

## Frequently asked questions on Data Protection in a no deal EU Exit

### What will change when the UK leaves the EU?

If the UK leaves the EU without a deal, there will be no immediate change in the UK's own data protection standards. The UK would continue to allow the free flow of personal data from the UK to the European Economic Area (EEA). However, you will need to take action to ensure EEA organisations are able to continue to send you personal data.

### What has been done nationally about this?

NHS Digital, in partnership with DHSC has engaged with the national GP Principal Suppliers and also the major subsidiary suppliers under [GP System of Choice Lot 1](#) to review EU Exit planning. This work has not identified any significant issues related to data flows. GP practices do not need to engage with these national software providers. If GP practices have any separate local agreements, they would need to review these. Dentists community pharmacists and optometrists should investigate their reliance on transfers of personal data from the EU/EEA to the UK.

### What are the implications for sharing personal data if the UK leaves the EU without a deal, and how can we prepare?

There are preparations you can undertake now in readiness for leaving the EU. Guidance is available on the ICO website [here](#).

### Does my organisation need to do anything now?

It is important for all organisations, as a priority, to review any flows of personal data to assess whether these would be impacted by EU Exit.

### Which data flows will be affected?

Outbound personal data flows (from the UK to the EEA) will continue undisrupted in a no deal scenario.

Inbound personal data flows (from the EEA to UK) may be affected, as data controllers and data processors within EEA jurisdictions are restricted from sharing personal data in the absence of appropriate safeguards described below.

Any flows of personal data between a data processor based in the EEA and the UK should not be disrupted. However, you should check with your data storage suppliers that there will be no disruption to these flows post exit.

### What appropriate safeguards can be used?

If you are a public authority or body and you are transferring personal data to another public authority or body within the EEA, a legally binding and enforceable instrument or Standard Contractual Clause (SCC) may be an appropriate safeguard for the transfer.

For data transfers from public bodies to private organisations SCCs are likely to be appropriate safeguards. For more information on appropriate safeguards please see the links below:

- [Six steps](#)
- [Detailed guidance](#)
- [Guidance on SCCs](#)

### **How do I put these in place?**

SCCs are pre-approved by the European Commission and can be inserted into new, or existing, agreements to provide a legal basis for transferring personal data from the EEA to a non-adequate third country. Further advice and guidance on SCCs is available on the [ICO website](#). This includes an [interactive tool](#) to help businesses understand and complete SCCs for personal data transfers. Please make sure to check all final products with your own legal team.

### **If a patient from the EU leaves a primary care practice to return to their EEA country of origin, what would happen to the data held on our clinical systems?**

The flow of data from a UK primary care practice to the patient's EEA country of origin will not be restricted. EU patient data should be kept on UK clinical systems in line with retention and disposal schedules, please see [Record Management Code of Practice](#) for further details. It is the patient's responsibility to make a subject access request if they wish to obtain a copy of their medical record to take with them when they return to their home nation.

### **What will happen to the patient records of UK citizens who have been living in the EEA who return to the UK post exit?**

If the patient would like to repatriate their medical records then they will need to make a [subject access request \(SAR\)](#) in the EEA country in which they were resident to obtain their a copy of their medical record from their EEA healthcare provider and bring this back to the UK. This will need to be passed the UK GP to update their records. The original medical record will be retained by their EEA healthcare provider in accordance with local guidance. It will be the patient's responsibility to provide translation

### **If I use any technology suppliers who host their data in the EU, will I be able to continue using that supplier?**

Yes – currently flows from an EEA data processor to a data controller outside the EEA remain unrestricted and can continue to flow uninterrupted. The European Data Protection Board (EDPB) is considering this issue.

### **Does GDPR still apply post no deal Brexit?**

Yes - the General Data Protection Regulation (GDPR) will be retained in UK law. The Data Protection Act 2018 would remain in place and the EU Withdrawal Act would incorporate the GDPR into UK law to sit alongside it.

### **Do I need to update my privacy/fair processing notice?**

Yes - your fair processing notice will need to be updated to reflect the fact the UK will be considered a 'third country' by EEA countries. References to EU law and EU terminology will need to be updated to reflect the new UK terminology.

### What do I do if I have any further questions?

If you have any further questions please contact the regional EU Exit leads as set out below:

| <b>Region</b>   | <b>EU Exit inbox</b>   |
|-----------------|--|
| North East      | <a href="mailto:England.euexitnortheast@nhs.net">England.euexitnortheast@nhs.net</a> |
| North West      | <a href="mailto:England.euexitnorthwest@nhs.net">England.euexitnorthwest@nhs.net</a> |
| Midlands        | <a href="mailto:England.mids-euexit@nhs.net">England.mids-euexit@nhs.net</a>         |
| East of England | <a href="mailto:England.eoe-euexit@nhs.net">England.eoe-euexit@nhs.net</a>           |
| London          | <a href="mailto:England.london-euexit@nhs.net">England.london-euexit@nhs.net</a>     |
| South East      | <a href="mailto:England.se-euexit@nhs.net">England.se-euexit@nhs.net</a>             |
| South West      | <a href="mailto:England.sw-euexit@nhs.net">England.sw-euexit@nhs.net</a>             |

