

COVID-19 Business actions and legal considerations - Data Protection

- UK businesses will be taking important actions to improve their Enterprise Resilience in the current COVID-19 pandemic
- As part of businesses' Operational Resilience actions, businesses will have to maintain their Data Protection compliance and deal with any changes in data processing that the crisis presents, whilst also continuing to comply with their obligations under Data Protection law.
- We are seeing already that the crisis presents new challenges in relation to the collection and sharing of personal data, resourcing, ways of working, business models and supply chains. Businesses need to be able to adapt quickly whilst also meet the compliance challenges that those changes bring.

| | Security | Compliance | Health Data | Data-Sharing | Data Processors |
|----------------------------|--|--|--|--|--|
| Summary of Issue | <ul style="list-style-type: none"> — Security of Personal Data. As ever, Data Controllers and Data Processors continue to be obliged to have in place appropriate security measures to protect personal data. | <ul style="list-style-type: none"> — Shortage/diversion of resources from compliance - failures to meet statutory deadlines, follow internal processes and lack of accountability. — Swift changes in business models and channels present new challenges. | <ul style="list-style-type: none"> — Employers have a duty of care to their employees to protect their health and wellbeing. Appropriate information needs to be shared across the workforce to enable workers to protect themselves. | <ul style="list-style-type: none"> — Demand for services may fall off in some areas, it may intensify in others. Or, due to illness one part of the business may be short of resource. Provision of products, services and resources may need to be quickly diverted from one business to another | <ul style="list-style-type: none"> — Sudden changes within the supply chain. Suppliers (Data Processors) are having to be changed at short notice or they are having to make changes in their own workforce to deal with resourcing issues |
| What Should businesses do? | <ul style="list-style-type: none"> — Refocus and review in light of sudden changes in working practices and sudden changes to personnel. — Remind workers of what they need to do to maintain the security of personal data whilst working at home. Ensure that any temporary contractors receive adequate training quickly. | <ul style="list-style-type: none"> — Businesses having to make rapid changes to adjust to working during the crisis. — Keep an eye on guidance coming out from the regulators. — Seek to put in place temporary arrangements with external advisers who can be called upon for support. — Be aware that changes from B2B to B2C will raise new Data Protection issues. | <ul style="list-style-type: none"> — Assess the minimal amount of personal data that needs to be collected and shared. Ensure that appropriate notifications are provided and that health data is processed lawfully and securely. | <ul style="list-style-type: none"> — Check that employee or customer data can be shared lawfully across the relevant businesses. Review notifications/expectations of individuals, check legal bases and document appropriate privacy assessments | <ul style="list-style-type: none"> — Be prepared to assess and appoint replacement Data Processors quickly and arrange the secure transfer of personal data from one Data Processor to another. Be aware that Data Processor resilience may be being tested and ensure appropriate oversight. |

Key Contact:

Isabel Ost, Director & Solicitor, Data Protection Legal Services: isabel.ost@kpmg.co.uk



KPMG LLP is a multi-disciplinary practice authorised and regulated by the Solicitors Regulation Authority (SRA number: 615423).

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

© 2020 KPMG LLP, a UK limited liability partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.



The KPMG name and logo are registered trademarks or trademarks of KPMG International.

Document Classification: KPMG Public