

Creating an
enabling
environment for
e-government
and the
protection of
privacy rights in
the Caribbean: A
review of data
protection
legislation for
alignment with
the GDPR



**Clouds in the
Caribbean Sky –
Data Sovereignty,
Security and Privacy
for Local Online
Services**

**16th Caribbean
Internet Governance
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RIGHT TO PRIVACY AND E-GOVERNMENT IN THE CARIBBEAN

- The right to privacy and the protection of personal data have taken on greater significance in the digital age
- Opportunities presented by digital government, especially in light of the COVID-19 pandemic
- Digital government relies on an enabling environment, including modern frameworks for both data protection and sharing

CARIBBEAN DATA PROTECTION AND SHARING FRAMEWORKS

- Data protection regimes in the Caribbean are in varying stages of development, with several countries having no relevant laws in place
- Other laws require revision for consistency with modern data protection and sharing principles
 - 15 countries and territories have data protection legislation
 - At least 13 Caribbean countries and territories have both data protection and freedom of information laws

THE EUROPEAN UNION'S GENERAL DATA PROTECTION REGULATION (GDPR)

Key features:

- Privacy by design and default
- General data protection principles
- Lawfulness of processing
- Consent
- Special protections for sensitive data
- Individual rights
- Data breach notifications
- Restrictions on international transfers
- Cooperation and mutual assistance
- Mechanisms to identify and minimize risks to personal data
- Financial penalties and right to compensation

- Applies to the 'controllers' and 'processors' of 'personal data'
- Extraterritorial scope

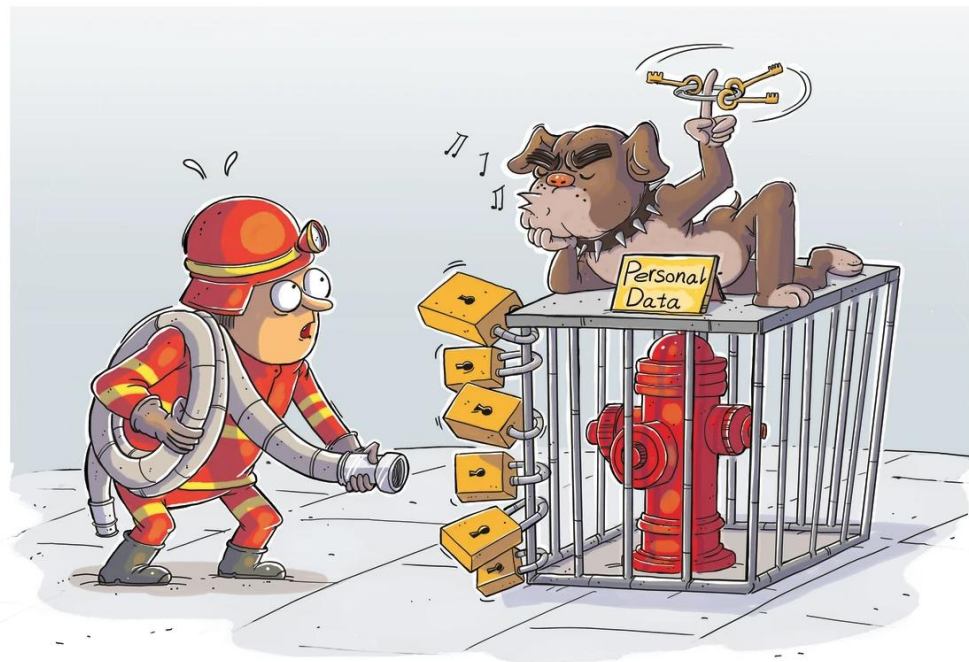
CROSS-BORDER DATA FLOWS

- Caribbean individuals, businesses and governments transfer massive amounts of personal data across borders each day
- Cloud service providers
- Invalidation of the EU–US Privacy Shield



DATA PROTECTION BY DESIGN AND DEFAULT

- Integrate or ‘bake in’ data protection into your processing activities and business practices, from the design stage right through the lifecycle
- Ensure that you only process the data that is necessary to achieve your specific purpose



PROVISIONAL REVIEW FINDINGS

- None of the laws were fully aligned with all elements of the GDPR
- All laws had one or more areas of substantial and partial alignment
- Three laws had at least one area of full alignment and several areas of substantial alignment
- All laws except one had at least one area of non-alignment
 - Most aligned areas: Fundamental principles, material scope and definitions, lawfulness of processing, supervision
 - Least aligned areas: Territorial scope, consent, breach notifications, data protection impact assessments, prior consultation procedure, data protection officers, cooperation and mutual assistance

PROVISIONAL FINDINGS

GDPR element	Antigua and Barbuda	The Bahamas	Barbados	Belize	Cayman Islands	Jamaica
Material scope and definitions	Partially aligned	Substantially aligned	Fully aligned	Partially aligned	Substantially aligned	Substantially aligned
Territorial scope	Not aligned	Partially aligned	Fully aligned	Partially aligned	Substantially aligned	Fully aligned
Fundamental principles relating to processing	Substantially aligned	Substantially aligned	Substantially aligned	Substantially aligned	Substantially aligned	Substantially aligned
Lawfulness of processing	Partially aligned	Not aligned	Fully aligned	Partially aligned	Substantially aligned	Fully aligned
Consent	Not aligned	Not aligned	Substantially aligned	Not aligned	Partially aligned	Substantially aligned
Special categories of personal data	Partially aligned	Partially aligned	Substantially aligned	Partially aligned	Substantially aligned	Substantially aligned
Individual rights	Partially aligned	Partially aligned	Fully aligned	Partially aligned	Partially aligned	Partially aligned
Obligations of data controllers	Partially aligned	Partially aligned	Substantially aligned	Partially aligned	Partially aligned	Substantially aligned
Obligations of data processors	Partially aligned	Partially aligned	Substantially aligned	Partially aligned	Partially aligned	Partially aligned
Data breach notifications	Not aligned	Not aligned	Fully aligned	Not aligned	Substantially aligned	Substantially aligned
Impact assessments and prior consultation	Not aligned	Not aligned	Fully aligned	Not aligned	Not aligned	Substantially aligned
Data protection officers	Not aligned	Not aligned	Fully aligned	Not aligned	Not aligned	Partially aligned
Codes of conduct and certification	Partially aligned	Partially aligned	Partially aligned	Partially aligned	Partially aligned	Substantially aligned
International transfers	Not aligned	Partially aligned	Substantially aligned	Not aligned	Fully aligned	Substantially aligned
Supervision	Partially aligned	Partially aligned	Substantially aligned	Partially aligned	Substantially aligned	Substantially aligned
Cooperation and mutual assistance	Not aligned	Not aligned	Not aligned	Not aligned	Partially aligned	Partially aligned
Remedies	Partially aligned	Not aligned	Partially aligned	Partially aligned	Partially aligned	Partially aligned
Specific processing situations	Substantially aligned	Not aligned	Substantially aligned	Partially aligned	Substantially aligned	Substantially aligned

HOW DO CARIBBEAN ORGANISATIONS STAND TO BENEFIT FROM GDPR COMPLIANCE?

1. Gaining trust of customers through securing personal data and ensuring data privacy
2. Avoiding financial penalties
3. Reducing risk of costly data breaches can attract investors and create competitive advantage
4. Facilitating secure cross-border data flows and international trade with major trading partners

THANK YOU!

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UNITED NATIONS

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