



Brexit and research:

EU-UK Data Transfers

Standard Contractual Clauses

This Note is part of a series of Brexit notes for research practitioners on the implications of the UK withdrawal from the EU on 29 March 2019. It sets out the issues that research practitioners need to consider to continue the lawful transfer of personal data between the EU and the UK post Brexit.

MRS is providing this guidance as general information for research practitioners. It is not legal advice and should not be relied upon as such. Specific legal advice should be taken in relation to any specific legal problems or matters.



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1. Overview

The UK will formally leave the European Union on 29 March 2019. At the time of the publication of this note, the terms of the future relationship had not yet been agreed.

Given this considerable uncertainty, MRS has published a series of notes to provide guidance to MRS members and Company Partners to help them comply with the requirements of the General Data Protection Regulation (GDPR) on personal data transfers.

This note will look in detail at **Standard Contractual Clauses**, the most effective and immediate tool available to all companies based in the UK who need to maintain the free flow of personal data into the UK from EU¹ and EEA countries².

What about UK-EEA transfers?

The UK Government has stated that it will permit transfers of personal data from the UK to the EU. In light of this no additional steps should be necessary for data transfers from the UK to the EU apart from standard GDPR compliance measures, including data processing agreements. However, both controllers and processors should be aware that in the future, individual EU Member States may decide to implement national laws that require additional steps for UK businesses.

If someone in Europe (in the EEA) sends personal data to someone else who is in the UK, they must comply with GDPR rules on international transfers of personal data. The standard contractual clauses (the SCCs) are one of a number of 'safeguards' which can be used to comply, and the one most likely to be appropriate for small and medium-sized businesses.

The SCCs are standard sets of contractual terms and conditions which the sender and the receiver of the personal data both sign up to. They include contractual obligations which help to protect personal data when it leaves the EEA and the protection of the GDPR.

¹ The EU countries are: Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the UK.

² The EEA includes EU countries and also Iceland, Liechtenstein and Norway. It allows them to be part of the EU's single market.



2. Standard Contractual Clauses (SCC)

Standard contractual clauses are an important tool for data transfer. The European Commission has published clauses that offer sufficient safeguards on data protection for personal data to be transferred from EEA to third countries [for the purposes of this note, from EEA to the UK].

The clauses place contractual obligations on the EEA data exporter and the UK data importer, and guarantee rights for the individuals whose personal data is transferred. Importantly, individuals can directly enforce those rights against the data importers and exporters.

EEA based controllers wishing to rely on Standard Contractual Clauses to legitimise international data transfers to processors outside the EEA, must use the clauses for processing operations.

The ICO has published a template contract, available as a fill in document that contains the SCC adopted by the European Commission:

Standards Contractual Clauses: controller to controller

- <https://ico.org.uk/for-organisations/data-protection-and-brexit/data-protection-if-there-s-no-brexit-deal/the-gdpr/international-data-transfers/> (under the **Appropriate Safeguards** chapter).

Standards Contractual Clauses controller to processor

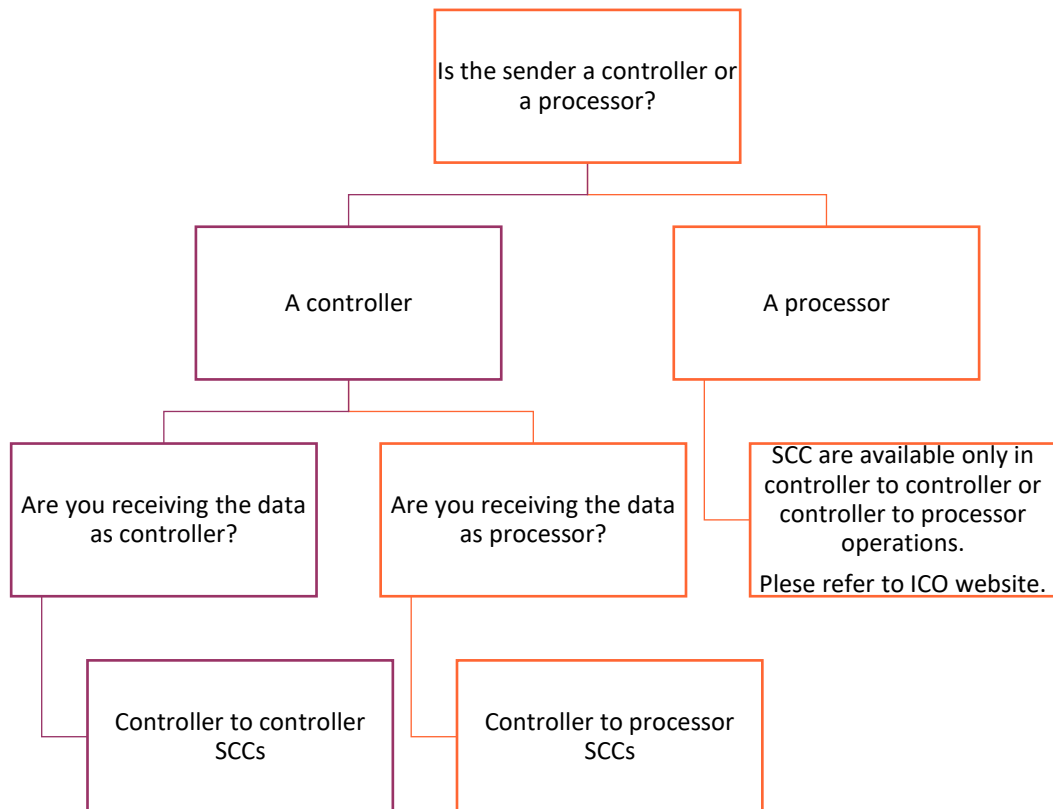
- <https://ico.org.uk/for-organisations/data-protection-and-brexit/data-protection-if-there-s-no-brexit-deal/the-gdpr/international-data-transfers/> (under the **Appropriate Safeguards** chapter).

In addition, the ICO has also prepared *Controller to Processor Contract Builder* tool.

- Available here: <https://ico.org.uk/for-organisations/data-protection-and-brexit/controller-to-processor-contract-builder/>

3. Review contracts, processes and operations to determine what steps to take.

- Identify where your clients, agencies, panel providers, fieldwork agencies, viewing facilities, transcriptions/translations services and freelancers are located
- Identify where personal data (as defined by the GDPR) is coming from
- If data comes from EU or EEA countries





4. Additional information

ICO Guidance

- ✓ a [‘Six Steps to Take’](#) guide
- ✓ broader [guidance on the effects of leaving the EU without a withdrawal agreement](#)
- ✓ a general overview in the form of [Frequently Asked Questions](#)
- ✓ Standard Contractual Clauses [interactive guide](#)

MRS Guidance

- ✓ [MRS Guidance Note on Data Protection and Research](#)
- ✓ [MRS Guidance Brexit and Research: EU-UK Data Transfers](#)

MRS CodeLine

The MRS Standards Team are experts on the MRS Code of Conduct and related UK legislation such as the Data Protection Act 2018. We’re here to help.

Contact the Standards Team via email codeline@mrs.org.uk