

Written evidence submitted by the Information Commissioner's Office (ICO) (BBP0010)

About the ICO

The Information Commissioner has responsibility in the UK for promoting and enforcing the General Data Protection Regulation (GDPR), the Data Protection Act 2018 (DPA 2018), the Freedom of Information Act 2000 (FOIA), the Environmental Information Regulations 2004 (EIR) and the Privacy and Electronic Communications Regulations 2003 (PECR), amongst others.

The Commissioner is independent from government and upholds information rights in the public interest, promoting openness by public bodies and data privacy for individuals. The Commissioner does this by providing guidance to individuals and organisations and taking appropriate action where the law is broken.

Introduction

The ICO welcomes the opportunity to respond to this House of Commons Business, Energy and Industrial Strategy Committee call for evidence on business preparedness for Brexit.

Adequacy Assessment

The European Commission is currently assessing the UK for adequacy and the Government is leading the UK's involvement in this work. The Information Commissioner continues to provide expert guidance and advice to this process as appropriate and has previously written to other Committees regarding this.¹ The UK Government is confident that an adequacy agreement can be reached by the end of the transition period.

The UK Government has legislated for transfers of personal data from the UK to the European Economic Area (EEA) and countries already in receipt of an EU adequacy decision to be unrestricted.

¹ ICO response to the Committee on the Future Relationship with the European Union, available at <<https://committees.parliament.uk/writtenevidence/8945/default/>>; ICO response to the House of Lords EU Services Sub-Committee, available at <<https://committees.parliament.uk/writtenevidence/8464/default/>> and ICO response to House of Lords EU International Agreements Sub-Committee, available at <<https://committees.parliament.uk/writtenevidence/10971/html/>>

In the event that an adequacy decision is not made in respect of the UK by the end of the transition period, the transfer of personal data from the EU to the UK will need to be covered by an alternative transfer mechanism listed in the GDPR or the Law Enforcement Directive (LED), as appropriate.

ICO Guidance for Organisations

To help organisations prepare for the end of the transition period, the ICO has produced extensive guidance for [large businesses and organisations](#), [police forces and other law enforcement authorities](#) and [small and medium-sized businesses and organisations](#) on the various alternative transfer mechanisms available in the event of no adequacy decision and how these organisations and businesses can ensure data continues to flow between the EU and the UK.

We have also created an [interactive tool](#) aimed at small and medium-sized businesses and organisations in particular to create standard contractual clauses, which is one of the most common alternative mechanisms used.

We will continue to provide helpful and practical guidance to businesses and organisations to ensure the flow of data as appropriate.

I hope this information is helpful. We would be happy to discuss further if that would be of use to the Committee.

The Information Commissioner's Office

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