</i></p> <ul style="list-style-type: none"> •Only designated employees •If anonymised, those data might be available without any restrictions. 	Yes. In general, the data retention period shall not be longer than necessary	Employer should collect DPIA, because in case of disability employer will process special category of personal data about their employees. Additional obligations arise when data are transferred outside the EEA, an adequate level of protection under GDPR must be ensured.	In Czech Republic diversity surveys are rather rare.
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Denmark		<u>Advokatgruppen</u>				
No	N/A	N/A	<i>Storage</i>	N/A	N/A	N/A
			N/A			
			<i>Access to underlying data</i>			
			N/A			

France		<u>Racine Avocats</u>				
No	N/A	N/A	<i>Storage</i>	N/A	N/A	N/A
			N/A			
			<i>Access to underlying data</i>			
			N/A			

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Germany

Yes – applicants and employees

Heussen

•Anonymised

- Gender
- Sexual orientation
- Ethnic origin
- Religion
- Disability
- Age
- Socioeconomic status
- Social mobility
- Familial/Parental status
- Exception: data on disability can be captured by individuals name (employees only) after 6 months of service.

Storage
Must be stored separately from other data.

Access to underlying data
•Only designated employees

Yes. Data should be kept for no longer than is needed. It is suggested that the data be retained during the course of employment (assuming this is needed for ongoing analysis and that consent has not been withdrawn at any point) and a period of no more than 1 year following the termination of employment to allow any final analysis to be carried out.

In Germany no additional safeguards have to be in place to support a data transfer into the UK with an adequacy decision being in place. This adequacy decision has only to be mentioned in the privacy notice. For data storage and processing by US providers additional safeguards have to be in place such as the conclusion of Standard Data Protection Clauses. This has to be mentioned in the privacy notice. With the Schrems 2 judgement additional security measures have to be in place to support the Standard Data Protection Clauses.

In Germany, there is sensitivity about databases where physical, cultural and ethnical distinctions including detailed information about sexual preferences are systematically collected and stored. It is also unusual in Germany to ask about socio-economic status. In general, it is recommended that the communication with German employees should be carefully planned including explaining the purpose of the project and its worldwide scope, why the data is required and making it clear that the data will never be used for hiring/firing/promotion purposes.

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Greece

Kelemenis & Co

Yes – employees only	•By individual's name	<ul style="list-style-type: none"> •Gender •Ethnic origin •Religion •Disability •Age •Familial/Parental status •These are sensitive private data and EU and local (as transposed) rules apply. 	<p><i>Storage</i></p> <p>Must be stored separately from other data.</p> <p><i>Access to underlying data</i></p> <ul style="list-style-type: none"> •All employees •An employee may access the data maintained by the employer and relating to him/her; not to other employees 	Yes	The GDPR regulation is the guide for retention and processing.	Diversity surveys are not common. Any processing should follow GDPR rules.
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Italy

Jenny Avvocati

Yes – applicants and employees	<ul style="list-style-type: none"> •By individual's name •Anonymised •Pseudonymised •Survey conducted by a third party, employer would see only aggregated data 	<ul style="list-style-type: none"> •Gender •Ethnic origin •Disability •Age •Social mobility •Familial/Parental status 	<p><i>Storage</i></p> <p>No restrictions on where data are stored.</p> <p><i>Access to underlying data</i></p> <ul style="list-style-type: none"> •Only designated authorised persons (may be employees), storage must comply with the GDPR. 	Yes. Time limit to be assessed based on the principles set by the GDPR.	Limits to the processing set by Law 300/1970 i.e. prohibition to investigate (i) on employees' opinions (so that no religious, political or philosophical beliefs can be monitored) and (ii) on facts that are irrelevant for the assessment of the professional aptitude of the worker Monitoring of disability is permitted in relation to the minimum quotas of disabled employees set by law.	Albeit uncommon, diversity monitoring is not prohibited as such, provided that the data processing is proportionate and carried out for legitimate purposes.
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Ireland

Philip Lee LLP

Yes – applicants and employees	<ul style="list-style-type: none"> •Anonymised 	<ul style="list-style-type: none"> •Gender •Sexual orientation •Ethnic origin •Religion •Disability •Age •Socioeconomic status •Social mobility •Familial/Parental status 	<p><i>Storage</i></p> <p>Must be stored separately from other data.</p> <p><i>Access to underlying data</i></p> <ul style="list-style-type: none"> •Only designated employees 	Yes. Data can only be kept for as long as necessary to meet the purpose for processing.	From a data protection perspective, the rules on international transfers of personal data would apply.	Diversity surveys are not commonly employed in Ireland. Among other things, an employer may not wish to put itself on notice that an employee falls within a particular category. By way of a straightforward example, an employer may not wish to put itself on notice that an employee has a disability - once an employer does this, any decision (such as to dismiss) could be challenged for discriminatory reasons. The same applies to varying degrees to the other categories (although, obviously, some are self-evident).
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Luxembourg

Kleyr Grasso

Yes – applicants and employees	•Anonymised	<ul style="list-style-type: none"> •Gender •Sexual orientation •Ethnic origin •Religion •Disability •Age •Socioeconomic status •Social mobility •Familial/Parental status 	<p><i>Storage</i></p> <p>No restrictions on where data are stored.</p> <p><i>Access to underlying data</i></p> <ul style="list-style-type: none"> •Only designated employees 	No. As only anonymised data can be collected and treated, there is no limit to the retention of anonymised data.	No restriction as the data is anonymised.	<p>The employer must provide the staff delegation and the equality delegate every six months gender-disaggregated statistics on the recruitment, promotions, employee transfers, dismissals, remuneration and vocational training (article L. 414-3 (2) of the Labour Code).</p> <p>Such surveys are not market practice but can happen if a Luxembourg company is part of an international group.</p>
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Montenegro

Karanovic & Partners in cooperation with local lawyers

Yes – employees only	•Anonymised	<ul style="list-style-type: none"> •Gender •Age 	<p><i>Storage</i></p> <p>No restrictions on where data are stored.</p> <p><i>Access to underlying data</i></p> <ul style="list-style-type: none"> •Only designated employees except for statistical data on gender based equality which is public. 	No	No other specific rules apply where the data is collected/ further processed in an anonymised form.	<p>Collection of additional data is not common and might be interpreted as intrusion to privacy of employees.</p> <p>Generally speaking, when conducting diversity surveys, the employer should always bear in mind that each act of processing (including the survey process) must comply with the rules of the Montenegrin Law on Protection of Personal Data (unless where the data is rendered anonymous).</p>
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Netherlands

Bosselaar Strengers

Yes – employees only	<ul style="list-style-type: none"> •Anonymised •Pseudonymised 	<ul style="list-style-type: none"> •Gender •Sexual orientation •Ethnic origin •Disability •Age 	<p><i>Storage</i></p> <p>Must be stored separately from other data.</p> <p><i>Access to underlying data</i></p> <ul style="list-style-type: none"> •Only designated employees 	No	<p>Within the EU the GDPR applies. Outside the EU an appropriate level (to compare with GDPR) of protection has to be guaranteed. The European Commission has a list of countries that have an appropriate level of protection. Another possibility is a set of corporate binding rules that apply within the group and that are compliant with the GDPR.</p>	<p>In the Netherlands diversity surveys are encouraged by the government. The Social Economic Board (SER) has established a Diversity Charter (https://www.ser.nl/nl/thema/diversiteitinbedrijf/english/diversity-charter). A company can become a member of the Charter Diversity (at no cost) and membership gives access to support and a relevant network.</p>
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North Macedonia Karanovic & Partners in cooperation with local lawyers

Yes – applicants and employees	<ul style="list-style-type: none"> •Anonymised 	<ul style="list-style-type: none"> •Gender •Sexual orientation •Ethnic origin •Religion •Disability •Age •Socioeconomic status •Social mobility 	<p><i>Storage</i></p> <p>No restrictions on where data are stored.</p> <p><i>Access to underlying data</i></p> <ul style="list-style-type: none"> •Only designated employees 	No	Anonymised data would no longer be considered as personal data, so local regulation on cross-border data transfers shall not apply.	<p>Please note that employers in general are not allowed to require employees to provide data on the family: marital status and family planning. Any provision of data of the aforementioned types should be on purely voluntary basis and the employer may not oblige data subject to provide these data, regardless whether it is anonymous or not. In addition, it would be uncommon for our market to collect data on sexual orientation, social mobility and socioeconomic status. Anonymized data would not be considered as personal data and would not fall under the data protection regime. Local legislation is harmonised with the GDPR in that respect. Therefore, employers are strongly advised to avoid processing of sensitive categories of personal data, unless there is a valid legal ground for such processing.</p>
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Northern Ireland

Millar McCall Wylie

Yes – applicants and employees	•Anonymised	•Gender •Religion	<p><i>Storage</i></p> <p>Must be stored separately from other data.</p> <p><i>Access to underlying data</i></p> <p>•Only designated employees</p>	No	General UK GDPR rules apply. Consequently, as individuals should not be identifiable from the data, there will normally be no restrictions on the transfer of those data.	NI has specific legislation in place (Fair Employment and Treatment (NI) Order 1998 and the Fair Employment (Monitoring) Regulations (NI) 1999 which regulates the monitoring of employees, applicants, apprentices and, in certain cases, promotees and leavers. One duty created by the legislation is to carry out an Article 55 Review every 3 years to determine if one section of society is being excluded from employment and, in that case, to take pro-active steps to rectify the issue.
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Poland

WKB Wiercinski, Kwiecinski, Baehr

Yes – applicants and employees	<ul style="list-style-type: none"> •Anonymised •Pseudonymised •Survey conducted by a third party, employer would see only aggregated data 	<ul style="list-style-type: none"> •Gender •Sexual orientation •Ethnic origin •Religion •Disability •Age •Socioeconomic status •Social mobility •Familial/Parental status 	<p><i>Storage</i></p> <p>Must be stored separately from other data.</p> <p><i>Access to underlying data</i></p> <ul style="list-style-type: none"> •Only designated employees 	No. There is no prescribed retention period in respect of the processing of diversity data in Poland. Standard GDPR principles apply. However, please note that there is no clear guideline of case law in this regard.	Under the Polish Labour Code, it is permissible to process special categories of personal data of a candidate or an employee only if data are provided on the employee's or candidate's own initiative. It is considered that even informing about a possibility to provide data (e.g. informing about the possibility to participate in diversity monitoring) may be qualified as obtaining data on the employer initiative rather than on employee's or candidate's own initiative.	Risk for obtaining data on gender is considered to be low. Risk of obtaining other diversity data categorised as special categories of data considered to be medium. It is still possible to notify employees and candidates about the analysis, but with strong safeguards to mitigate the risks. Also, due to the imbalance of power between employer and employee or candidate, it is considered to be very difficult to meet the requirement of a "freely given" consent as required by the GDPR.
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Portugal

Abreu Advogados

Yes – applicants and employees	<ul style="list-style-type: none"> •Anonymised 	<ul style="list-style-type: none"> •Gender •Sexual orientation •Ethnic origin •Religion •Disability •Age •Socioeconomic status •Social mobility •Familial/Parental status 	<p><i>Storage</i></p> <p>Must be stored separately from other data.</p> <p><i>Access to underlying data</i></p> <ul style="list-style-type: none"> •Only designated employees 	Yes. As a rule 1 year after contract termination.	A GDPR intra-group mechanism must be followed.	Diversity surveys are rare and may only be conducted on an anonymised and strictly voluntary basis. The only diversity data that may be collected during recruitment - due to compliance with applicable legal diploma is disability. Upon recruitment it is also lawful to request family status, age, gender.
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Romania

Țuca Zbârcea & Asociații

Yes – applicants and employees	<ul style="list-style-type: none"> •By individual's name •Anonymised •Pseudonymised •Survey conducted by a third party, employer would see only aggregated data 	<ul style="list-style-type: none"> •Gender •Sexual orientation •Ethnic origin •Religion •Disability •Age •Socioeconomic status •Social mobility •Familial/Parental status •Any other relevant data may be collected as long as the requirements of GDPR are fulfilled. 	<p><i>Storage</i></p> <p>No restrictions on where data are stored however storage rules should be evaluated on a case by case basis, in line with GDPR requirements.</p> <p><i>Access to underlying data</i></p> <ul style="list-style-type: none"> •Only designated employees (unless purely statistical, in which case it can be open to the public) 	Yes. There is no standard retention limit set under local legislation. The duration of retention is to be determined on a case by case basis, depending on the type of processing, purposes pursued and form of output.	There are no specific rules provided under local legislation on this matter or any legal obligations justifying the processing of sensitive information in raw format. Consideration should be given to relevant GDPR requirements, on a case by case basis.	No local or cultural reasons apply. Diversity surveys are rather rare in this jurisdiction, and regularly undertaken on an anonymous basis. As stated, where sensitive data is involved, it is highly recommended to conduct such surveys in an anonymous format, without possibility of reversal.
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Russian Federation Yust Law Firm

Yes – applicants and employees	<ul style="list-style-type: none"> •By individual's name •Anonymised 	<ul style="list-style-type: none"> •Gender •Sexual orientation •Ethnic origin •Religion •Disability •Age •Socioeconomic status •Social mobility •Familial/Parental status •Special categories of data like sexual orientation, origin, religion, status, disability may only be captured with a prior written consent of the employee. Such consent shall, inter alia, state the purpose of data capture, and it may be withdrawn at any time. 	<p><i>Storage</i></p> <p>No restrictions on where data are stored.</p> <p><i>Access to underlying data</i></p> <ul style="list-style-type: none"> •Only designated employees 	Yes. General approach regarding applicant / employee data: for applicants' data - 1 year, for employees' data - 50 years. However, retention of special categories of data should stop immediately after the purpose of processing is achieved.	A cross-border transfer of personal data in the absence of a special consent of a data subject is only allowed to countries which are parties to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108) or other countries providing adequate protection of personal data according to Russian authorities.	Diversity surveys are rather rare in Russia.
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Serbia

Karanovic & Partners

Yes – applicants and employees	<ul style="list-style-type: none"> •Anonymised 	<ul style="list-style-type: none"> •Gender •Age 	<p><i>Storage</i></p> <p>Must be stored separately from other data.</p> <p><i>Access to underlying data</i></p> <ul style="list-style-type: none"> •Inspections and relevant authorities 	No	Transfers of data to countries with data protection laws which are considered to be “adequate” are freely permitted; the ability to transfer data to other countries is subject to certain restrictions, in accordance with general Serbian data protection law.	It is now mandatory to keep data (in anonymised and statistical form) about gender and age, but collection of other data is uncommon and likely to be seen as an invasion of privacy.
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Saudi Arabia

Omar Alrasheed & Partners

Yes – applicants and employees	•By individual’s name	<ul style="list-style-type: none"> •Gender •Ethnic origin •Religion •Disability •Age •Socioeconomic status •Familial/Parental status 	<p><i>Storage</i></p> <p>No restrictions on where data are stored.</p> <p><i>Access to underlying data</i></p> <ul style="list-style-type: none"> •Only designated employees 	No	No statutory rules/ regulations.	Diversity surveys are not common in Saudi Arabia.
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Slovenia

Ketler & Partners, member of Karanovic

Yes – applicants and employees	•Anonymised	<ul style="list-style-type: none"> •Gender •Disability •Age •Familial/Parental status 	<p><i>Storage</i></p> <p>No restrictions on where data are stored.</p> <p><i>Access to underlying data</i></p> <ul style="list-style-type: none"> •Only designated employees 	Yes. General retention period is for the duration of the employment relationship, however certain information must be stored permanently.	Generally, GDPR applies for all cross-border transfers. However, intra-group cross-border transfer is possible without GDPR limitations, if the data will be used for exercise of rights arising from employment.	Pursuant to the Employment Relationships Act, discrimination based on any personal circumstance is prohibited. Employer is prohibited to ask an employee or a candidate regarding any personal circumstances other than the ones required for the exercise of rights arising from employment. Please note that diversity surveys are rare in Slovenia.
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Spain Gimenez Torres Abogados | Ventura Garces

Yes – applicants and employees	•Anonymised	<ul style="list-style-type: none"> •Gender •Sexual orientation •Ethnic origin •Religion •Disability •Age •Socioeconomic status •Social mobility •Familial/Parental status 	<p><i>Storage</i></p> <p>No restrictions on where data are stored.</p> <p><i>Access to underlying data</i></p> <ul style="list-style-type: none"> •Only designated employees 	Yes, four years.	As the data is anonymised, there are no specific rules for data protection regulations. Being confidential information, depending on the result, the company must decide whether to provide it or not, for its corporate and reputability image.	Diversity surveys are unusual, currently only carried out by large companies, and therefore employees are not accustomed to this type of question, so they often ask for explanations justifying the processing of their data and guarantees that it will be truly anonymised.
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Switzerland Bratschi

No	N/A	N/A	<p><i>Storage</i></p> <p>N/A</p> <p><i>Access to underlying data</i></p> <p>N/A</p>	N/A	N/A	N/A
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Diversity Monitoring Survey Checklist - EMEA Region



1. In your jurisdiction, is an employer permitted to request data for the purposes of monitoring diversity?	2. In what form is it permitted to capture the data?	3. What data is permitted to be captured?	4. How should the data be stored and accessed?	5. Are there time limits on retention of data?	6. Are there any other specific rules which apply? eg relating to intra-group cross-border transfers of such data	7. Any other comments
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UK - England and Wales

Penningtons Manches Cooper | Shakespeare Martineau

Yes – applicants and employees	<ul style="list-style-type: none"> •Anonymised •Pseudonymised •Survey conducted by a third party, employer would see only aggregated data 	<ul style="list-style-type: none"> •Gender •Sexual orientation •Ethnic origin •Religion •Disability •Age •Socioeconomic status •Social mobility •Familial/Parental status 	<p><i>Storage</i></p> <p>Must be stored separately from other data.</p> <p><i>Access to underlying data</i></p> <ul style="list-style-type: none"> •Only designated employees 	No	General UK GDPR rules apply. Consequently, as individuals should not be identifiable from the data, there will normally be no restrictions on the transfer of those data.	Since 2017, many companies are obliged to collate and publish data in relation to their gender pay gap. Increasingly, businesses are voluntarily publishing pay gap data in relation to other characteristics (eg race). It is also becoming more common for businesses to conduct regular “pulse” surveys of their staff which include questions focused on diversity to monitor the effectiveness of D&I policies within the business.
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Ukraine

Arzinger

No	N/A	N/A	<p><i>Storage</i></p> <p>N/A</p> <p><i>Access to underlying data</i></p> <p>N/A</p>	N/A	N/A	In general, diversity surveys are rare in this jurisdiction.
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Diversity Monitoring Survey Checklist - EMEA Region



1. In your jurisdiction, is an employer permitted to request data for the purposes of monitoring diversity?	2. In what form is it permitted to capture the data?	3. What data is permitted to be captured?	4. How should the data be stored and accessed?	5. Are there time limits on retention of data?	6. Are there any other specific rules which apply? eg relating to intra-group cross-border transfers of such data	7. Any other comments
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United Arab Emirates (UAE)

Alsuwaidi & Co

Yes – employees only	By individual's name	<ul style="list-style-type: none"> •Gender •Ethnic origin •Religion •Age •Familial/Parental status 	<p><i>Storage</i></p> <p>Must be stored separately from other data.</p> <p><i>Access to underlying data</i></p> <ul style="list-style-type: none"> •All employees 	<p>Yes. Employee data should be retained for at least 5-7 years after an employee leaves (resigned /terminated or retired). However in the event of accident or employment claim , it is advisable to keep for 10 years.</p>	<p>It should be as per UAE Personal Data Protection Law No. 45 of 2021.</p>	<p>Diversity surveys are very rare in this jurisdiction.</p>
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Disclaimer:

The information in the Multilaw Checklist for Monitoring Staff Data provides a general overview at the time of publication and is not intended to be a comprehensive review of all legal developments nor should it be taken as opinion or legal advice on the matters covered. It is for general information purposes only and readers should take legal advice from a Multilaw member firm.