

Update: Brexit and Data Protection

As we approach the end of 2020 and the politicians from both the EU and UK continue to negotiate the terms of a future trade deal, we currently still have no further visibility as to whether the UK will secure such a deal by the end of the so called “**Transition Period**” on 31st December 2020. In any event, from the 1st January 2021, the EU General Data Protection Regulations “**EU GDPR**”, will no longer apply in the UK and will be replaced by the UK General Data Protection Regulations which together with the Data Protection Act and the Privacy and Electronic Communications Regulations will comprise the “**UK Data Protection Laws**”.

Further to our 11th January 2019 Data Protection Brexit briefing and as part of our continuing commitment to our [customers and partners] to keep them up to date with how Thomas is managing the continuing uncertainties around the Brexit process, we outline below the steps we have taken to ensure that whatever the outcome is on 31st December 2020, Thomas will be ready and compliant with all applicable EU and UK Data Protection Laws on 1st January 2021 and will remain so.

Whilst UK Data Protection Laws incorporate all the main obligations and responsibilities that currently exist under the EU GDPR, any organisation dealing with regular transfers of personal data need to consider each of the following two data transfer scenarios:

1. Personal data being transferred from the UK to the EEA

After the end of the Transition Period, transfers of personal data from the UK to the EEA will be permitted without any further steps needing to be taken by the data exporter or data importer. This is part of a provisional adequacy decision made by the UK and which the UK government will keep under review.

2. Personal data being transferred from the EEA to the UK

Once the Transition Period ends, the UK will be what is referred to as a third country outside of the EU and so under EU GDPR rules any personal data sent out of the EEA will be classed as a “restricted transfer”. Broadly speaking, this means that for the transfer to be compliant under EU GDPR either one or the other of the two following conditions must be met:

- First, the EU Commission has made an “**adequacy**” decision in favour of the UK which means it considers the UK’s data protection laws are acceptable. The UK is currently undergoing an adequacy assessment by the EU Commission and so adequacy cannot for the time being be used as a legal basis for exporting personal data from an EEA country into the UK.
- Second, an organisation looking to export personal data from an EEA country into the UK has put in place what are known as “**appropriate safeguards**”.

Until such time as the EU has reached an adequacy decision in favour of the UK, Thomas has taken the decision to demonstrate it has appropriate safeguards in place in respect of any data transfer by adopting what are known as the “**EU Standard Contractual Clauses**”. These are

contractual terms already approved by the European Commission as being sufficient to place the necessary obligations on both the data exporter and data importer and to protect the rights of individuals whose personal data is being transferred. As from the end of the Transition Period, the Thomas current standard terms and conditions of sale automatically incorporate the EU Standard Contractual Clauses into those terms and so any data transfer will be considered to be compliant under the EU GDPR and will not require any of our customers to enter into a separate data transfer agreement with us.

Finally, notwithstanding the vagaries of the current political landscape, we remain committed to complying fully with all applicable data protection laws in all the geographies in which we operate. If following the Transition Period our approach to how we keep compliant with such laws changes from what is stated above, we will let you know. In the meantime, for any questions relating to this update, please contact your account manager in the first instance who can direct your questions as appropriate.

Kind regards,



Guy Ballantine
COO

Thomas International