



# Public Sector Wales Training

Contract Law Annual Review & Data Protection Update

17<sup>th</sup> March 2021

@geldards



# Contract Law Annual Review

Chris Williams, Partner

17<sup>th</sup> March 2021

@geldards

# Force Majeure – under the spotlight

*2 Entertain Video Ltd v Sony DADC Europe Limited [2020]*  
*EWHC 972 (TCC)*

*Totsa Total Oil Trading SA v New Stream Trading AG [2020]*  
*EWHC 855 (Comm)*

# Good Faith – express and implied

*TAQA Bratani Limited and Others v Rockrose UKCS8 LLC [2020]*  
*EWHC 58 (Comm)*

*Cathay Pacific Airways Limited v Lufthansa Technik AG [2020]*  
*EWHC 1789 (Ch)*

# Formation and Variation

- **Formation – be careful**

*Joanne Properties Ltd v Moneything Capital Ltd [2020] EWCA Civ 1541*

- **Variation – follow the rules**

*Kabab-Ji S.A.L (Lebanon) v. Kout Food Group (Kuwait) [2020] EWCA Civ 6*

# Interpretation and Notices

- Interpreting worked examples

*Altera Voyageur Production Ltd v Premier Oil E&P UK Ltd [2020] EWHC 1891 (Comm)*

- Boiler plate – notice provisions

*Towergate Financial Limited v Hopkinson [2020] EWHC 984 (Comm)*

*Dodika Ltd v United Luck Group Holdings Ltd [2020] EWHC 2101 (Comm)*





# Data Protection Update

Hayley Lewis, Senior Associate

17<sup>th</sup> March 2021

@geldards

# Agenda

- How has data protection law in the UK changed now that the Brexit transition period has ended?
- What is the impact of the transition period coming to an end on data transfers to and from the UK?



# How has data protection law in the UK changed?

## Up to end of transition period

- GDPR
- Data Protection Act 2018 (supplemented GDPR)

## After transition period

- UK GDPR (but same rights, duties and obligations as under EU GDPR)
- Data Protection Act 2018
- Some organisations – ‘frozen’ GDPR
- Some organisations – may have to comply with both regimes

# How have personal data transfers been affected?

## Up to end of transition period – UK/EU

- UK continued to be treated as member state of EU for purposes of personal data transfers
- Personal data could be transferred freely between UK and EU and vice versa

## Up to end of transition period – EU/rest of world

- Transfers of personal data outside EU could only take place if:
  - Recipient country benefitted from European Commission Adequacy Decision; or
  - Data exporter and importer put an appropriate safeguard in place (e.g. SCCs); or
  - An exception applied (e.g. explicit consent)

# How have personal data transfers been affected?

## After transition period – EU to UK

- UK became 'third country'
- But temporary 'bridge' is in place
- Draft adequacy decisions have been published
- But there are no guarantees...

## After transition period – UK to EU

- As UK is no longer part of EU, UK GDPR restricts data transfers outside UK
- But UK government has provisionally made an adequacy decision in favour of the EU

# How have personal data transfers been affected?

## After transition period – UK to rest of world

- UK government has recognised Adequacy Decisions already granted by European Commission
- If there is no Adequacy Decision in place:
  - Appropriate safeguard (such as SCCs); or
  - Exception

## After transition period – UK to rest of world

- If you are relying on an appropriate safeguard, do not forget about Schrems II
- Requirement for data transfer risk assessment
- You may need to put additional safeguards in place
- Or the transfer may be unable to take place...

# Conclusions

- Data protection law has a new name in UK but very little substantive change in the law – yet...
- Data transfers have been affected, but steps taken by EU Member States and UK government have minimised impact
- Keep your fingers crossed that the draft Adequacy Decisions are approved
- Remember the need for a data transfer impact assessments if you are relying on SCCs or other appropriate safeguards
- Organisations may need to make some changes to their Privacy Notices and ROPAs



# Any questions



# Contact details



**Chris Williams**  
Partner

+44 (0) 29 2039 1877  
chris.williams@geldards.com



**Hayley Lewis**  
Senior Associate

+44 (0) 29 2039 1785  
hayley.lewis@geldards.com



**Bethan Lloyd**  
Partner

+44 (0) 29 2039 1890  
bethan.lloyd@geldards.com

“ **First-class practice, known for its ‘stunning advice’** ”

Client quote, Legal 500 – the world’s largest legal referral guide



**Cardiff**

4 Capital Quarter,  
Tyndall Street  
Cardiff, CF10 4BZ  
Tel: +44 (0)29 2023 8239

**London**

80 Coleman Street  
London  
EC2R 5BJ  
Tel: +44 (0)20 7620 0888

**Derby**

Number One Pride Place  
Pride Park  
Derby DE24 8QR  
Tel: +44 (0)1332 331 631

**Nottingham**

The Arc  
Enterprise Way  
Nottingham NG2 1EN  
Tel: +44 (0)115 983 3650

---

[geldards.com](http://geldards.com)

+44 (0)844 736 0006

@geldards

---