

Privacy & Data Protection

Volume 21, Issue 3

January / February 2021

Headlines

- ICO issues new guidance for employers using algorithms for recruitment decisions, p.18
- EU releases new draft of the ePrivacy Regulation, p.19

Contents

Expert comment	2
Adapting to the UK GDPR — 8 pressing concerns	3
5 data protection and privacy predictions for 2021	5
Graduating from the Sandbox — a look at the first four exit reports	9
The proposed Digital Services Act Package — what you need to know	13
News & Views	17

Experts recommend cautious optimism with UK adequacy

In late December 2020, the EU and UK announced that they had reached a Trade and Cooperation Agreement ('Agreement') on their future relationship, which came into effect on 1st January 2021. Critically from a data protection perspective, the Agreement provides for an interim data transfer window.

The relevant provision in the Agreement, Article FINPROV.10A, provides for a four month window which can be extended to six months, during which the UK will still not be treated as a 'third country' for GDPR purposes,

thereby allowing the free flow of data from the EU and EEA Member States to the UK.

The window is conditional on the UK not changing its data protection laws from those in place on 31st December 2020, and not exercising any of its 'designated powers' without agreement from Europe. The designated powers referred to are an extensive list of actions that the UK may not take with respect to international data transfers. For example, it may not publish its own set of standard contractual clauses or approve a draft Code of Conduct with respect to

international transfers of data. If the UK takes any such action without agreement from Europe, then the transfer window will automatically close.

Although the deal will come as a relief to organisations, Miriam Everett Partner and Head of Data Protection and Privacy with Herbert Smith Freehills, has warned organisations not to be too presumptive that adequacy will be secured:

"The establishment of an interim 4-6 month data transfer window could

[\(Continued on page 17\)](#)

New Data Sharing Code published in UK

The UK Information Commissioner's Office has published a new Data Sharing Code of Practice, along with a set of resources providing practical advice to organisations on how to carry out responsible data sharing.

The pandemic has brought the need for fair, transparent and secure data sharing into even sharper focus, said Information Commissioner Elizabeth Denham, as the Code was published:

"I have seen first-hand how sharing data between organisations has been crucial to supporting and protecting people during the response."

The Code, provided for in the Data Protection Act 2018, addresses many aspects of the new legislation including transparency, lawful bases for using personal data, the new accountability principle and the requirement to record processing activities.

The ICO has also launched a data sharing information hub where organisations can find targeted support and resources to support them in applying the Code. These include data sharing myths busted, data sharing FAQs for small organisations and businesses, case studies, data sharing checklists, guidance on sharing personal data with law enforcement authorities,

[\(Continued on page 17\)](#)