

The General Data Protection Regulation (GDPR), Regulation 2016/679 of the European Union (EU) and of the Council, entered into force on 24 May 2016. As a result, on 25 May 2018 the GDPR will become enforceable and the current European Data Protection Directive 95/46/EC will be repealed.

Unlike a Directive which must be transposed into each member state's national law, a Regulation is binding and directly applicable to all member states. In this instance the GDPR is "Text with EEA Relevance," which means it applies to all European Economic Area (EEA) countries, which comprises all 28 EU member states, Iceland, Liechtenstein and Norway.



GDPR & the Isle of Man

In June, Council of Ministers considered the implications of GDPR. The Summary of Proceedings states:

"Council considered a paper submitted by the Cabinet Office and approved the policy statement which would provide businesses with a commitment that the Isle of Man Government intends to adopt the General Data Protection Regulations by mid-2018."

The intention is to introduce "essentially equivalent" legislation to that of the GDPR in the Island by mid-2018. All businesses that process personal data in the Island should start to consider compliance with the GDPR.

Once legislation is passed the Island will be able to apply to the European Commission for a new "adequacy finding." In the interim, the Island's existing adequacy finding under the 1995 Directive continues to apply.

GDPR & BREXIT



Since our last newsletter was published, the UK has voted to leave the European Union (EU) and the UK Government has indicated that it intends to invoke Article 50 of the Treaty on European Union (Lisbon Treaty) which will culminate in the UK's withdrawal from the EU (BREXIT).

So what are the implications of BREXIT with regard to the GDPR?

BREXIT has no effect on the implementation of the GDPR in the EU.

As it is unlikely that the UK will have withdrawn from the EU by 25 May 2018, the GDPR must be implemented in the UK and will continue to apply while the UK is an EU member state. This

means that the "extraterritorial" provisions of the GDPR will apply to businesses that process the personal data of UK residents.

If, after BREXIT, the UK retains access to the single market through membership of the European Economic Area (EEA) then the GDPR will continue to apply to personal data of UK residents as it is "Text with EEA Relevance."

If the UK does not become an EEA member then it is possible that the UK could revoke the GDPR. However if the UK wishes to be able to transfer personal data with EU member states then it must afford an adequate level of protection which means the UK will be expected to have "essentially equivalent" legislation to that of the GDPR.

Island businesses offering goods or services to UK residents or processing personal data on behalf of a UK business should therefore continue to work towards compliance with the GDPR by 25 May 2018.

EU US Privacy Shield

On 12 July 2016, the European Commission adopted the EU-U.S. Privacy Shield. http://europa.eu/rapid/press-release_IP-16-2461_en.htm

This replaces the US Safe Harbor scheme which was ruled invalid by the Court of Justice of the European Union in October 2015.



The Privacy Shield will be subject to an annual review.

Business will be able to rely upon that scheme to transfer personal to the US. For more information: <https://www.commerce.gov/tags/eu-us-privacy-shield>

Training opportunities

Whilst the Information Commissioner is happy to attend events to raise awareness of the GDPR, due to the size of the office and the additional responsibilities for Freedom of Information, the Information Commissioner will not be running CPD training events.

However, the Information Commissioner has assisted professional associations, etc., to arrange training on the Island by, amongst others, Amberhawk and PDP Training. You may wish to contact your professional association or those companies directly to ascertain whether they are providing training on the Island.

Publications available

The following publications are available for public use in the website section "[Steps towards compliance](#)":

["The GDPR Game Changers"](#) - An awareness-raising presentation

["The GDPR – Steps towards compliance"](#) - An overview of the GDPR

["Know your data: Mapping the 5 W's"](#) – GDPR Toolkit Part 1:

An [RSS feed](#) is available for news items published on the website.

New publications

The UK information Commissioner has moved its GDPR reform advice we pages to:

<https://ico.org.uk/for-organisations/data-protection-reform/>

The ICO has recently published a helpful "Overview of the GDPR" which is available from the above link.

Get in touch

If you have questions about the GDPR, or would like to make comments about the content of any of our publications, please [contact us](#).

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