

Processing and or Transfers of Personal Data for UK Organisations Post EEA/EU Brexit Transition

The following information is provided in good faith and shall not constitute legal advice. Organisations are advised to seek legal clarification relating to their specific set of operations.

Current at: 09 February 2021

Organisation / Establishment Type	What is / are the location(s) of your Organisation(s) / Establishments ² ?		What is your Organisation's / Establishments ² relationship with EEA/EU Data Subjects' Personal Data?				What is Applicable? (The below information indicates the likely requirements for the type of EEA / EU data subjects' personal data processing identified)				
	Establishment ² in the UK?	Establishment ² in the EEA / EU?	Your organisations targets, markets, and or Profiles EEA / EU Data Subjects	Your organisation processes product / service requests direct from an EEA / EU Data Subject for the Data Subject only	Your organisation processes personal data of EEA / EU Data Subjects via transfers from EEA / EU controller and or processor	Your organisation processes personal data of EEA / EU Data Subjects via transfers from own location in EEA / EU	EU Data Protection Law for the Processing of EU Data Subjects' Personal Data	UK Data Protection Law for the Processing of UK Data Subjects' Personal Data	SCC ⁴ (Standard Contractual Clauses) for Personal Data Transfers from the EEA / EU	BCR (Binding Corporate Rules) for Personal Data Transfers from the EEA / EU	Likely EU Representative Requirement
Single Organisation / Establishments ²	Yes	N/A	No	No	No	N/A	No	Yes	No	No	No
	Yes	N/A	No ¹	Yes ¹	No	N/A	Yes	Yes	No	No	No ¹
	Yes	N/A	Yes	Yes	No	N/A	Yes	Yes	No	No	Yes ³
	Yes	N/A	No	No	Yes	N/A	Yes	Yes	Yes ⁴	No	Yes ³
Group of Connected Organisations / Establishments ²	Yes	No	No	No	No	No	No	Yes	No	No	No
	Yes	No	No ¹	Yes ¹	No	No	Yes	Yes	No	No	No ¹
	Yes	No	Yes	Yes	No	No	Yes	Yes	No	No	Yes ³
	Yes	No	No	No	Yes	No	Yes	Yes	Yes ⁴	No	Yes ³
	Yes	Yes	No	No	No	Yes	Yes	Yes	No	Yes	No
	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes ⁴	No	No
	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes	No
Notes:	<p>1) UK organisations may provide products / services to EEA / EU data subjects without ever targeting or marketing those EEA / EU data subjects. This may be via those data subjects ordering from the organisation's UK website and providing these data transfers are from the data subject directly and only involve the data subject, then these will be classed as 'necessary' transfers. However, the organisation MUST be able to prove that it never targeted or marketed, directly or indirectly, those EU data subjects to avoid being required to have an EU Representative. This would mean ensuring that EU member state language versions of the website do not exist, that the organisation does not offer alternative currency payment options e.g., Euro, etc. Seek specific guidance.</p> <p>2) EU GDPR Recital 22: Establishment implies the effective and real exercise of activity through stable arrangements. The legal form of such arrangements, whether through a branch or a subsidiary with a legal personality, is not the determining factor in that respect. Seek specific guidance.</p> <p>3) Although the 'likelihood' of an EU Representative Requirement is indicated, this needs to be verified against your organisation's specific personal data processing and transfers. Seek specific guidance.</p> <p>4) Changes in the existing SCC for transfers to third countries are underway, along with the development of an additional new set of SCC to support EDPB standardisation of data processing agreements.</p> <p>5) More than one line may apply to your organisation's data processing. This is provided as a guide and clarification should be sought for your organisation's specific data processing.</p>										

The above information has been developed as a guide by Gary Payne, our EU, and UK Law Trained Personal Data Professional. Seek detailed guidance and clarification for your organisation's specific circumstances and data processing operations.