



CYBERSECURITY AND PRIVACY
THE IMPACT OF BREXIT ON THE
GENERAL DATA PROTECTION REGULATION
IN THE UNITED KINGDOM

HONIGMAN

98



AN OVERVIEW

The European Commission recently adopted the General Data Protection Regulation (GDPR), which replaces existing EU data protection laws. GDPR applies to all EU member states, as well as non-EU companies processing or controlling EU personal data. Countries and companies subject to GDPR must reach full compliance with the requirements by May 2018.

The United Kingdom's vote to leave the EU raises questions regarding the continued applicability of GDPR to companies operating in the UK or processing or controlling UK personal data. However, from a practical standpoint, there are several considerations that make it likely companies in the UK or handling UK personal data should still prepare to comply with GDPR.

TIMELINE OF EVENTS

April 2016

The European Commission adopts GDPR to update EU data protection laws.



June 2016

The UK holds the EU Referendum, and citizens vote to leave the EU.



March 2017

UK government leaders vow to begin the two year exit process by March 2017.



May 2018

GDPR in full force, and companies processing EU personal data must comply.



March 2019

The two year exit process ends, but the UK could request an extension.

1. TIMING OF GDPR AND BREXIT

Full compliance with GDPR is required by May 2018, but the UK is not expected to complete the exit process from the EU until March 2019. This means companies operating in the UK or processing or controlling UK personal data will need to comply with GDPR for at least a brief period during the transition.

2. CONTINUING EU PERSONAL DATA USE

Even if the UK succeeds in leaving the EU and GDPR no longer applies to the UK as a whole, many companies operating in the UK will continue to process or control the personal data of EU citizens. As such, these companies will still need to comply with the GDPR requirements.

3. MAINTAINING ADEQUACY STANDING

To ensure the continued flow of EU personal data to the UK for business purposes post-Brexit, the UK must retain its status as a country with adequate data protection laws. Although the UK can obtain an adequacy rating several ways, many options will require the UK to adopt GDPR or substantially similar laws. The UK's Information Commissioner's Office has already stated that it will work with the government to ensure UK data protection laws are updated to maintain an adequacy rating.

With these considerations in mind, companies with a UK presence or those processing or controlling UK (and other EU personal data) are advised to continue GDPR compliance activities, as any changes to UK data protection laws will likely occur after GDPR is in force and closely mirror the GDPR requirements.

CYBERSECURITY AND PRIVACY

MICHAEL P. HINDELANG CIPP/US, CIPM
313.465.7412
mhindelang@honigman.com

KARL A. HOCHKAMMER CIPP/US
313.465.7582
khochkammer@honigman.com