

Questions to Ask a Software Vendor

Before you put client data into somebody else's system. Useful for any new platform, and the kind of due diligence a regulated profession is generally expected to be able to show.

This is a starting point, not legal advice. Brevity.Tech is not a law firm. If the data is sensitive or you are in a regulated profession, have your usual adviser review the vendor terms as well.

Vendor: _____ **Product:** _____ **Date:** _____

Where the data lives

- ☐ In which country is our data stored?
- ☐ Is it ever processed or accessed from outside that country, including for support?
- ☐ Do you use subcontractors or cloud providers, and where are they?
- ☐ Can we choose a Canadian region?

Worth knowing: there is **no general legal requirement** for a BC private-sector business to store data in Canada. The residency rules people half-remember applied to the public sector under FIPPA and were relaxed in 2021. Ask anyway, because your clients and your professional body may care, and because it affects whose courts can compel access to it.

Access and protection

- ☐ Is data encrypted in transit and at rest?
- ☐ Do you support multi-factor authentication, and can we enforce it for all users?
- ☐ Can we set different permission levels rather than everyone having everything?
- ☐ Which of your staff can access our data, and under what circumstances?
- ☐ Do you keep audit logs of access, and can we see them?

Continuity

- ☐ What is your backup arrangement, and what is the recovery commitment?
- ☐ What happens to our data if we stop being a customer?
- ☐ Can we export everything in a usable format, and at what cost?
- ☐ What notice do you give of a service being discontinued?

Incidents

- ☐ Will you notify us of a breach affecting our data, and how quickly?
- ☐ Have you had a security incident in the last two years?
- ☐ Do you hold any certification, and can we see the current report?

Contract

- ☐ Is there a Data Processing Agreement?
- ☐ Does it confirm we retain control of our own data, and that you use it only on our instructions and for our purposes? (Canadian law turns on custody, control and accountability rather than the European controller and processor language)
- ☐ Are we notified before terms change?

If you are in a regulated profession

Your obligations follow the data. A vendor answering vaguely on residency and access is a vendor you will struggle to defend later. Ask in writing and keep the answers.

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