



Department for  
Digital, Culture  
Media & Sport

# Using personal data in your business after the end of the transition period

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# Legal framework

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- The EU General Data Protection Regulation (GDPR) requires organisations to be accountable for the personal data they hold.
- Personal data is any information that can be used to identify a living person, including names, addresses and HR data such as payroll details.
- GDPR will be retained in UK law after the end of the transition period alongside the Data Protection Act 2018.



# Data adequacy

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- Where the European Commission recognises that a third country's data protection regime provides adequate protection, personal data is allowed to flow freely between the European Economic Area (which includes the EU) and the third country.
- In the absence of a determination of adequacy, businesses and organisations must have alternative transfer mechanisms in place to keep data flowing lawfully from the EEA.
- The UK is working with the EU to secure adequacy decisions.
- There are currently no changes to the way you send personal data to the EU.



# Take Action

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- With just weeks to go, the EU has yet to make a decision as to whether they accept that the UK's data protection regime is still adequate.
- If you receive personal data from the EU/EEA, prepare now to keep data flowing lawfully from 1 January 2021, whatever the EU decides.



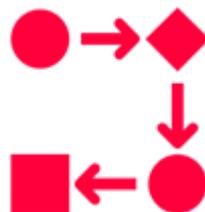
# Steps your business needs to take

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You should take stock of the personal data you hold prior to January 2021.



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If you receive data from the EU/EEA, you should map your data flows and put in place alternative transfer mechanisms with any relevant EU/EEA organisations.



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You can put in place safeguards by incorporating standard contractual clauses. Search 'keep data flowing' on the ICO's website for more help.

# Personal data provisions in the Withdrawal Agreement

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- Without adequacy decisions in place, the personal data protection provisions of the Withdrawal Agreement will come into effect. These require certain 'legacy' personal data you may hold to be protected in line with EU data law (in its end of transition period state).
- Legacy data comprises personal data of individuals outside the UK (whether in the EEA or not) processed in the UK before the end of the transition period or subsequently on the basis of the Withdrawal Agreement.
- You will need to familiarise yourself with these requirements to ensure you are in a position to comply.



# EU Representatives

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Act as a point of contact for the Lead Supervisor Authority and the Data subjects. They need to be established in the EEA members state where your data subjects are based.

You **will need** to appoint an EU Representative if you are:

- You do not have a branch, office or establishment within the EEA, and are:
  - Offering goods and services in the EEA, or
  - Monitoring behaviour in the EEA

You **will not need** an EU Representative however if:

- You have a branch, office or establishment within the EEA
- You are a public authority
- Your processing is occasional and low risk to data protection rights of individuals and doesn't involve the large scale use of special category or criminal offence data



## Further guidance

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- Visit the [GOV.UK guidance](#) on using personal data in your business or other organisation after the transition period.
- Visit the [ICO guidance](#), including an interactive SCC tool, or call the helpline on 0303 123 1113.