

Can I keep this employee record?

Five-question test. Run any record through it. If you cannot answer YES to all five, you are unlikely to be able to justify the processing under GDPR. Stop and rebuild the basis, or delete the record.

Q1	Can I name an Article 6 GDPR lawful basis for this processing?	YES Continue. Consent rarely works for employees.	NO Stop. Delete the record.
Q2	Is the data special category under Article 9 (health, religion, political opinion, trade union, biometric, sex life)?	YES Add Article 9 condition + national derogation. Restrict access. Separate storage. Continue.	NO Continue.
Q3	If basis is Article 6(1)(f) legitimate interest, do I have a written three-part LIA on file?	YES Continue. Purpose, necessity, balancing.	NO Stop. DPC and ICO both expect the LIA on inspection.
Q4	Is retention anchored to a specific claim window or statutory duty in the country of work?	YES Continue. Mark the clock start date on the record.	NO Document why, or shorten the period. 'For simplicity' is not a defence.
Q5	If processing is likely high risk (AI screening, monitoring, biometrics, sentiment), do I have a DPIA on file?	YES Proceed. Add Article 22 safeguards for solely automated decisions.	NO Stop. Article 35 GDPR requires the DPIA before the processing starts.

Cross-border

If your employee habitually works in a different jurisdiction from your head office, run the five questions through the law of the country of work. Lawful basis, Article 9 condition, LIA, retention period, DPIA all attach to the country of work. Rome I, retained in UK law.