



# UAE: Relevant legislation

As at March 2018, no privacy or data protection legislation was in place at a federal level in the UAE. However it is advisable and prudent that employers ensure that appropriate disclosure and consent mechanism are used at all times when collecting and processing data re employee monitoring. This can be achieved through consent and notices.

#### Constitution of the UAE

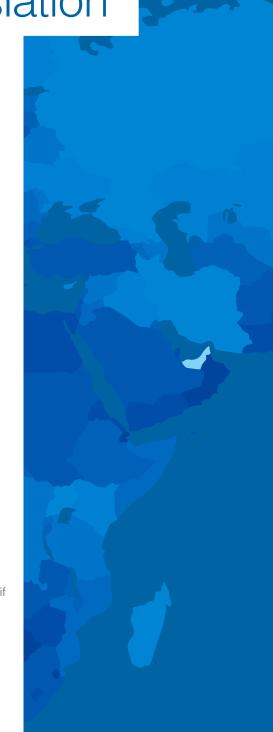
Provides that 'freedom of communication by post, telegraph or other means
of communication and the secrecy thereof shall be guaranteed in accordance
with law'.

#### **UAE Penal Code**

- Prohibits the unauthorised use or disclosure of private information.
- Use of employee personal information should only occur with the employee's explicit consent to such use, and general principles of confidentiality should be applied.

### **UAE Cyber Crime Law**

- Prohibits the unauthorised reception or interception of any communication through any computer network.
- Prohibits the invasion of privacy using information technology (other than in cases allowed by law), including (but not limited to):
  - '...interception, recording...or disclosure of conversations or communications, or audio...';
  - 'Photographing others or...copying or saving electronic photos';
  - 'Publishing...electronic photos...comments, statements or information even if true and correct':
  - 'Processing a record...for the purpose of...offending another person or for attacking or invading his privacy'.
- It is a crime to insult someone using information technology which leads them to being subject to punishment or to be held in contempt by others.





No case law on employee monitoring was found for this jurisdiction. Furthermore, as the UAE is a civil jurisdiction, there is no binding precedent system, so case law cannot be used as a reliable means of interpreting how such matters may be judged by a UAE Court in the future. However, the following general principles relating to data privacy and monitoring can be deduced from the legislation:

- The employee would need to prove the losses they have suffered as a direct result of the disclosure of their personal data before the civil courts if damages are to be awarded:
- Given sensitivities around what constitutes personal information, it is prudent that employers ensure appropriate disclosure and consent mechanisms are used at all times when collecting and processing data in relation to employee monitoring;
- Monitoring of IT systems by an employer may occur provided the employee has consented to such monitoring. This can be accomplished using consent and notice wording contained in the terms and conditions that either accompany or are included in the employer's HR policies and handbooks.

## The future

**GDPR:** The UAE is not currently recognised as providing adequate protection of personal data as defined by GDPR. This means that additional safeguards may need to be in place in order for organisations to transmit personal data from UAE to the EU. UAE companies that collect personal data from EU citizens and companies with established operations in the EU should consider whether their operations fall within the scope of the GDPR and, if so, the steps that need to be taken to achieve compliance with its requirements.

Qatar has become the first Gulf Cooperation Council (GCC) country to have a national level comprehensive privacy law regime. There is often a GCC regional regulatory 'domino effect', so other countries are likely to follow suit.

It is anticipated that there will be imminent changes to the UAE privacy regime and, as such, legislative changes should be monitored closely moving forward.





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