

No Deal: Data protection compliance after Brexit

Proposed plan of action



Analyse data flows to and from the UK, identify any compliance gaps, and prioritize remediation based on business impact

Note that data transfer issues can arise in respect of both intra-group transfers, and transfers from and to third parties (e.g., customers or vendors)



Validate the need for data flows to and from the UK considering alternative data architecture solutions

Review relevant contracts to ascertain whether they prohibit transfers of personal data out of the EU, and take appropriate steps to address this in the context of the UK leaving the EU



Where data flows depend on the UK being an EU Member State, put in place alternative transfer mechanisms (e.g., Model Contracts, BCR, consent)

The EU may issue an adequacy decision regarding the UK, but this is not certain, and in any case the courts, or political reality, may block this option



Review and update key documentation such as privacy policies, notices, contracts and records of processing activities

While the GDPR is silent on where a DPO should be based, EU Data Protection Authorities prefer DPOs to be based in the EU – the role of any UK DPO should therefore be kept under review



Prepare to deal separately with the ICO (for the UK) and one or more EU Data Protection Authorities

Upon leaving the EU (even with a deal) the UK will fall outside the “one-stop-shop”, so multinationals may need to select a new lead authority



For UK businesses: Continue complying with broader obligations under data protection law, including the GDPR as incorporated into the UK’s Data Protection Act 2018

Seek guidance from the ICO, but note that most compliance issues under the GDPR are mirrored in the Data Protection Act 2018, so there will be few immediate practical changes



For UK businesses: UK businesses offering goods or services to consumers in the EU will need to review their compliance status

The GDPR requires appointment of a representative in the EU



Establish a team to provide for a coordinated response to data protection queries from individuals, authorities, employees, etc.

Prepare answers to common questions that are likely to arise

To assist our clients in navigating the General Data Protection Regulation (GDPR), we have produced a [GDPR Handbook](#), which offers practical guidance on this crucial legislation.

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