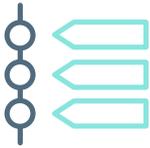


Issue 5 / January 2021

General Data Protection Regulation

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





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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 2020. 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=80 Fieldwork dates: 11 November to 13 December 2020. We are very grateful to all the survey participants for their valuable time and insights.



Executive Summary

As we begin a new year, Schrems II, Brexit, Covid-19 and remote working are just some of the issues organisations have to grapple with from a data protection and privacy perspective.

Our fifth annual survey about the ongoing impact of GDPR on businesses and operations in Ireland highlights a more positive sentiment in those surveyed with 80% of organisations saying they are materially or fully compliant with the Regulation, compared with 76% last year. This positive trend continues with 83% believing GDPR is beneficial for individuals, compared to 74% in the previous year. Other key findings include:

- three-quarters (75%) of organisations believe compliance with GDPR benefits organisations' relations with their employees, customers, and other stakeholders, up from 58% in 2019;
- senior managerial attention to the GDPR is growing. Over half (54%) say their CEO is strongly engaged in GDPR compliance and data privacy within their organisations, up 10% from last year's survey;
- nearly half of respondents (46%) were concerned about the prospect of being fined for GDPR non-compliance;
- over a third (34%) were most worried about receiving a GDPR fine by a supervisory authority, followed by 31% who were most concerned about a data protection action taken by an individual data subject, and 25% who were concerned by other enforcement actions by data protection authorities. Organisations continue to perceive security obligations and personal data breach notification obligations as the main areas of concern from an enforcement perspective; and
- less than three-quarters of organisations (72%) say they are carrying out security reviews and audits concerning data protection.

Accountability Principle

There are areas where accountability may need to be strengthened, e.g.:

- while 94% of organisations have data processing agreements in place for transferring personal data, only 51% conduct risk assessment on third parties, 36% request third parties to respond to compliance questionnaires and 31% conduct audits of third parties;
- while 90% of organisations complete DPIAs only 67% have built data protection into the change process; and
- only 50% of organisations create and review documented legitimate interests assessments.

Covid-19, Brexit, Cookie Compliance and Certification

- Most respondents (80%) believe that large-scale remote working during the Covid-19 has created additional risks for GDPR compliance.
- While only around half (55%) have implemented new procedures or policies to manage remote working our findings show the majority (84%) educated their staff about the risks to personal data while working remotely and updated their employees' knowledge of the basic principles of dealing with information, specifying the minimum-security requirements.
- Many organisations changed processing as a result of Covid-19, however there are red flags on the GDPR compliance of the new processes as only 45% updated the privacy notice, 36%, conducted a DPIA and 30% updated the record of processing activity.
- Over three quarters (78%) established procedures and communications channels with employees when reporting personal data breaches.
- The majority of respondents (85%) have implemented return to work questionnaires. In comparison, just over half (51%) eliminated the use of free communications tools or popular messengers by their employees that do not provide adequate data protection, while working from home.
- Irish companies were prepared from a privacy perspective for a no-deal Brexit scenario with only 15% saying they had not taken any steps to address transfers of personal data to the UK on the transition period's expiry.
- In contrast, just half (55%) were very confident or somewhat confident their organisation is compliant with international transfer requirements (Schrems II). With data subjects, representative bodies, the Irish DPC and other data protection authorities taking actions to respond to the judgement and the anticipated publication of new SCCs, this is an area that will require focus for organisations in 2021 and beyond.
- To address the Data Protection Commission's October 2020 deadline and bring the use of cookies into compliance with its guidelines, 59% implemented a cookies consent management tool, 51% updated their cookies policy, and 44% changed the wording on their cookies consent banner.

Key Contributors



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Overview of the Numbers

80%

say they are materially or fully compliant with the Regulation



83%

believe GDPR is beneficial for individuals



75%

believe compliance with GDPR benefits organisations' relations with their employees, customers, and other stakeholders



54%

say their CEO is strongly engaged in GDPR compliance and data privacy



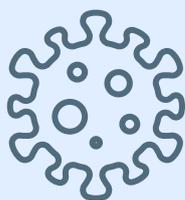
46%

are worried about receiving a GDPR fine by a supervisory authority



84%

educated their staff about the risks to personal data while working remotely



80%

believe that Covid-19 has created additional risks for GDPR compliance



Only

15%

did not take any steps to address post-Brexit transfers of personal data to the UK

Results





● 2020
● 2019

Compliance with the GDPR

Thinking in Overview

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

2020

Fully Compliant
 13%

Materially Compliant
 67%

Somewhat Compliant
 17%

Not Very Compliant
 3%

Not at all Compliant
 0%

2019

Fully Compliant
 8%

Materially Compliant
 68%

Somewhat Compliant
 24%

Not Very Compliant
 0%

Not at all Compliant
 0%

80% of organisations saying they are materially or fully compliant with the Regulation, compared with 76% last year

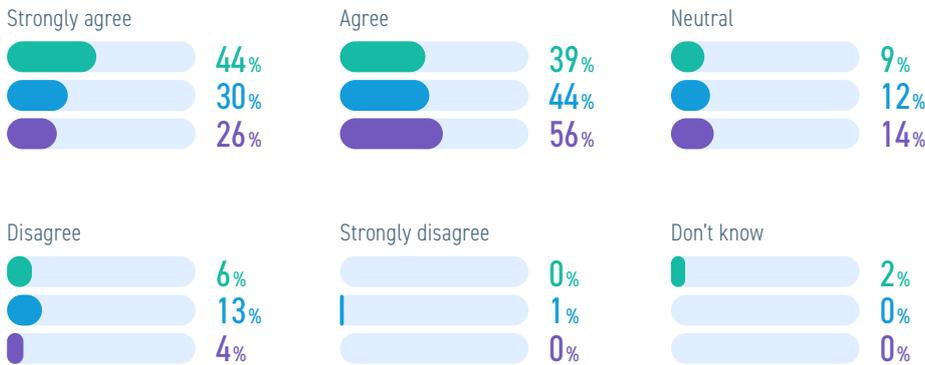


- 2020
- 2019
- 2018

Attitudes to the GDPR

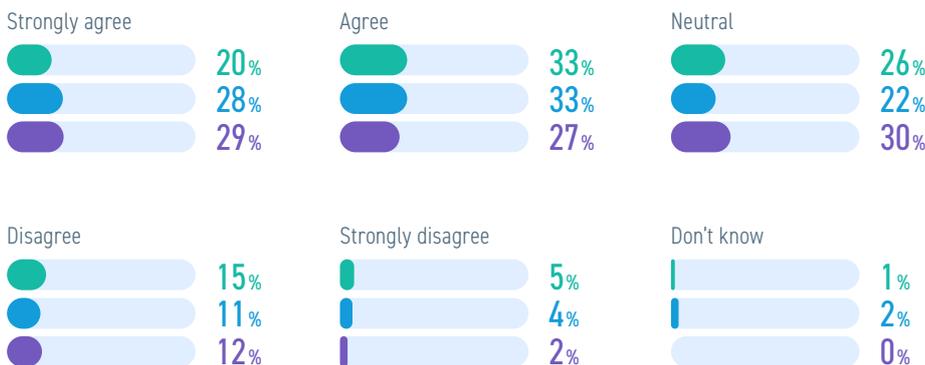
Beneficial for Individuals

GDPR is beneficial for individuals



Administrative Burden

Compliance with GDPR places an excessive administrative burden on organisations





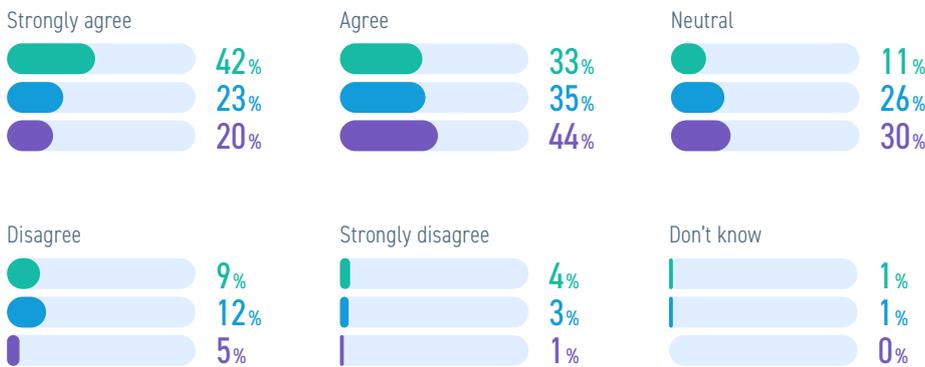
- 2020
- 2019
- 2018

Attitudes to the GDPR

(continued)

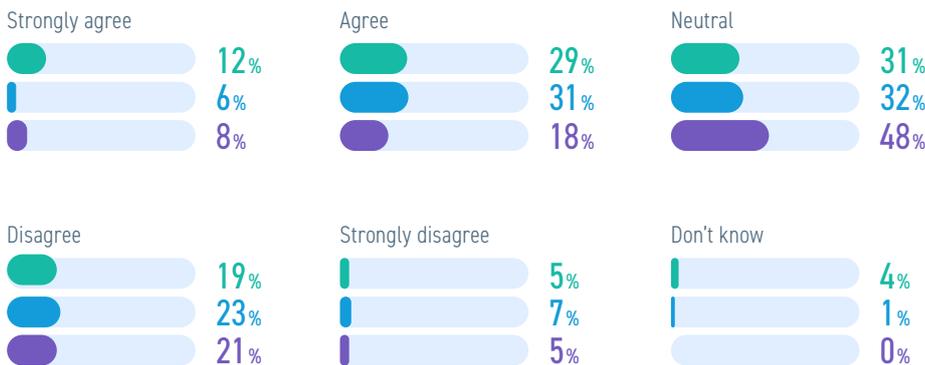
Beneficial in the long term

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





● 2020

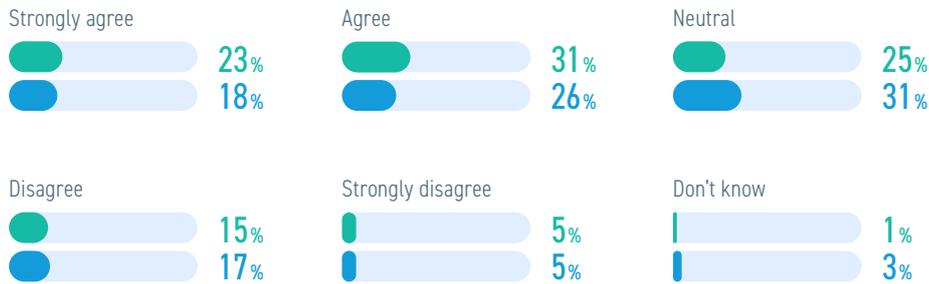
● 2019

Attitudes to the GDPR

(continued)

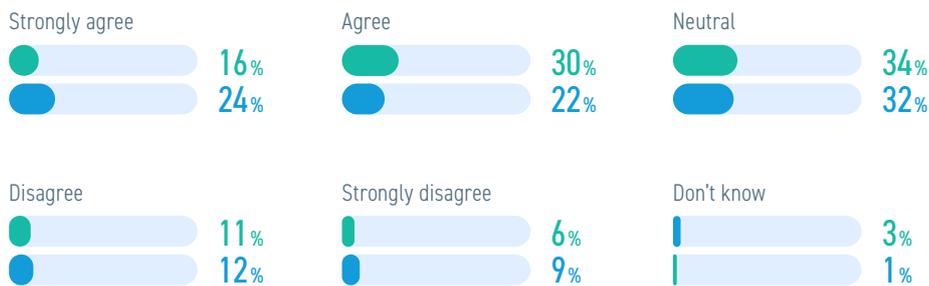
Our CEO is strongly engaged with GDPR

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





- 2020
- 2019
- 2018

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 Highest to Lowest

2020



2019



2018



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

Most concerned in 2020

Which of the following are you most concerned about?



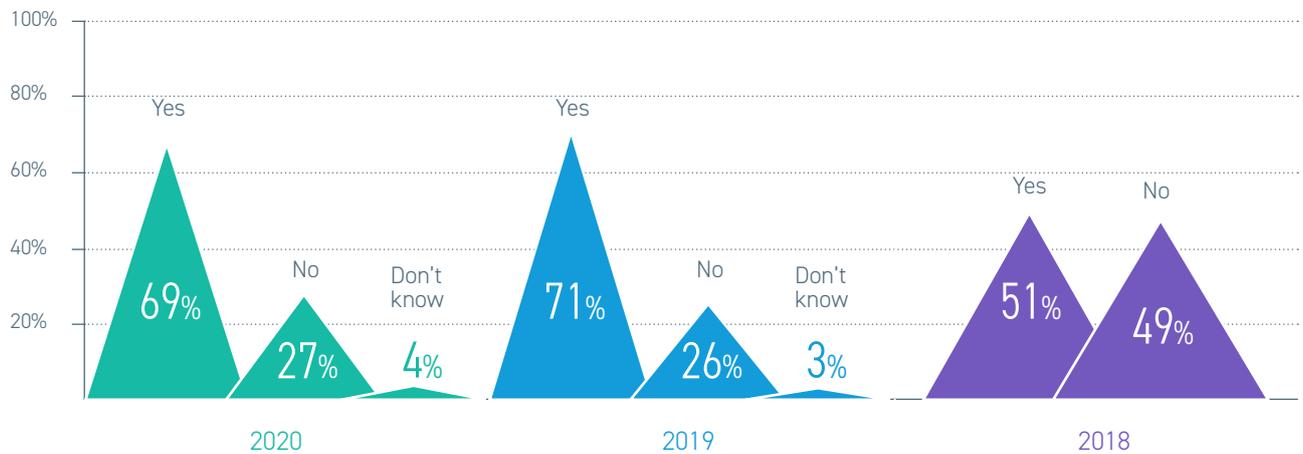


- 2020
- 2019
- 2018

Data Breach Reporting

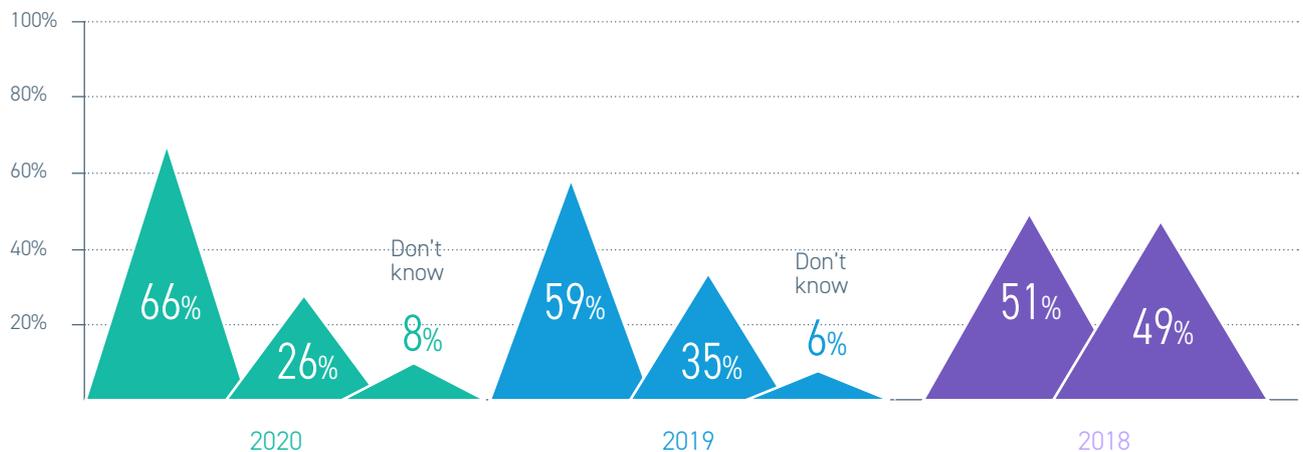
Reported a personal data breach to authority

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

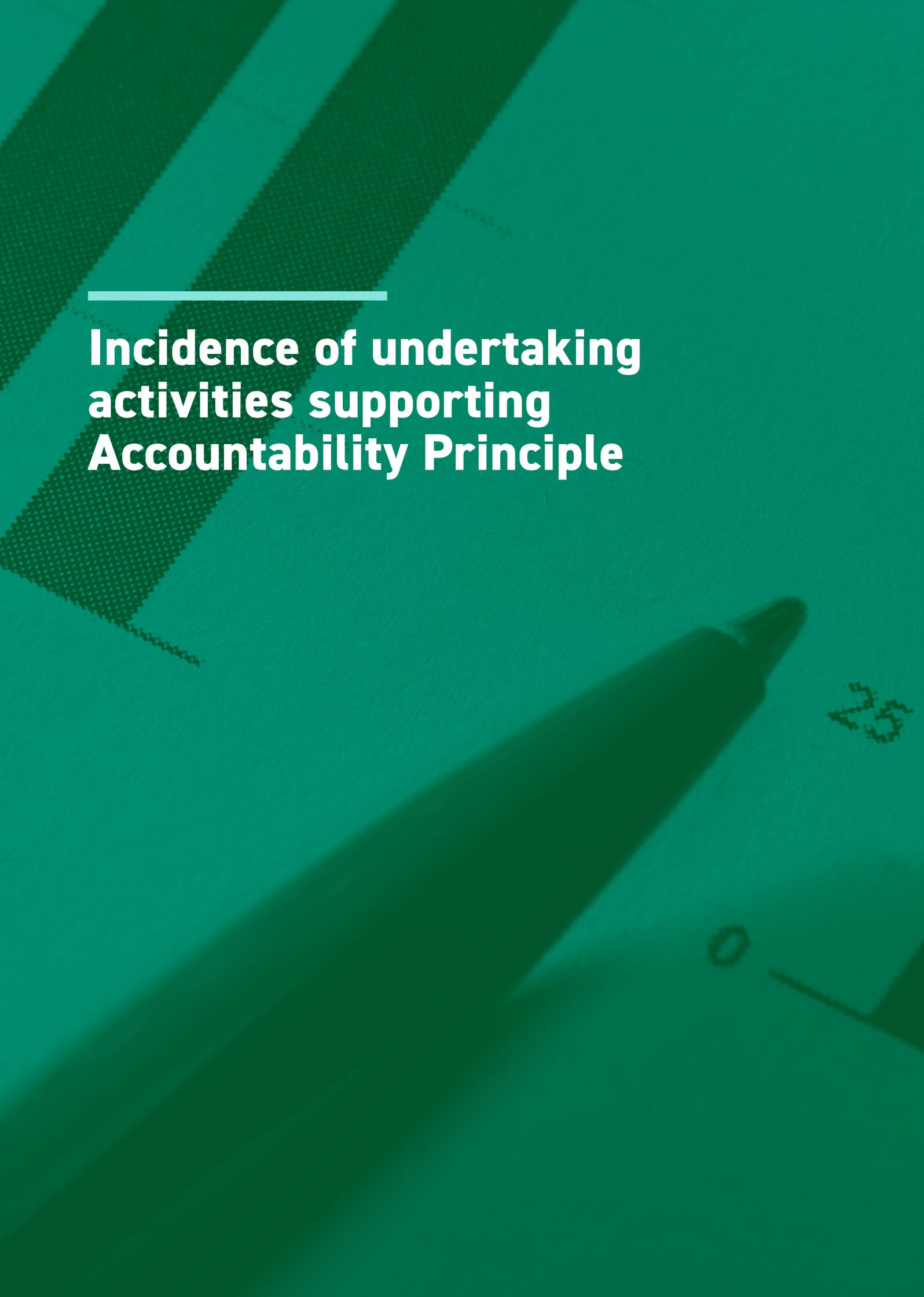


Reported a personal data breach to affected data subjects

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



Incidence of undertaking activities supporting Accountability Principle





● 2020

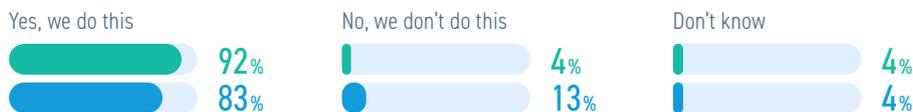
● 2019

Incidence of undertaking activities supporting Accountability Principle

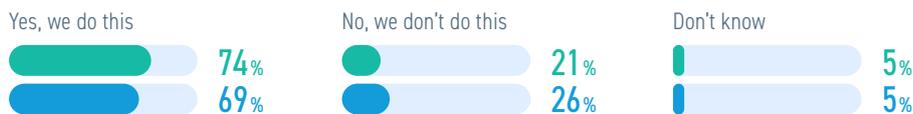
Development and Maintenance of Required Documentation

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

Periodic review of policies, procedures and privacy notice



Periodic review of records of processing activity



Maintain a repository for all documentation



Clear Roles and Responsibilities

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

Staff training



Internal roles and responsibilities for Data Protection





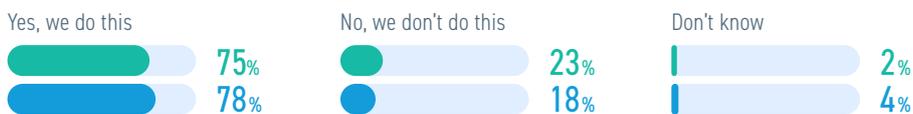
● 2020

● 2019

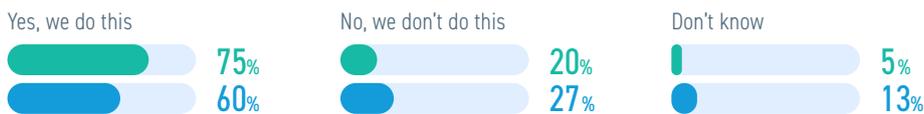
Incidence of undertaking activities supporting Accountability Principle (continued)

Clear Roles and Responsibilities (continued)

DPO appointment



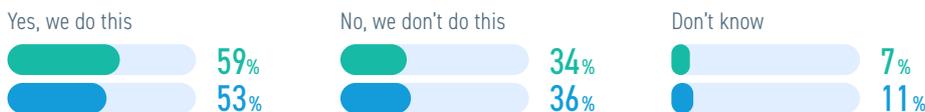
Data protection part of the management /executive meeting agenda



Data protection champions appointed



Mock phishing



Data protection audits



Data protection forum





● 2020

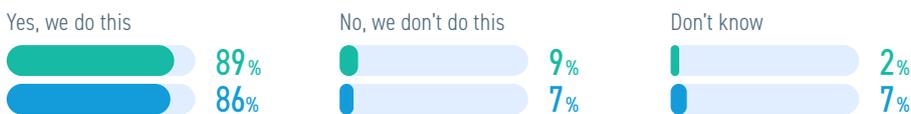
● 2019

Incidence of undertaking activities supporting Accountability Principle (continued)

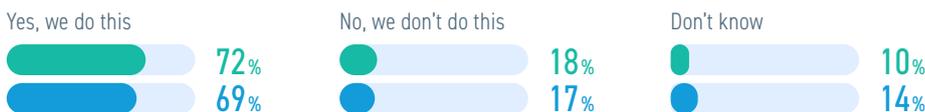
Tracking Events and Decisions

And thinking about tracking events and decisions

Maintenance of a personal data breach log



Maintenance of data subject rights invoked log



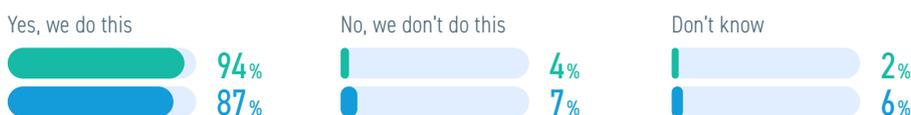
Creation and review of legitimate interest assessments



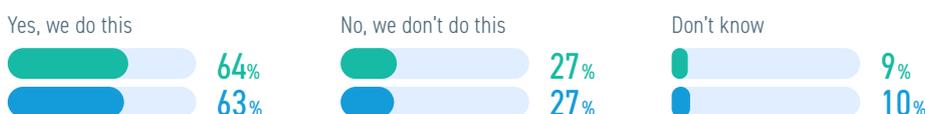
Third Parties in Managing Risks

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

Processor agreements



Controller to Controller agreements





● 2020

● 2019

Incidence of undertaking activities supporting Accountability Principle (continued)

Third Parties in Managing Risks (continued)

3rd party risk assessment process



Joint controller agreements



3rd party questionnaires attesting to compliance



3rd party audits or independent reviews





● 2020

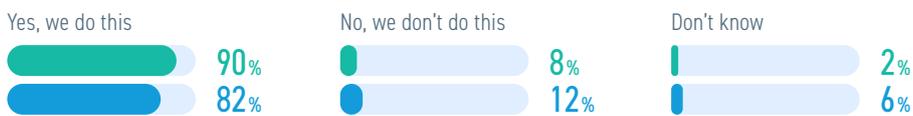
● 2019

Incidence of undertaking activities supporting Accountability Principle (continued)

Tools to Manage Changes in Organisations

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

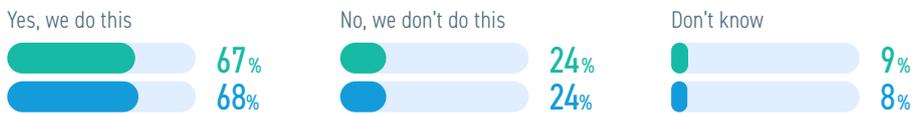
Data Protection Impact Assessment (DPIA)



Security audits or reviews



Data protection built into change processes



Covid-19, Brexit, and Cookie compliance responses

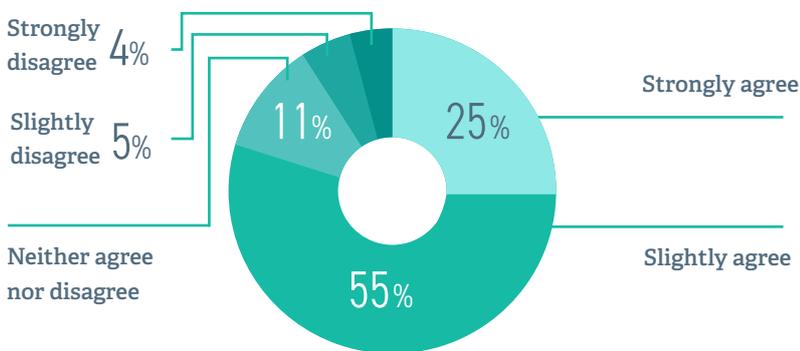


● 2020

Covid-19 and the Workplace

Risk of remote working

Do you agree or disagree that increased remote working has created additional risks for GDPR compliance?



Actions to deal with remote working challenges

What practical changes has your business implemented or does your business plan to implement to deal with the GDPR challenges of remote working and blended working?

■ Implemented
 ■ Planning to implement in the next 3 months
 ■ No plans to implement

Educating staff about the risks to personal data while working remotely



Updating employees' knowledge of the basic principles of dealing with information, specifying the minimum-security requirements



Establishing procedures and communications channels with employees when reporting personal data breaches



Advising employees which communication channels (messaging, platforms, etc.) are appropriate for business use



Implementing new remote working policies & procedures about the protection of personal data



Eliminating use of free tools or popular messengers which do not provide adequate data protection





● 2020

Covid-19 and the Workplace

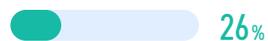
Covid-19 related actions

Has your organisation implemented any of the following?

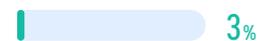
Return to work questionnaire



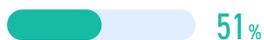
Temperature screening



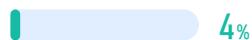
Mandatory Covid-19 testing



Systems for recording close contact interactions in the workplace



Voluntary Covid-19 testing



None of the above



Covid implementations – other actions

If you answered yes to any of the above Covid-19 related actions, did you take any of the following steps?

Implemented or updated privacy notice



Updated Article 30 records of processing activities



Undertook DPIA



Undertook legitimate interests assessment





● 2020

Brexit Preparedness

Steps for Brexit

Which of the following steps have you taken in relation to Brexit (tick all that apply)?

We have identified all transfers of personal data to the UK and have attempted to put standard contractual clauses in place with all relevant processors and controllers, but this process is incomplete



49%

We have designated the DPC, or another supervisory authority, as our lead supervisory authority in connection with our organisation's Binding Corporate Rules



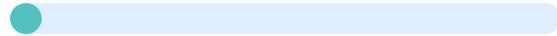
1%

We have put standard contractual clauses in place with all relevant processors and controllers



24%

Other



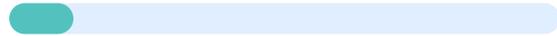
4%

We have not taken any steps to address transfers of personal data to the UK on the expiry of the transition period



15%

Don't know



8%

We have identified all transfers of personal data to the UK, but we have not taken steps to put in place standard contractual clauses



13%

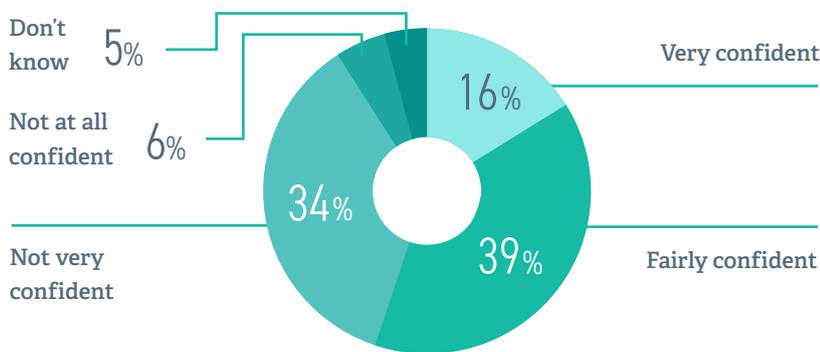


● 2020

International Transfers – Schrems II

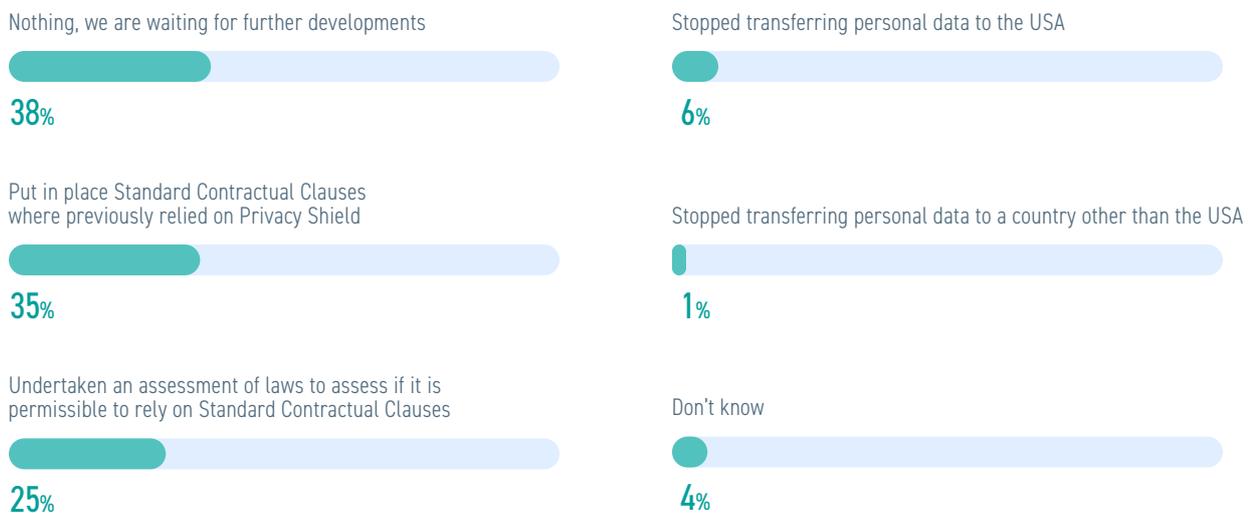
Compliance with international transfer requirements (Schrems II)

Taking into account the recent decision of the Court of Justice of the European Union (CJEU) in the Schrems II case, which struck down Privacy Shield and introduced new requirements when relying on standard contractual clauses, how confident are you that your organisation is compliant with GDPR requirements regarding international transfers?



Steps taken in relation to Schrems II case

What steps has your organisation taken in relation to the Schrems II case (tick all that apply)?





● 2020

Cookie Compliance and Certification

Cookie compliance

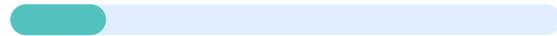
Which of the following steps did you take in relation to the Data Protection Commission's deadline of 5 October 2020 to bring the use of cookies into compliance with its guidelines?

Implemented a cookies consent management tool



59%

Stopped using certain cookies



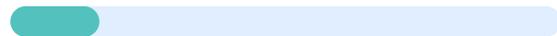
16%

Updated our cookies policy



51%

Implemented an "Accept All" button as the default option, and required a further click to change granular settings



14%

Changed the wording on our cookies consent banner



44%

Nothing, we were already in compliance



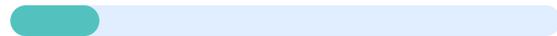
6%

Removed the use of pre-ticked boxes



24%

Don't know



14%



● 2020

GDPR certification under article 42

With regards to achieving GDPR certification under article 42 what is your organisations view?



Profile of Respondents



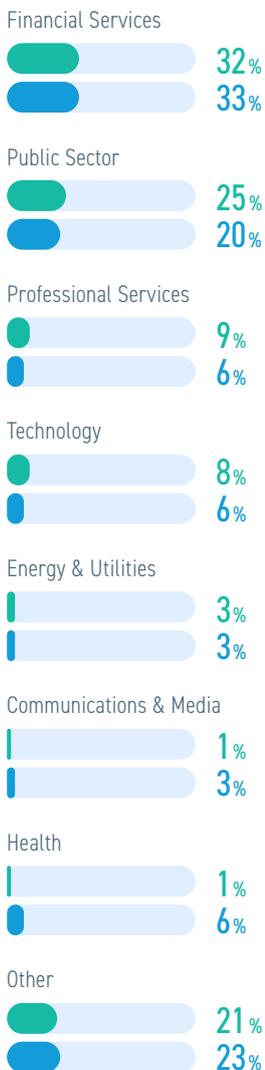


● 2020
● 2019

Profile of Respondents

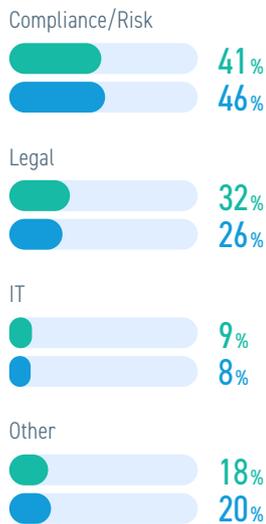
Industry

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



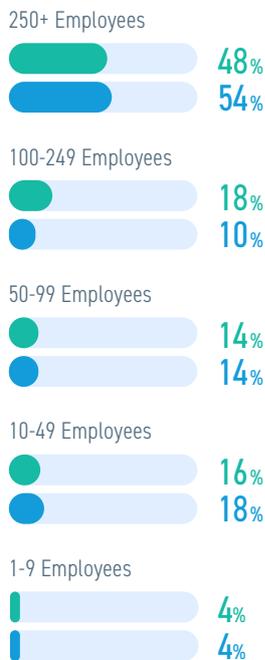
Function

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



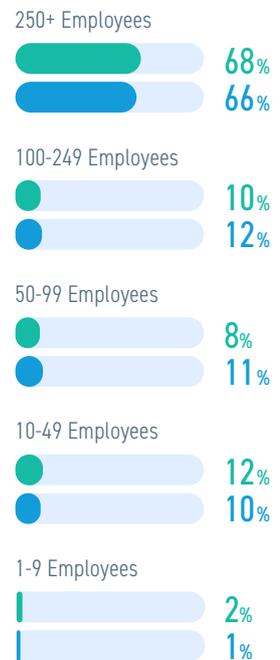
Number of Employees (Ireland)

How many people are employed in your organisation in Ireland?

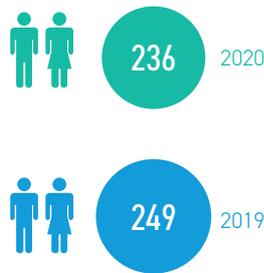


Number of Employees (Worldwide)

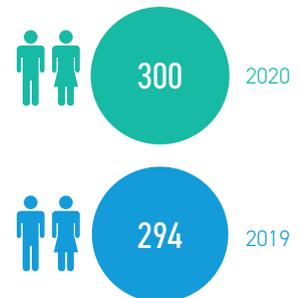
How many people are employed in your organisation in Ireland?



Average number of Employees



Average number of Employees



Other: Not for Profit, Food, Education, Aviation, Real Estate, Construction etc.



● 2020

● 2019

Profile of Respondents

(continued)

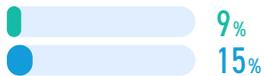
Number of Employees with GDPR Function

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

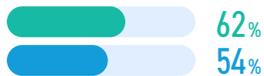
10+ Employees



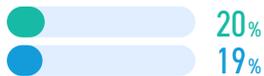
6-10 Employees



2-5 Employees



Only 1 Employee



Average number of Employees





Key Contacts

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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.

Mazars in Ireland

Mazars is an internationally integrated partnership, specialising in audit, accountancy, advisory and tax 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 over 90 countries, including Ireland and overall, we draw on the expertise of 40,400 professionals - 24,400 in Mazars' integrated partnership and 16,000 via the Mazars North America Alliance.

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About McCann FitzGerald

With almost 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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