



TRANSFER IMPACT ASSESSMENT CHECKLIST

Questions about the transfer

1. WHO ARE THE PARTIES TO THE RESTRICTED TRANSFER

- a. Who is the Sender (the one sending the information)?
- b. Who is the Receiver (the one receiving the information)?
 - i. What type of organisation are they (e.g. Government, third party or inter-company/within the same group of companies)?
 - ii. Where are they located?
 - iii. What is their reputation? Are they reputable and/or long-established e.g. an international banking entity or IT provider.
 - iv. Are they a controller, processor, joint-controller or sub-processor?
 - v. Is the Receiver going to be sharing that information with anyone else? Will there be any onward transfers?
 - vi. If so, who, why and where are they located?
 - vii. Is the importer subject to any professional standards/code of conduct e.g. accountant, lawyer, medic?

2. DETAILS OF PROPOSED RESTRICTED TRANSFER

- a. What is the purpose of the transfer? Why is the data being transferred?
- b. What will the Receiver be doing with the data?
- c. What data is being transferred?
 - i. Does this include special category data?
 - ii. How much data is being transferred?
 - iii. With what frequency?
 - iv. Is it about children or vulnerable individuals?
- d. What technological and organisational security measures does the Receiver have in place to ensure the security of the data entrusted to it? Do you have evidence of these measures being in place?
- e. Will the data be secure in transit and how is it being transferred? Is it by secure access into data held in Jersey, by email, or by secure download link for example?
- f. What format will the data be in whilst in transit e.g. will it be pseudonymised/encrypted?



3. WHAT IS YOUR LAWFUL BASIS FOR TRANSFERRING THE PERSONAL DATA (SCHEDULE 2 PART 1 OF THE DPJL 2018)?

- Consent
- Contractual performance
- Compliance with a legal obligation
- Vital interests
- Performance of a task carried out in the public interest or exercise of official authority
- Legitimate interests

If you're relying on legitimate interests have you carried out a legitimate interest assessment? (If not, you will need to do one BEFORE completing the transfer impact assessment.)

4. IF YOU ARE TRANSFERRING SPECIAL CATEGORY DATA, WHAT IS YOUR LAWFUL BASIS (SCHEDULE 2 PART 2 OF THE DPJL 2018):

- Explicit consent
- Other legal obligations
- Employment and social fields
- Vital interests
- Non-profit associations
- Information made public
- Legal proceedings, etc.
- Public functions
- Public interest
- Medical purposes
- Public health
- Archiving and research
- Avoidance of discrimination
- Prevention of unlawful acts
- Protections against malpractice and mismanagement
- Counselling
- Insurance and pensions

5. LEGAL ENVIRONMENT ASSESSMENT - WHAT SAFEGUARDS ARE IN PLACE IN THE THIRD COUNTRY?

- a. Does the third country have a dedicated data protection/privacy law in force at the proposed time of transfer?
 - i. If so, is it based on a data protection law/regime from another country e.g. is it based on GDPR



- b. Is there an appropriate data protection regulatory authority in place in the third country?
 - i. If so, does that authority have appropriate powers of enforcement?
 - ii. Is it able to deal with complaints from data subjects about how their personal data has been handled by organisations in that country?
 - iii. Can it deal with complaints against all sectors i.e. Governmental and private sector? Would it be able to deal with a complaint against the Receiver.
 - iv. What does their enforcement/sanction regime look like? Can they order remedial action, take enforcement action and/or issue fines, for example?
- c. Can you enforce any contractual obligations between you and the importer in the third country?
 - i. Is there an established legal system and access to court process?
 - ii. How easy is it for those overseas to:
 - Access relevant legal advice
 - Access the court system including to initiate proceedings/seek enforcement of foreign judgments
 - iii. Are any judgments robust? Do they provide effective remedies and are they capable of being enforced?
- d. Do data subjects have rights under local data protection legislation essentially equivalent to those provided for under the DPJL 2018 e.g. rights of access, rectification, erasure?
 - i. If so, what can they do if their rights have been breached and who can they complain to?
- e. Are there any surveillance regimes in the third country that may impact on the data subject whose information is being transferred?
 - i. If so, what rights do data subjects have in those circumstances?
 - ii. Are there any rules in place relating to the exercise of those surveillance powers? If so, what are they and who has oversight.
 - iii. Could the information subject to the Restricted Transfer be of potential interest to surveillance authorities?
- f. Are there any human rights issues that you need to take into account e.g. could the transfer increase the risk for people of a human rights breach in the country of the importer?

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MORE INFORMATION

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