

Meet McGuireWoods LONDON

What Lies Ahead?

The now-infamous Schrems II decision, the end of the transition period following the United Kingdom's exit from the European Union, and the COVID-19 pandemic created a challenging privacy compliance environment for multinational businesses in 2020. Expect 2021 to bring yet more major changes in data privacy. McGuireWoods' London data privacy and security team shares thoughts on likely developments in the next 12 months...

Can we expect an adequacy decision from the EU in respect of the UK, allowing personal data to flow freely from the European Economic Area (EEA) to UK?

Yes. The EU's adequacy assessment process in respect of the UK is in its final stages. In April 2021, the European Data Protection Board adopted two opinions on the draft UK adequacy decisions issued by the European Commission on 19 February 2021. The European Commission will seek approval from each EU member, and a positive decision is expected in summer 2021.

The European Court of Justice's Schrems II decision in July 2020 created a challenging environment for multinational organisations that need to transfer data internationally. Can we expect any developments in this area?

Yes. The UK government indicated that, since the UK has withdrawn from the EU, it will make its own adequacy decisions in respect of other jurisdictions. The UK may also introduce new alternative transfer mechanisms and possibly its own standard contractual clauses.

As businesses return to offices, can we expect to see employers requiring employees to disclose their vaccination status?

Yes and no. In the UK, an individual's vaccination status constitutes health data, which is designated as special category data under the UK General Data Protection Regulation (UK GDPR) and therefore merits extra protection. Employers should collect this data only where they have clear and compelling reason to do so — for example, if employees closely work with the clinically vulnerable — so it is unlikely that all businesses will be able to justify collecting this data in respect of all their employees.

Other countries are considering whether to exempt vaccination status from the definition of health data, which would allow businesses and other organisations to record it more freely.

Meet the Team



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McGuireWoods' London data privacy and security team provides pragmatic and proportionate risk-based legal advice on compliance with the UK GDPR and related laws and guidance. The team has extensive experience advising on compliance with UK and EU data protection law, with a particular emphasis on the extraterritorial scope of the GDPR, international transfers of data, and major security incidents. All three members of the team hold the CIPP/E certification as certified information privacy professionals from the International Association of Privacy Professionals.