

Data protection – No deal Brexit

This information is meant for guidance only. You should consider whether you need separate professional advice before making specific preparations.

There will be no immediate change in the UK’s own data protection standards as the Data Protection Act 2018 will remain in place and the EU Withdrawal Act incorporates the GDPR into UK law to sit alongside it.

UK firms will be able to continue to send personal data from the UK to the EU.

However, the legal framework for the transfer of personal data from organisations (or subsidiaries) based in the EU to organisations in the UK would change on exit.

Energy companies all manage personal data, whether customer or employee data. They will therefore need to assess whether they need to take action. Several Energy UK members have identified both customer and employee data that would be affected by the UK leaving the EU without an adequacy decision from the EU where EU Member States would not be able to send data to the UK unless some contracts and clauses were in place.

UK businesses needing to receive personal data from the EU (including data centres) should consider assisting their EU partners in identifying a legal basis for those transfers. For the majority of organisations the most relevant alternative legal basis would be standard contractual clauses. These are model data protection clauses that have been approved by the European Commission and enable the free flow of personal data when embedded in a contract. In certain circumstances, EU firms may alternatively be able to rely on a derogation to transfer personal data.

Things to consider

UK companies should use the information provided by the [Information Commissioner's Office \(ICO\)](#) including the [six step process](#).

UN companies need to ensure they are GDPR compliant.

Energy companies relying on third parties to access personal data from the EU must speak to these parties to ensure they follow the advice set out by the ICO to be able to receive data from the EU.

<p>Send personal data to organisations based in the EU</p>	<p>No action required, no changes</p>
<p>Receiving personal data from organisations based in the EU</p>	<p>UK firms need to talk to EU companies they received data from or their EU parent companies to agree a new legal basis for the exchange of data. Both parties should review their contracts and include new standard contractual clauses (SCC).</p> <p>There are alternatives to SCCs such as:</p> <ul style="list-style-type: none"> - Codes of Conduct and Certification Mechanisms - although they are not really in place at the moment. - Derogations: If there is no adequacy decision or appropriate safeguards, a business could use a derogation (e.g. explicit consent). But these mainly relate to transfers that are occasional and non-repetitive and must be interpreted restrictively. - Binding Corporate Rules (BCRs) (see below)

Exchanging personal data with your group (UK and EU based)	UK firms with an EU parent company or the other way round will need to agree a new legal basis for the exchange of data within the group. Standard contractual clauses are the most straight forward way. Binding Corporate Rules (BCRs) can also be use as these are personal data protection policies adhered to by group of undertakings (i.e. multinationals) in order to provide appropriate safeguards for transfers of personal data within the group, including outside of the EEA.
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Relevant documents/information

[ICO – Data protection and Brexit](#)

[Data protection if there's no Brexit deal](#)

[Do I need to use standard contractual clauses \(SCCs\) for transfers from the EEA to the UK \(if we leave the EU with no deal\)?](#)

[Model Contract Clauses International transfers of personal data \(ICO\)](#)

[Data protection: Rules for the protection of personal data inside and outside the EU.](#)

[Standard contractual clauses for the transfer of personal data from the Community to third countries \(controller to controller transfers\)](#)

[Standard contractual clauses \(processors\)](#)

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