



Update - Brexit, Breathe and Data Protection

As we approach the scheduled October 31st date for the UK's exit from the EU, we are working closely with the Information Commissioner's Office (ICO) to understand the implications for our customers. At this stage we are not anticipating any problems, however, we have put together this overview and we will continue to develop this as the situation evolves.

What happens if the UK withdraws Article 50, effectively canceling Brexit?

In this scenario, very little is likely to change. Data protection rules and regulations are unlikely to be affected so there will be no impact on Breathe and by extension, our customers.

What if the UK leaves the EU based on the terms that Boris Johnson is currently proposing?

In the short term, nothing is likely to change. Existing agreements in place ensure that EU and UK data protection regulations are fully aligned. In the longer term – and if the UK and EU's respective laws evolve independently – there may be some divergence.

What happens if the UK leaves the EU with no deal?

As we are in uncharted waters, it is difficult to make accurate predictions, however, in the eyes of the EU, the UK will become a 'third country'. This means that we will become a nation with whom the European Union has no specific agreement. In the commercial interests of UK and EU businesses who trade with each other, we hope that aligning data management regulations will be a high priority for politicians.

A no-deal scenario affects Breathe as a company because our software is hosted on Amazon Web Services' servers which are located in the EU. This means data is transferred between the UK and EU every moment of every day, typically in the two following ways:

1. Sending data from the UK to the EU (e.g. by creating a new record in Breathe)
2. Sending data from the EU to the UK (e.g. by accessing and viewing an employee profile in Breathe)

In the event of a no-deal Brexit, these two scenarios would be treated differently:

Sending data from the UK to the EU. The highly positive news is that the UK ICO has deemed the EU's data protection laws to be 'adequate and efficient'. Consequently, transferring data from the UK to the EU will be unaffected.

Sending data from the EU to the UK. To enable the free flow of data between companies and individuals located inside and outside of the EU, the organisation has established a mechanism called 'an adequacy decision'. At the moment, this is **not** likely to be in place before the UK leaves the EU on October 31.

As a precaution, the Information Commissioner's Office are recommending that UK based organisations ensure that Standard Contractual Clauses are in place between themselves and any third-party data processors with whom they work who host information in servers



located in EU countries. In our case the third-party data processor is Amazon Web Services (AWS).

As AWS have already published Standard Contractual Clauses (which have been approved by the EU data protection authorities) their standard terms and conditions, we are very unlikely to be affected.

Ongoing Developments

In the short term Breathe is not affected by Brexit, however, as the situation and advice provided by the Information Commissioner's Office is subject to change, we will continue to analyse all developments closely and carefully. We will continue to work with the ICO and report changes and their implications to our customers and partners.

The UK ICO's website is available via the following link: <https://ico.org.uk/>