

EUROPEAN COMPLIANCE SUITE

EU AI Act Compliance Evidence Templates

EXPLANATORY NOTICE AND TEMPLATE

UK–EU divergence map — where the UK and EU digital-compliance positions differ, and which document governs which market

Template reference	ECS-UK-DIVERGENCE
Version	1.0
Edition	July 2026
Regimes covered	UK GDPR and DPA 2018 as amended by the Data (Use and Access) Act 2025; PECR; the PSTI regime — against their EU counterparts (EU GDPR, ePrivacy, the Cyber Resilience Act)
Intended user	Organisations operating in both the UK and EU markets, or moving between them
Position in the pack	Entry document. Read first; it shows which of the other documents governs which market and where the two diverge
Associated templates	ECS-UK-ROPA — records of processing; ECS-UK-DPIA — impact assessment; ECS-UK-ACCOUNTABILITY — ICO accountability; ECS-UK-PECR — marketing and cookies; ECS-UK-REP — UK representative; ECS-UK-PSTI — connectable-product security

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1. Purpose and context

- (1) For several years after Brexit, an organisation could run one set of data-protection documentation and treat the UK and EU regimes as effectively interchangeable. That is no longer safe. The UK has diverged deliberately and in specific, documented ways, and the divergence now touches the exact artefacts that compliance documentation is made of — the records of processing, the impact assessments, the lawful-basis analysis, the cookie and marketing records. An organisation running a single EU-shaped file for both markets is now, in the common case, wrong in one of them. This document maps where the two regimes differ and which document in this pack governs which market, so that the divergence is managed deliberately rather than discovered in an audit.
- (2) The three axes of divergence this pack addresses are distinct. In data protection, the Data (Use and Access) Act 2025 amended the UK GDPR and the Data Protection Act 2018 — not replacing them, but changing lawful bases, automated decision-making, subject-access, cookies and the complaints procedure in ways that make the UK position materially different from the EU GDPR. In electronic marketing, the UK continues to apply PECR, itself now amended by the DUAA, rather than moving in step with the EU's ePrivacy reform. And in connectable-product security, the UK's PSTI regime has applied since April 2024 and sits alongside — not inside — the EU's Cyber Resilience Act, with different requirements, different timing and a different enforcement authority.
- (3) The practical value of a divergence map is that it turns “we comply with GDPR” from a false comfort into a set of specific, checkable questions. For each area where the regimes differ, the map records the UK position, the EU position, and — crucially — which document the organisation relies on for which market. Some documents serve both markets with a divergence noted; some are UK-only; some have an EU twin held elsewhere. Recording this explicitly is what stops the single-file error, and it is the thing a UK organisation with EU exposure, or an EU organisation selling into the UK, most needs and most often lacks.

THE SHAPE OF THE DIVERGENCE

Data protection.

The UK GDPR and the Data Protection Act 2018 remain the framework, but the Data (Use and Access) Act 2025 amended them. The main data-protection provisions came into force on 5 February 2026, with the new complaints-handling duty following on 19 June 2026. The EU GDPR is unchanged. The two texts, once near-identical, now diverge on recognised legitimate interests, automated decision-making, subject-access searches, and complaints.

Electronic marketing.

The UK applies the Privacy and Electronic Communications Regulations (PECR), as amended by the DUAA — including a new exemption from the cookie-consent requirement for certain low-risk analytics and functionality cookies. The EU position sits under the ePrivacy regime. Marketing and cookie documentation drawn for one market does not automatically hold for the other.

Connectable-product security.

The UK PSTI regime has applied to consumer connectable products since 29 April 2024, enforced by the Office for Product Safety and Standards. The EU Cyber Resilience Act applies on a different timetable and to a broader class of products, enforced differently. A product sold in both markets needs both, and they are not the same document.

2. How to use the map

- (4) The organisation works through the divergence table below, and for each area records which market it operates in, which document it relies on, and what the divergence means for it in practice. Where the organisation operates in both markets, the map is where it decides — deliberately — whether to run a single document with the divergence flagged inside it, or two separate documents. Neither choice is always right: a single flagged document is simpler to maintain but risks blurring the two positions; two documents are cleaner but double the upkeep. The map records the choice and the reason, so it is defensible.

3. The divergence table — data protection

- (5) The DUAA changes that most affect documentation are set out below. Each is a point where a UK document must now say something different from its EU equivalent.

Area	UK position (post-DUAA)	EU position
Recognised legitimate interests	New lawful basis (Sch. 4): listed activities need no balancing test / LIA	Legitimate interests always require a balancing test
Automated decision-making	Arts. 22A–22D: permission-plus-safeguards model	Art. 22: general prohibition with narrow exceptions
Subject access	Art. 12A / s.78: "reasonable and proportionate" search; revised time calculation	Full search; one-month baseline
Complaints	s.164A: electronic complaints form, 30-day acknowledgement; Art. 77 direct-to-ICO right removed as first step	Art. 77: direct right to lodge a complaint with the supervisory authority
Cookies	s.112: certain analytics / functionality cookies exempt from prior consent	ePrivacy: consent for non-essential cookies

4. The divergence table — marketing and product security

Area	UK position	EU position
Electronic marketing	PECR (as amended by DUAA); ICO enforcement	ePrivacy regime
Cookie consent	PECR + DUAA s.112 analytics/functionality exemption	Consent for non-essential cookies
Connectable-product security	PSTI regime, since 29 Apr 2024; OPSS enforcement; 3 Schedule 1 requirements + statement of compliance	Cyber Resilience Act; different timetable and product scope
Representative	UK representative where established outside the UK (Art. 27 UK GDPR)	EU representative where established outside the EU (Art. 27 EU GDPR)

5. Which document governs which market

- (6) The pack is built so that each document either serves a single market or serves both with the divergence flagged inside it. The records of processing, the DPIA and the accountability documentation are UK-market documents built to the post-DUAA position; where the organisation also operates in the EU, its EU equivalents are held separately (for example in the European Digital Compliance Suite), and the divergence map records the relationship. The PECR record and the PSTI statement are UK-only — they have EU counterparts (ePrivacy, the CRA) that are different documents, not translations. The UK representative appointment is the mirror of the EU representative appointment and applies when the direction of establishment is reversed. The annex below records, for the organisation, which document it relies on for which market.

6. Keeping the map current

- (7) UK divergence is not finished. DUAA provisions continue to commence, ICO guidance on the new provisions is still being published, and the EU regimes evolve on their own track. The map is reviewed when a further DUAA provision commences, when relevant ICO or OPSS guidance is published, when the EU position changes, and in any event periodically. A map that is accurate as at a date is useful; one presumed still accurate a year later is a liability.

Annex

UK–EU divergence map — organisation record

Map version	<i>Version identifier, with references to earlier versions where applicable.</i>
Last updated	<i>DD.MM.YYYY</i>
Prepared by	<i>Name, function and role.</i>
Markets of operation	<i>UK only / EU only / both. If both, the map governs how the documents are split.</i>
Law verified on	<i>Date the positions were checked against the current UK and EU law and guidance.</i>

1. Market and document allocation

For each area, record the market(s) and which document is relied on. Note single-flagged-document vs two-document choice and why.

Area	Market(s)	Document relied on	Single or split?
UK GDPR records of processing			
DPIA			
ICO accountability / complaints			
Marketing and cookies (PECR)			
Representative appointment			
Connectable-product security (PSTI)			

2. Divergence notes for this organisation

For each material divergence, what it means in practice here.

Divergence	What it means for us	Action

3. Review

Review triggers	<i>Further DUAA commencement; new ICO/OPSS guidance; EU-side change.</i>
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Next review	<i>DD.MM.YYYY</i>
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4. Version history

Version	Date	Nature of change or review	Approved by