

‘No Deal’ Brexit and GDPR – CoSector FAQs for our customers based in the EEA

Where is the UK with ‘No Deal’ Brexit?

If the UK does not secure a deal or withdrawal agreement to leave the EU by 31 October, it will leave with ‘No Deal’. This has significant implications for laws and regulations affecting all businesses. Whilst we cannot be certain at the time of writing whether this will actually happen, we need to prepare for this outcome.

How does a ‘No Deal’ Brexit impact on GDPR and data protection?

Data protection law has long been harmonised across Europe meaning that there is a free flow of data between the UK and other countries in the EEA (European Economic Area). Data transfers to countries outside the EEA (“third countries”) have always required additional safeguards. A ‘No Deal’ Brexit means that the UK is re-classified as a ‘third country’ and this affects the existing data flows between the UK and Europe.

Does a ‘No Deal’ Brexit include CoSector ‘leaving’ the GDPR too?

No. The UK government has determined that the GDPR will be implemented in UK law (a “UK GDPR”) so all data controllers and processors still have to comply. CoSector will still maintain its high standards of secure and lawful data storage for its customers.

So the UK becomes a ‘third country’. How does that affect data flows?

Data transfers to countries outside the EEA (“third countries”) have always been enabled by a range of safeguards and this continues under the General Data Protection Regulation (GDPR).

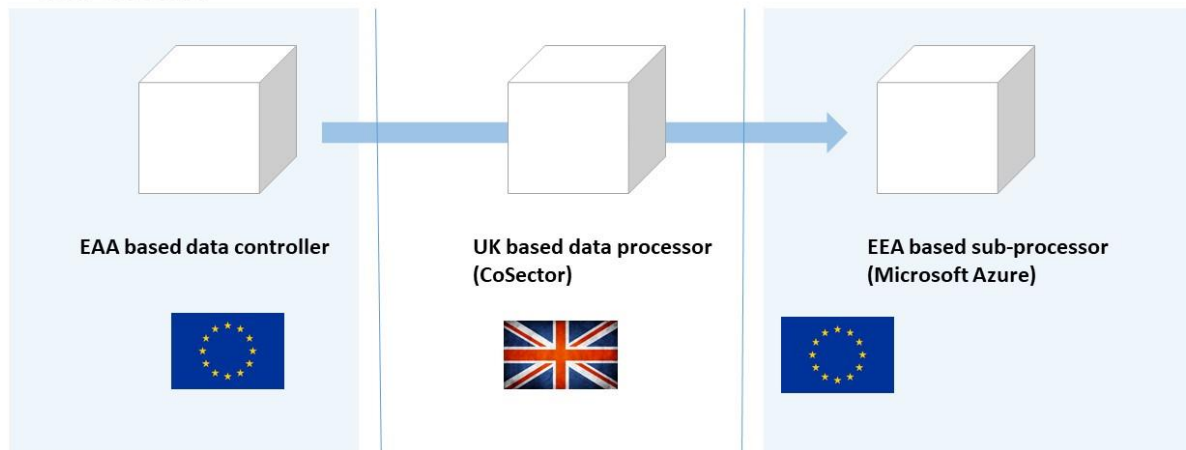
- some countries are deemed to have equivalent or ‘adequate’ data protection laws
- US companies have an accreditation they can obtain (‘Privacy Shield’)
- there are a number of contractual templates that can be relied upon (‘standard contractual clauses’ or ‘SCCs’)
- there is a ‘Binding Corporate Rules’ statement which will be approved by the relevant EU regulator
- there are a number of exceptions or ‘derogations’ around specific reasons for transferring data

How does this affect my business or organisation?

As an EEA data controller where CoSector is the processor, you will need to make an amendment to our existing contract.

Transfers from EEA to UK

EEA controller signs Standard Contractual Clauses with CoSector



Based on the European Data Protection Board (EDPB) guidance, we will work with you to put in place the following:

EDPB steps to take	Steps to take
Identify what processing activities will imply a personal data transfer to the UK	Assess what data we process on your behalf
Determine the appropriate transfer instrument	We recommend that the most appropriate safeguard is the adoption of the standard contractual clauses
Implement the appropriate transfer mechanism for October 31	We will have the clauses agreed as the 'No Deal' option by 30 September
Indicate in your internal documentation that transfers will be made to the UK	You will need to amend your Article 30 Record of Processing Activities to show that a non-EEA transfer is taking place

What are the Standard Contractual Clauses (SCCs)?

The SCCs are a template of data protection clauses for the EEA-based data controller and the non-EEA based data processor sign up to, in addition to their main agreement. A copy of these templates, alongside other guidance, are available at the following link on the European Data Protection Board (EDPB) website:

https://edpb.europa.eu/sites/edpb/files/files/file1/edpb-2019-02-12-infonote-nodeal-brexit_en.pdf

If 'No Deal' happens, will this situation last forever?

Not necessarily. The UK will apply to be given 'adequacy' status as a third country with an equivalent data protection law. If this application is successful transfers from the EEA to the UK will, in theory, no longer need the additional safeguards (e.g. standard clauses, binding corporate rules or a derogation).

Where can I find out more?

Please contact your contract manager at CoSector at info@cosector.com

The European Data Protection Board (EDDPB) advice is available at the following link:

https://edpb.europa.eu/sites/edpb/files/files/file1/edpb-2019-02-12-infonote-nodeal-brexite_en.pdf

Member state supervisory authorities have also produced advice. Ireland's Data Protection Commissioner has produced the following:

<https://dataprotection.ie/en/organisations/international-transfers/guidance-transfer-personal-data-ireland-uk-event-no-deal>