



EU GDPR vs UK GDPR

The Implications of Brexit for UK Data Protection Laws

Dr Asma Vranaki

Policy & Regulation Co-Lead REPHRAIN | Lecturer in Law, University of Bristol

Agenda

UK GDPR vs EU GDPR

- What is in a prefix?

UK Data Protection Laws

- 'Third-country' status
- UK/US data flows
- UK /EU data flows

Adequacy Lost?

- Watch this space!



Data Protection Act 1998



Data Protection Act 2018

CHAPTER 12

All Change!

UK Data Protection Act 2018 (‘DPA 2018’): Aims

- Repealed and replaced the DPA 1998
- Incorporated the EU GDPR into UK law
- Designed to facilitate finding of ‘adequacy’ post Brexit
- Legislated in GDPR derogations areas
- Deal with other matters
 - Law enforcement (Part 3)
 - National security processing (Part 4)

Brexit: EU GDPR, UK GDPR and DPA 2018

Pre-Brexit

- DPA 2018 supplemented GDPR

Post-Brexit

- Transition period arrangements – 1 January 2021
- EU GDPR was incorporated in UK national law under the European Union (Withdrawal) Act 2018 – UK GDPR
- So now: UK GDPR + UK DPA 2018

UK GDPR vs EU GDPR: What is in a Prefix?

UK GDPR Development

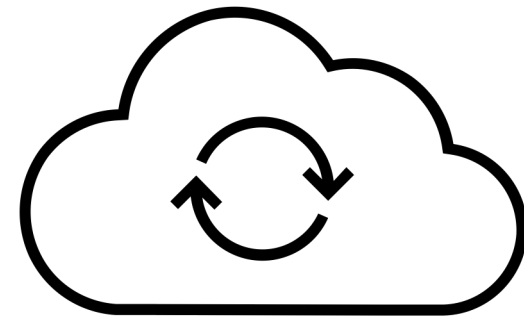
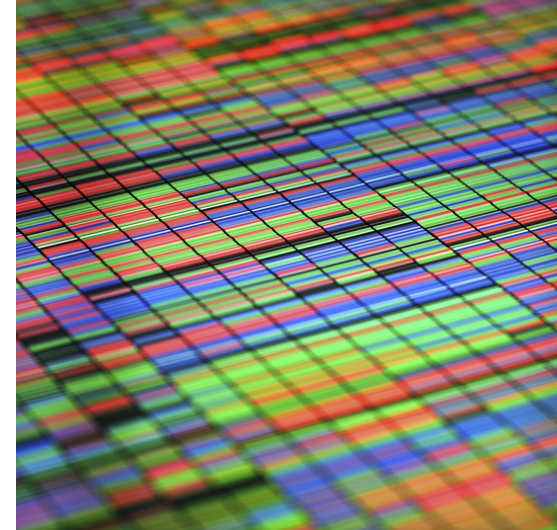
- UK ICO guidance, opinions, codes of conduct etc
- Judiciary in England & Wales
- The EU Charter of Fundamental Rights

EU GDPR Development

- EU data protection authorities' guidance, opinions, codes of conducts etc
- Guidance from other regulatory actors at EU level including the **European Data Protection Board** and the **European Data Protection Supervisor**
- Judicial decisions at MS and CJEU level

UK / EU Data Flows

- Commission Implementing Decision of 28.6.2021 Pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council on the Adequate Protection of Personal Data by the United Kingdom
- **BUT** UK government data protection law reform proposals may impact on continued adequacy!!!!



UK /US Data Export

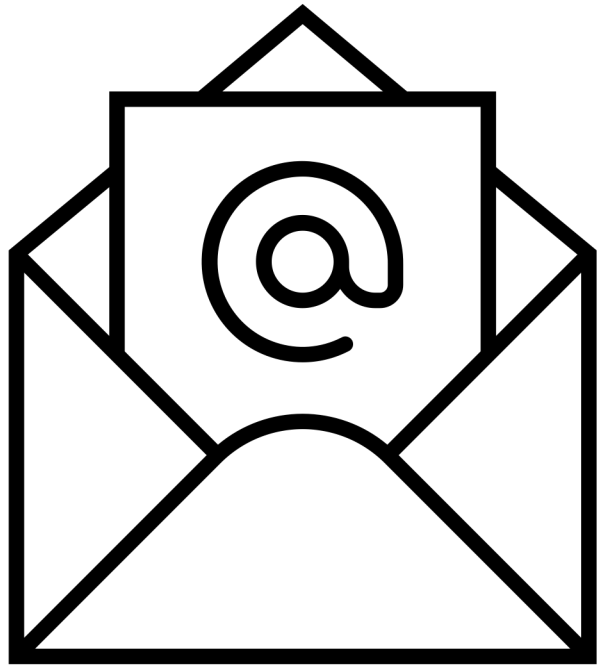
- **Pre-Brexit**

- Safe Harbour Agreement (declared **invalid** by CJEU 2015 decision in *Maximillian Schrems v Data Protection Commissioner*).
- Privacy Shield (declared **invalid** by CJEU 2020 decision in *Data Protection Commissioner v Facebook Ireland and Maximillian Schrems*)

- **Post-Brexit**

- E.g. Art. 46, UK GDPR - 'appropriate safeguards'





Get in Touch!

asma.vranaki@bristol.ac.uk