Centre for Information Policy Leadership (CIPL) and UK Department for Digital, Culture, Media & Sport (DCMS) Breakfast Roundtable

Brexit Impact and Readiness

25 January 2019
London
Opening Remarks

Bojana Bellamy, President, CIPL
8:30 AM  Registration and Breakfast
9:00 AM  Opening Remarks
9:05 AM  Presentation on DCMS’ Work and Brexit Business Readiness Survey Results
9:35 AM  Presentation on the Legal Impact of Brexit for Data Protection
9:55 AM  Open Discussion
11:30 AM  End of Roundtable
International Data Transfers in a No-deal Brexit Scenario

Andrew Elliot
Elizabeth Marsh-Rowbotham
Caroline France
Timeline

December (2018)
Taskforce established

January (2019)
Sector expert Engagement

February (2019)
Direct to firm Engagement

March (2019)
Begin Adequacy negotiations
Initial findings

46% have taken action to understand data protection risks posed in a no deal Brexit scenario

48% have not taken action to understand data protection risks posed in a no deal Brexit scenario
How much does your organisation rely on personal data coming from EEA (excluding UK)

- Information/optimisation, useful but not necessary (newsletters, feedback, innovation, business analytics, etc)
  - 25

- Essential to functions core to business model (i.e. main revenue stream depends on EEA data; offering goods/services, monitoring behaviour, etc)
  - 84

- Essential for important secondary function (to enable support, marketing, etc)
  - 42

- Convention, unnecessary or very minor (storing in UK for ease, no real usage, etc)
  - 40
What are your biggest challenges for the data protection impacts of a ‘no deal’ Brexit

The number of times each option has been selected

- Dealing with other third parties: 70
- Political uncertainty: 93
- Time/Resource impact in planning: 88
- Understanding the impact of legal requirements: 100
- Stakeholder buy in: 22
- Other: 7
Top issues from stakeholder engagement

1) EU processor to Non EU controller

2) Data residency

3) Adequacy

4) Regulatory forbearance

5) One stop shop

6) Resourcing mitigation activity
What is known about a No-deal Brexit Scenario?

• The European Union (Withdrawal) Act 2018 will bring the GDPR into our domestic law.

• The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 makes provision for international transfers.

**Note:** In a no deal scenario, there will not be an adequacy agreement with the EU in place on 29 March.
So what might change on 29 March?

Data transfers **FROM** the UK to other countries continue as before.

But transfers **TO** the UK may need to be reviewed depending on originating state.
Transfers from the EEA, to the UK are the main concern

<table>
<thead>
<tr>
<th>Transfers from the rest of the world</th>
<th>Transfers from adequate states</th>
<th>Transfers from the EEA</th>
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| ● No change                         | ● The UK is seeking to agree with the 13 relevant states that transfers will continue as before.  
   ● We can confirm this will be the case with USA, Switzerland, Faroe Islands and Israel.  
   ● Look out for further announcements. | ● Many organisations need to consider whether standard contractual clauses are necessary.  
   ● The Information Commissioner has provided extensive guidance and tools to help guide organisations through this. |
What does this mean for your organisation?

**ico.**

**Leaving the EU – six steps to take**

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<thead>
<tr>
<th>Step</th>
<th>Description</th>
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<tbody>
<tr>
<td>1</td>
<td>Continue to comply. Continue to apply GDPR standards and follow current ICO guidance. If you have a DPO, they can continue in the same role for both the UK and the EU.</td>
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<td>2</td>
<td>Transfers to the UK. Review your data flows and identify where you receive data into the UK from the EEA. Think about what GDPR safeguards you can put in place to ensure that data can continue to flow once we are outside the EU.</td>
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<tr>
<td>3</td>
<td>Transfers from the UK. Review your data flows and identify where you transfer data from the UK to any country outside the UK, as these will fall under new UK transfer and documentation provisions.</td>
</tr>
<tr>
<td>4</td>
<td>European operations. If you operate across Europe, review your structure, processing operations and data flows to assess how the UK’s exit from the EU will affect the data protection regimes that apply to you.</td>
</tr>
<tr>
<td>5</td>
<td>Documentation. Review your privacy information and your internal documentation to identify any details that will need updating when the UK leaves the EU.</td>
</tr>
<tr>
<td>6</td>
<td>Organisational awareness. Make sure key people in your organisation are aware of these key issues. Include these steps in any planning for leaving the EU, and keep up to date with the latest information and guidance.</td>
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Have you considered the “6 steps” guidance?

Do you have a contingency plan?
Legal Impact of Brexit for Data Protection

Bridget Treacy, Partner, Hunton Andrews Kurth (UK) LLP

Rosemary Jay, Senior Consultant Attorney, Hunton Andrews Kurth (UK) LLP
Discussion Questions

**Awareness**

- How aware is your sector/organisation of the implications of a potential no-deal Brexit?
- In particular, has data protection been considered in relation to no deal planning?

**Risk**

- What are the most common concerns, if any, about data protection under a no deal Brexit?
- Is the sector looking at the risks and options regarding data protection in the case of a no-deal Brexit?

**Compliance**

- How challenged was your sector by GDPR compliance?

**Transfers and data processing**

- How dependent is the sector on personal data transfers to/from the EEA?
- Can you estimate, as a percentage, how dependent the sector is on data transfers?

**Mitigation**

- Are you aware of any discussions being had around additional measures organisations are adopting to guard against any negative impact on data protection compliance of a no deal Brexit?
- What are the most common strategies discussed?