

General Data Protection Regulation

A survey of the impact of GDPR and its effect on organisations in Ireland

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MCCANN FITZGERALD



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About the Research

W5 carried out a quantitative online survey of senior figures with responsibility for the compliance and data protection functions in Irish business during November and December 2019. The representative sample comprised a cross section of businesses by size (measured by number of employees) and business sector and industry.

Total sample size : N=100 Fieldwork dates: 27 November to 16 December 2019. We are very grateful to all the survey participants for their valuable time and insights.

Introduction

Executive Summary

It is now over 18 months since the GDPR came into force, with most businesses having completed the move from GDPR project mode to 'business-as-usual' compliance.

Our survey highlights the significant work done to seek to achieve compliance, and the work that remains to be done for some organisations. In this context, it is interesting to note that only 8% of those surveyed consider their organisations to be “fully compliant” with the GDPR, while 24% view their organisations as only “somewhat compliant” (p.6).

As organisations continue to work towards compliance, it is noteworthy that:

- a majority of respondents (53%) do not agree that their organisation's CEO is strongly engaged in GDPR compliance and data privacy (p.9);
- only 60% include data protection on the management/ executive meeting agenda (p.14);
- almost half of respondents (46%) believe their organisations to be concerned about the prospect of being fined for GDPR non-compliance (p.9);
- a range of responses (across pp.13–15) indicate a substantial number of organisations do not engage in activities that may be considered integral to achieving compliance, e.g. 26% say they do not carry out periodic reviews of records of processing activity (p.13);
- only 77% say they have defined internal roles and responsibilities for data protection (p.14).

Taken together, these results suggest that a substantial minority of surveyed organisations have some work to do to achieve material compliance.

Set against this, there appears to have been some hardening of attitudes towards the benefits of the GDPR, with 14% of respondents disagreeing that the GDPR is beneficial to individuals (p.7). Consistent with previous years, almost two thirds of respondents feel that the GDPR places an excessive administrative burden on organisations (p.7). This may create a challenging environment in which to implement new compliance activities. A question therefore arises as to whether a higher proportion of CEOs should be strongly engaged on the issue in order to drive compliance activity within organisations.

It is also interesting to note that, though 'Security Obligations' was the most frequently cited area of concern (p.10), a relatively large number of respondents (18%) state that they do not engage in security audits or reviews (p.15).

Though the data breach reporting statistics are in-line with, or below, what those familiar with the area would have anticipated, many outside the industry may be surprised to learn that close to three-quarters of organisations (71%) reported a personal data breach in 2019 (p.12).

Finally, many organisations are adopting a 'wait and see' approach about the potential implications for international transfers of personal data of the Schrems II case and in relation to Brexit, although most respondents are unsurprisingly more prepared for Brexit than they were last year.

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Overview of the Numbers

8%

Fully compliant with GDPR



46%

concerned about the prospect of being fined for GDPR non-compliance



71%

reported a personal data breach to authority



28%

have not completed the basic step of maintaining a repository of all documentation



48%

are neither creating or reviewing legitimate interest assessments

22%

have completed post-Brexit plans and are implementing



80%

The number of organisations who rely on SCCs* for transfer of personal data to the USA

*Standard Contractual Clauses



Only

10%

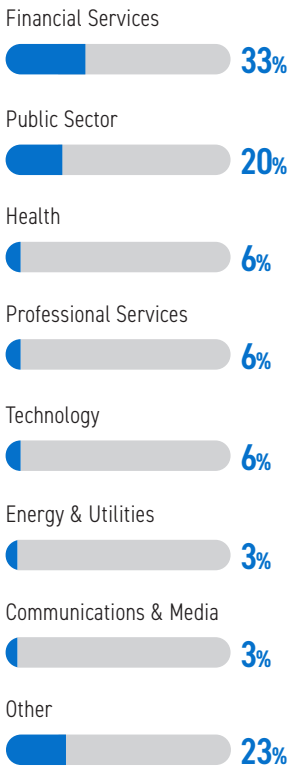
have an alternative plan instead of Standard Contractual Clauses

Profile of Respondents

Industry

For analysis purposes, can you indicate the industry sector you operate in?

2019

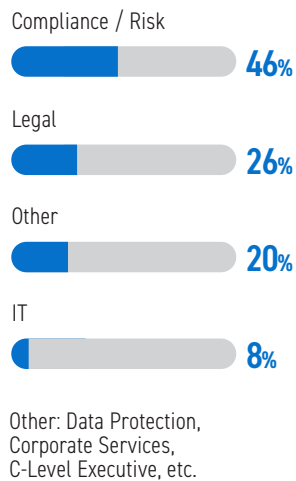


Other: Not-for-Profit, Food, Education, Aviation, etc.

Function

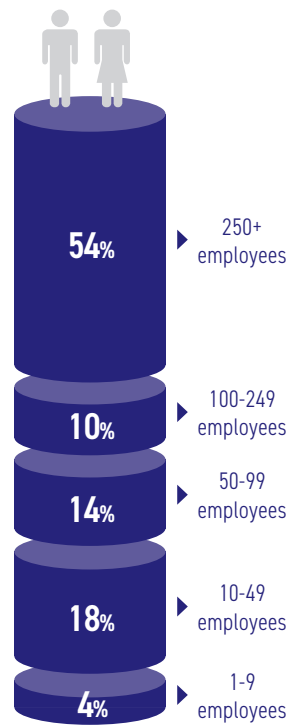
Which of the following best describes your function in the organisation?

2019



Number of Employees

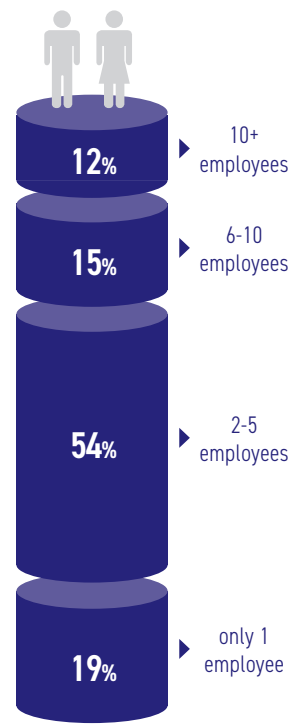
How many people are employed in your organisation in Ireland?



Average: ~ 249

Number of Employees with GDPR Function

How many people in your organisation are directly involved in GDPR compliance work on an ongoing basis?

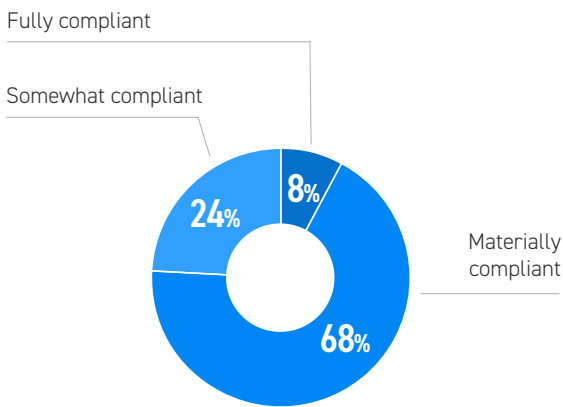


Average: ~ 4-5

Compliance with the GDPR

Thinking in Overview

To what extent do you feel your organisation is compliant with the GDPR?



As Compared to May 2018

To what extent do you feel that your organisation is more or less compliant as compared to 25 May 2018?



Comment

94% believe their level of compliance has improved since May 2018.

However 24% do not consider themselves to be materially compliant – saying they are 'somewhat compliant'.

This is consistent with our experience that clients initially focused

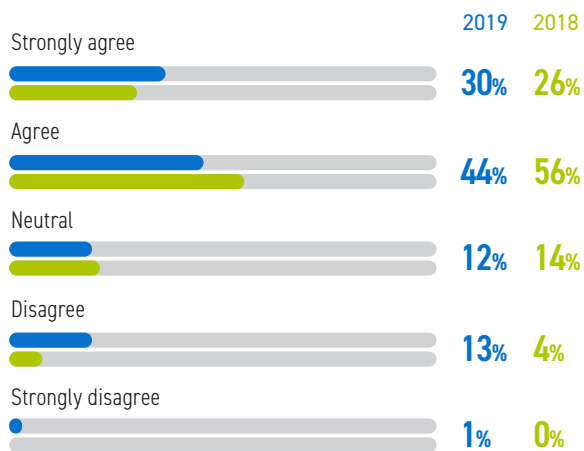
on "minimum viable compliance" in order to meet the 25 May 2018 deadline, and have since focused on bedding down processes and specific compliance projects.

It is also indicative of the fact that GDPR compliance is an on-going process, which requires continuous investment in resources.

Attitudes to the GDPR

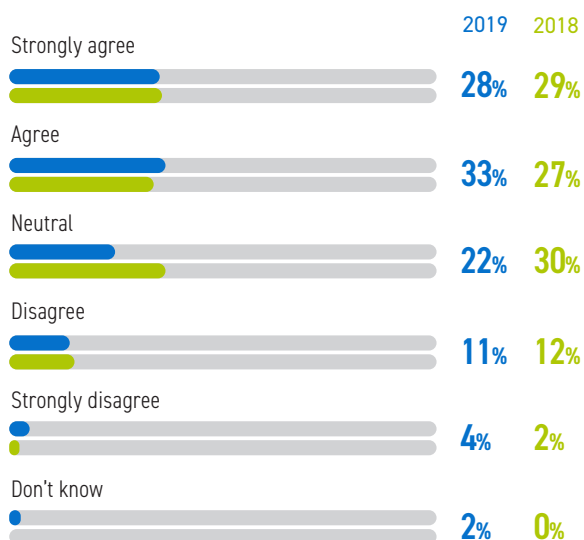
Beneficial for Individuals

GDPR is beneficial for individuals



Administrative Burden

Compliance with GDPR places an excessive administrative burden on organisations



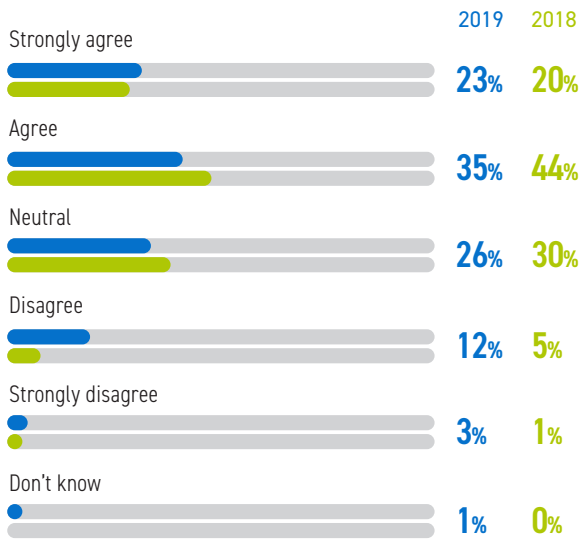
Comment

There has been some hardening of attitudes towards the benefits of the GDPR for individuals over the last year.

But it is clear that the majority of organisations view it as a positive development for individuals. This has come at a cost to organisations, who still consistently view the GDPR as creating an excessive administrative burden.

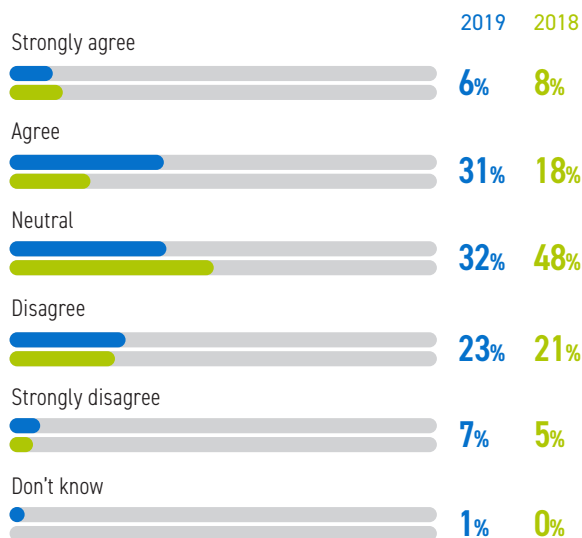
Beneficial in the long term

Compliance with GDPR will be beneficial for organisations' relations with their employees, customers and other stakeholders in the long term



Working to comply with GDPR – Benefits

Working to comply with GDPR has delivered many benefits for our organisation



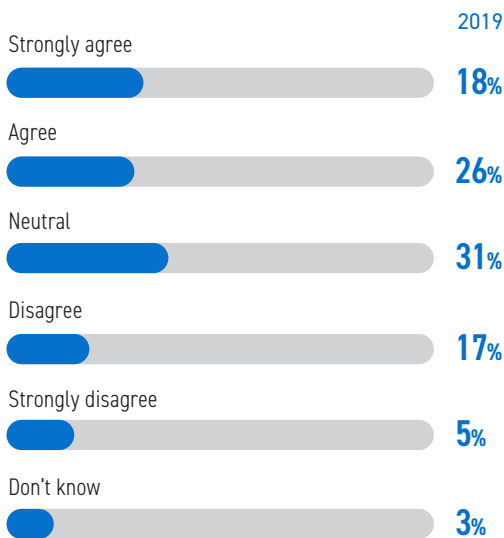
Comment

Respondents are less positive about the benefits of GDPR compliance for relations with employees, customers and stakeholders.

This may be because some organisations have found that GDPR compliance has resulted in some friction with employees or customers.

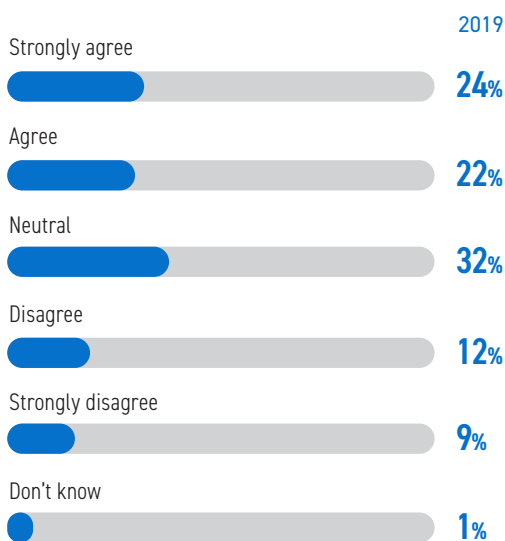
Our CEO is strongly engaged with GDPR

The CEO of our organisation is strongly engaged in GDPR compliance and data privacy



Being fined for non-compliance

In our organisation we are concerned about the prospect of being fined for GDPR non-compliance



Comment

Less than half of respondents are concerned about GDPR fines.

This is likely to change once fines become more common (there have been none in Ireland and relatively few across Europe to date).

Aspects of Most Concern

Which one of the following aspects are you most concerned might lead to a GDPR fine or other enforcement action for your organisation?

Ranked 1-10, 2019



Ranked 1-10, 2018

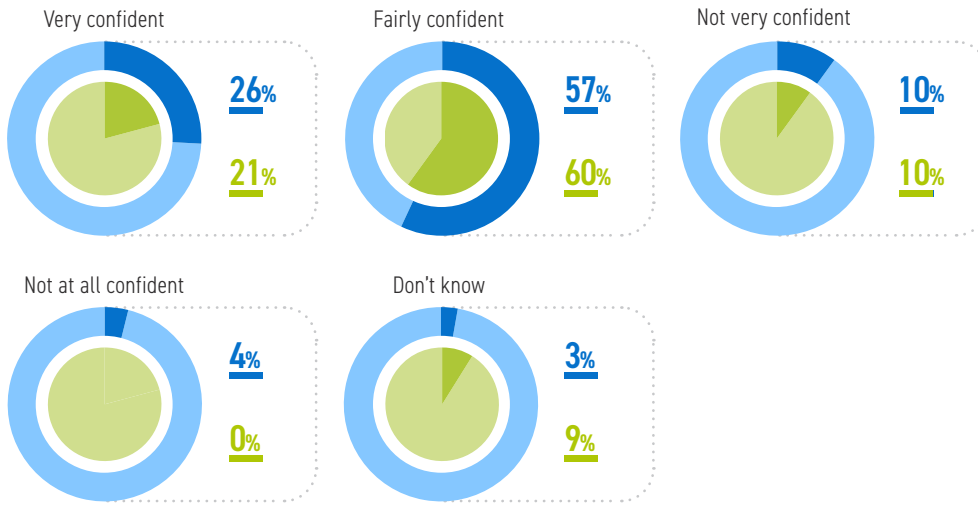


Other mentions: Data Retention, Maintaining records unnecessarily, Missing the deletion of some unstructured personal data that should have been deleted.

International Transfers

How confident are you that your organisation is compliant with GDPR requirements regarding international transfers?

2019 2018

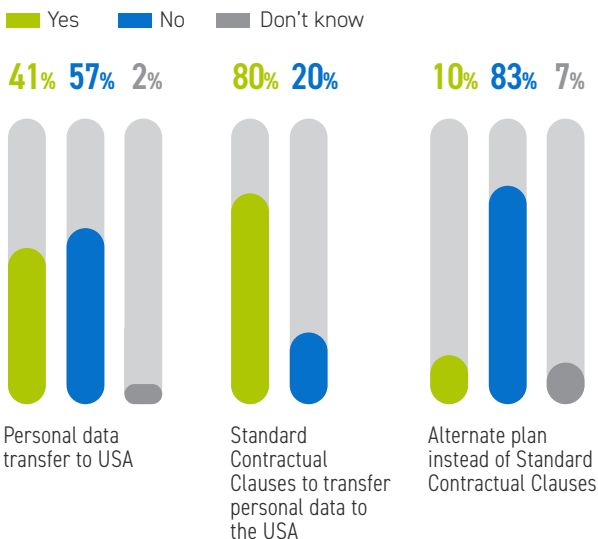


Personal Data Transfer Measures to USA

Does your organisation transfer personal data to USA?

Do you rely on 'Standard Contractual Clauses' to transfer personal data to the USA in compliance with your obligations under the GDPR?

Do you have alternative plans in place in case the Court of Justice of the European Union (CJEU) decides in the Schrems II case that the current version of the Standard Contractual Clauses may not be relied upon for this purpose?



Comment

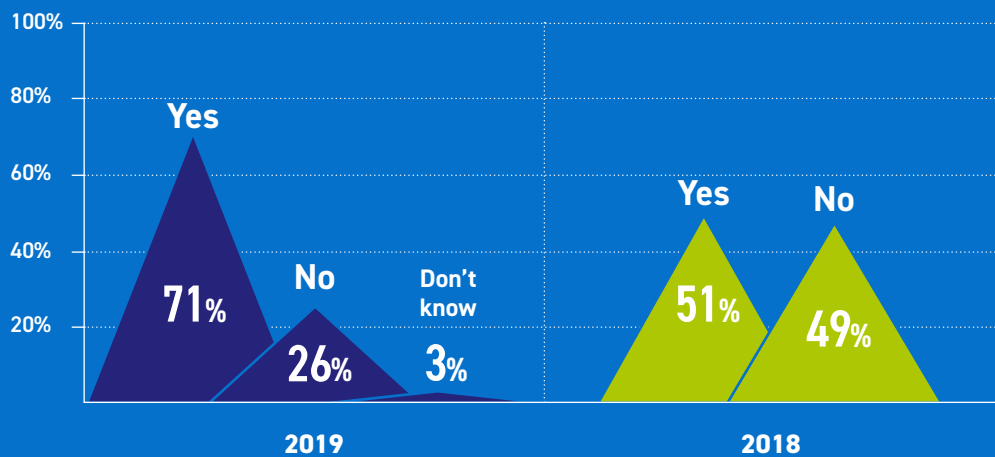
80% of respondents who transfer personal data to the USA rely on SCCs.

However only 10% of these have alternative plans in place if the CJEU decides in the Schrems II case that SCCs may not be used for this purpose.

Data Breach Reporting

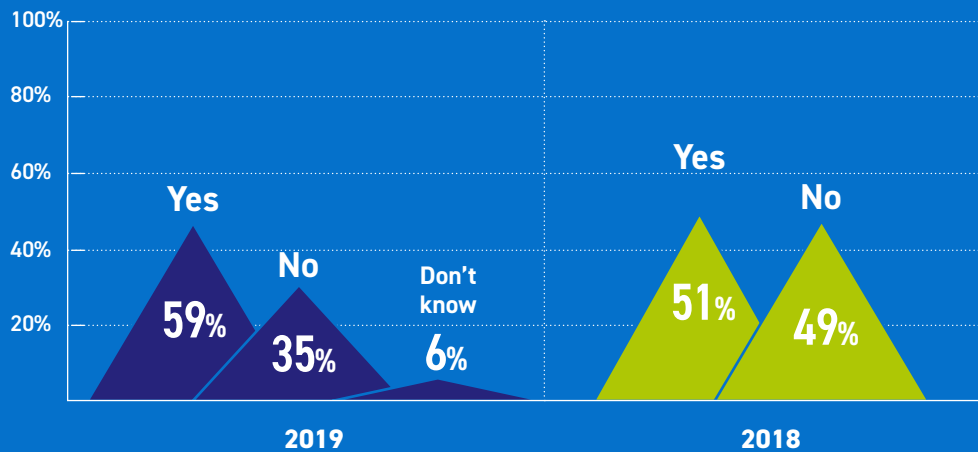
Reported a personal data breach to authority

Has your organisation reported a personal data breach to the Data Protection Commission or any other supervisory authority



Reported a personal data breach to affected data subjects

Has your organisation reported a personal data breach to affected data subjects



Incidence of undertaking activities supporting Accountability Principle

Comment

Only 69% carry out periodic reviews of their records of processing activities.

It would be difficult to be materially compliant without engaging in such reviews.

Development and Maintenance of Required Documentation

Please indicate all the activities that you undertake to meet the accountability principle as part of ongoing business as usual. Firstly thinking about the development and maintenance of required documentation

- Yes, we do this
- No, we don't do this
- Don't know

Periodic review of policies, procedures and privacy notices



Periodic review of records of processing activity



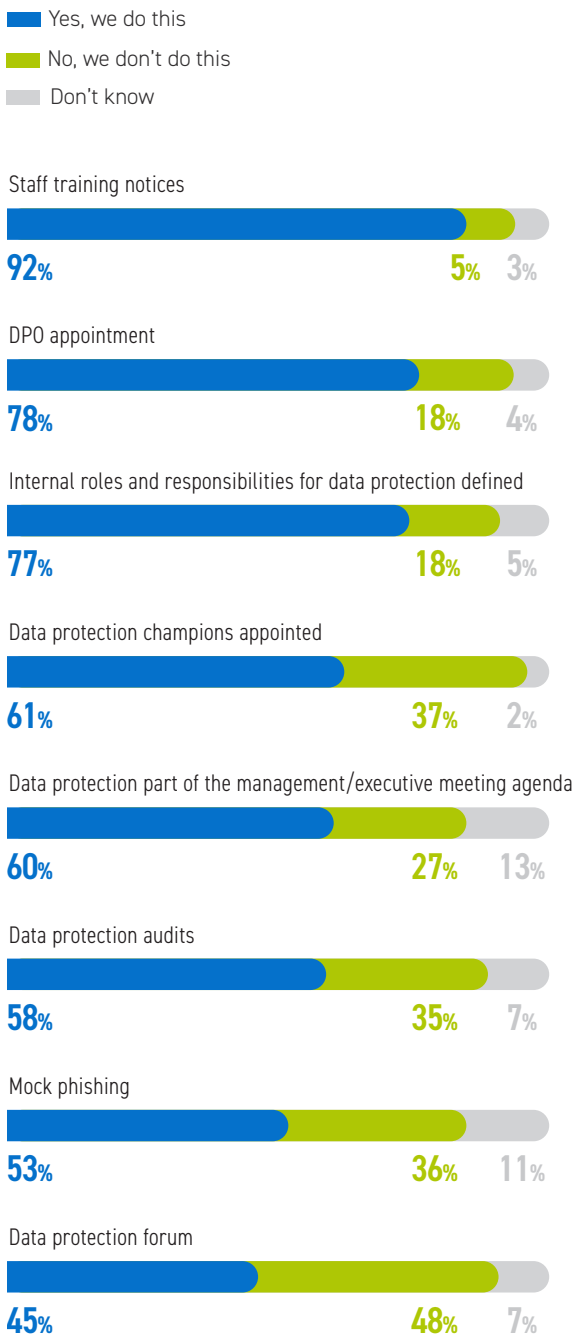
Maintain a repository for all documentation



Incidence of undertaking activities supporting Accountability Principle

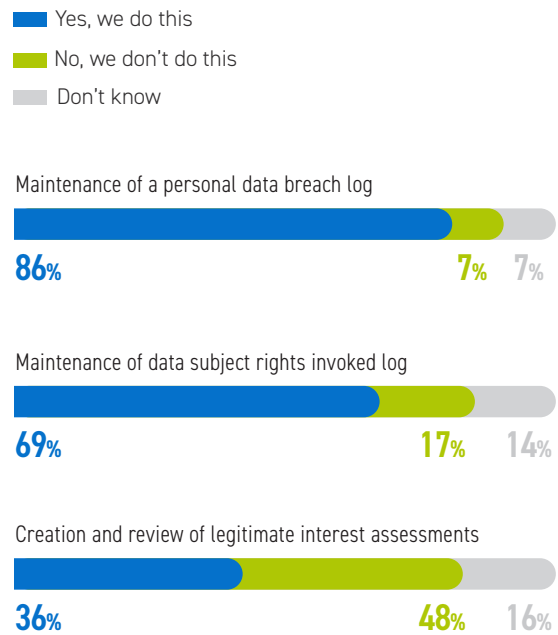
Clear Roles and Responsibilities

Now think about the identification of clear roles and responsibilities and forums to support compliance



Tracking Events and Decisions

And thinking about tracking events and decisions



Comment

Only 36% have carried out a legitimate interests assessment.

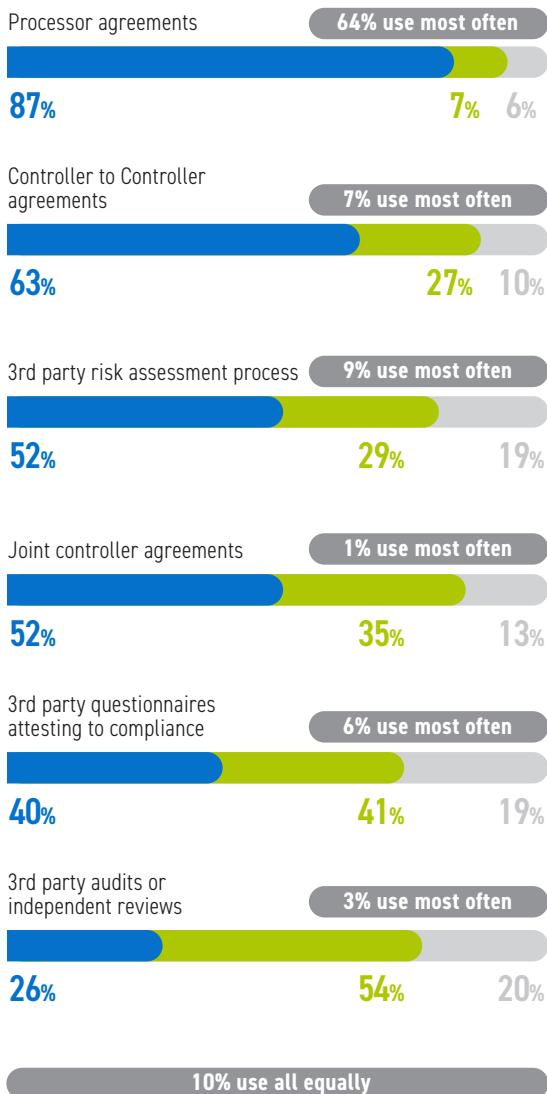
This appears to be an area on which organisations who rely on legitimate interests should focus their compliance efforts.

Incidence of undertaking activities supporting Accountability Principle

Third Parties in Managing Risks

Which of the following approaches to 3rd parties have you used to manage associated risk?

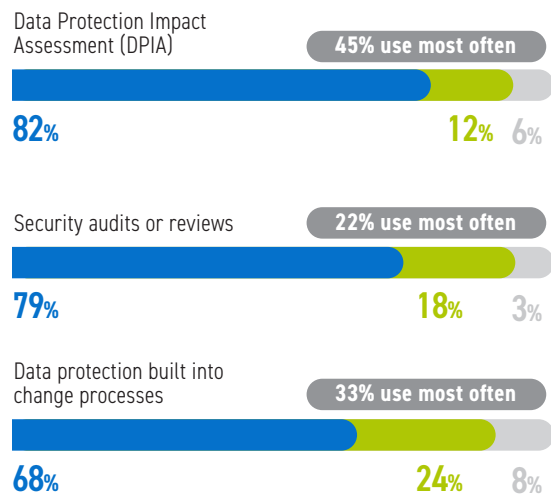
- Yes, we do this
- No, we don't do this
- Don't know



Tools to Manage Changes in Organisation

Which of the following tools are you using to manage changes in the organisation?

- Yes, we do this
- No, we don't do this
- Don't know



Plans for GDPR post-Brexit

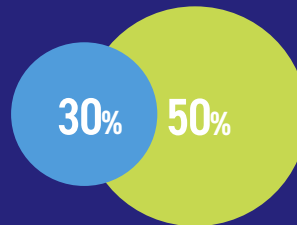
Which of the following best describes your plans for GDPR post-Brexit?

■ 2019 ■ 2018

Our plans post-Brexit are at formation stage only



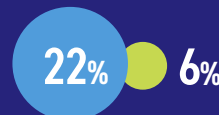
We are waiting for further developments before we make a post-Brexit plan



Our plans post-Brexit are progressed a little



Our plans post-Brexit are progressed a lot



We have completed our post-Brexit plans and are implementing



Other



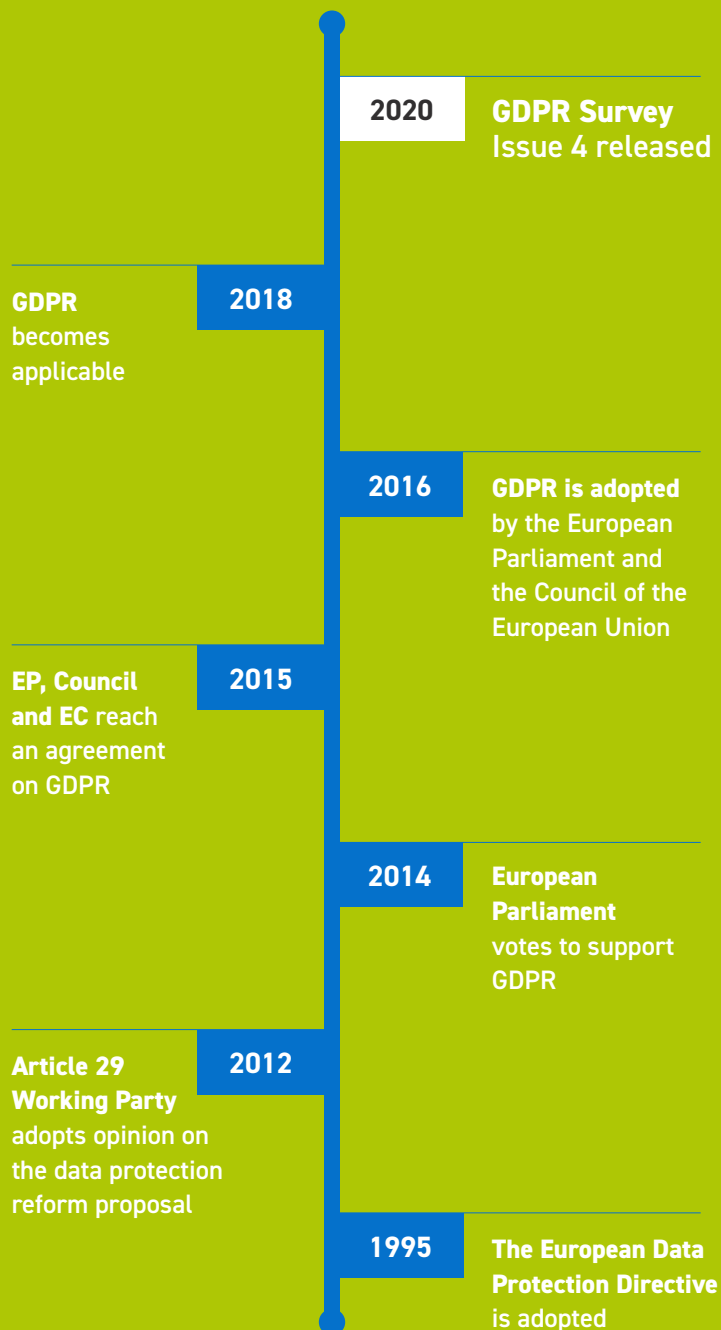
Don't know



Comment

Organisations who are still adopting a 'wait and see' approach before making a post-GDPR Brexit plan are now in the minority.

GDPR Timeline



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This publication is for general guidance only. It should not be regarded as a substitute for professional advice. Such advice should always be taken before acting on any of the matters discussed.

Only 8% of those surveyed consider their organisations to be “fully compliant” with the GDPR.

About Mazars

Mazars is an international partnership specialising in audit, tax, consulting and financial advisory services. In Ireland, we employ over 500 people in Dublin, Limerick and Galway and work with large corporate companies, small to mid-sized indigenous businesses and private clients to assist at every stage in their development.

We operate in 91 countries, including Ireland and overall, we draw on the expertise of 40,400 professionals - 24,400 in the Mazars integrated partnership and 16,000 via the Mazars North America Alliance.

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With over 600 people, including almost 430 lawyers and professional staff, McCann FitzGerald is one of Ireland's premier law firms. We are consistently recognised as being the market leader in many practice areas and our pre-eminence is endorsed by clients and market commentators alike.

Our principal office is located in Dublin and we have overseas offices in London, New York and Brussels. We provide a full range of legal services, primarily to commercial, industrial and financial services companies. Our clients include international corporations, major domestic businesses and emerging Irish companies. We also have many clients in the State and semi-State sector.

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