

Privacy & Data Protection

Volume 18, Issue 8

September 2018

Headlines

- UK regulator calls for views on creating a regulatory “sandbox”, p .17
- Google says CNIL is ‘out on a limb’ with right to be forgotten case, p.19
- Internet Association calls for national data protection rules in US, p.20

Contents

| | |
|---|----|
| <i>Expert comment</i> | 2 |
| <i>What has the GDPR (ever) done for Subject Access Requests?</i> | 3 |
| <i>When to report your data breach</i> | 6 |
| <i>UK data subjects’ rights — Part 1</i> | 8 |
| <i>Practitioner Certificate in Data Protection— Examination Results</i> | 10 |
| <i>While your back was turned... the Asia data protection outlook in 2018</i> | 13 |
| <i>News & Views</i> | 16 |

New guidance on international data transfers

The UK regulator has published new guidance on international data transfers under the General Data Protection Regulation.

The GDPR generally restricts the transfer of personal data to organisations located in countries outside the European Economic Area, other than the eleven countries/territories that have been declared safe for personal data exports (including the Faroe Islands, the only territory not specifically referred to in the ICO’s latest guidance).

In an interesting change from its previous position, the ICO introduces a distinction between what it calls ‘restricted transfers’ to which all the requirements of Chapter 5 of the GDPR apply, and other transfers which are therefore unrestricted. The guidance says that an organisation will make a restricted transfer where, amongst other things:

- it sends personal data, or makes such data accessible, to a receiver to which the GDPR does not apply; and
- the receiver is a separate organisation

or individual (the receiver cannot be employed by you or by your company, but can be a company in the same group).

According to David Smith, consultant at Allen & Overy and former Deputy Data Protection Commissioner at the ICO, this means that most transfers out of the EEA will be ‘restricted’. He said “it follows from the ICO guidance that a transfer will be an unrestricted one if either:

- you are sending personal data, or making

[\(Continued on page 16\)](#)

Campaigners launch legal challenge against UK Data Protection Act

Campaign groups have begun judicial review proceedings seeking the removal of an exemption in the UK’s Data Protection Act that could prevent citizens from gaining access to immigration data held on them.

The Open Rights Group and EU citizens’ group, the3million, are arguing that as things currently stand, many people would not be able to access data that the Home Office holds

on them — information which is often crucial when applying for a new immigration status.

The specific issue is with an exemption for immigration (Schedule 2, Part 1, paragraph 4), which removes some data rights if those data are processed for the ‘maintenance of effective immigration control’, or if it is deemed likely to prejudice that.

This includes the right to access data, to restrict processing, to object to processing and the right to erasure, which are provided for in the General Data Protection Regulation.

In addition to arguing that ‘immigration control’ has been poorly defined in the Act, the groups have claimed that the exemption creates an

[\(Continued on page 16\)](#)