

# Privacy & Data Protection

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## Headlines

- Apple faces privacy case in Europe over iPhone tracking ID, p.18
- Cancer mission Board Member urges MEPs to review EU data protection rules, p.19

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## Key considerations as Brexit transitional period comes to close

With a month to go before the transitional arrangements between the EU and the UK expire, organisations are preparing for the impact of the UK sitting outside the EEA without an adequacy arrangement.

The draft Data Protection, Privacy and Electronic Communications (Amendment etc.) (EU Exit) Regulations 2019 ('the Regulations') will come into force in the UK on 1st January 2021, and will consolidate and amend the GDPR and UK DPA18 to create a new UK GDPR. The responsibilities of controllers in the UK will not

change and GDPR standards will continue to apply. The extraterritoriality of the UK's data protection framework will also continue to apply.

Controllers or processors based outside the UK —and crucially including EEA-based entities — processing personal data about individuals in the UK in connection with offering them goods and services, or monitoring their behaviour, will be caught by the UK framework from 1st January.

Practitioners are aware that under the GDPR, personal data may not be transferred outside the

EEA unless there are protections in place to guarantee individuals equivalent rights and protections to those they enjoy in the EU. Currently, 12 jurisdictions (including the Channel Islands), have adequacy decisions from the EU in this regard.

The EU has expressed some reservations which could prove a stumbling block to the UK getting adequacy. In the absence of an adequacy decision, a number of other data transfer mechanisms can be used, principally the Standard Contractual

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## EDPB issues Schrems guidance and Commission adopts SCCs

The European Data Protection Board has published its long awaited recommendations confirming how EU standards of data protection must travel with personal data when they go overseas following the *Schrems II* judgment.

The first recommendation updates the European Essential Guarantee for surveillance measures. The second has been

published for public consultation, and looks at the extra measures organisations may take to support the international transfer of data to meet EU standards. This recommendation follows previous EDPB guidance stating that organisations must conduct a risk assessment as to whether a transfer tool, such as Standard Contractual Clauses ('SCCs'), provides enough protection

within the legal framework of the destination country. If not, organisations must put extra measures in place to mitigate the risks.

As the documents were released, the ICO issued a statement saying that "we are reviewing the recommendations and will consider whether we need to publish our own guidance in due course.

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