

Guidance on Transfers of Personal Data from Ireland to the UK at the end of the Transition Period (11pm on 31 December 2020)



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- The Trade and Cooperation Agreement (the Agreement^[1]) between the EU and the UK contains a provision that allows the free flow of data between the EEA and the UK to continue after the end of 2020.
- Article FINPROV.10A: Interim provision for transmission of personal data to the United Kingdom provides for a specified period whereby transfers of personal data from the EEA to the UK will not be considered as a transfer to a third country.
- The specified period is outlined in the agreement as beginning 'on the date of entry into force of this Agreement and subject to paragraph 5, ends:
 - (a) on the date on which adequacy decisions in relation to the UK are adopted by the European Commission under Article 36(3) of Directive (EU) 2016/680 and under Article 45(3) of Regulation (EU) 2016/679, or
 - (b) on the date four months after the specified period begins, which period shall be extended by two further months unless one of the Parties objects;

whichever is earlier.'

- This means that Irish based data exporters can continue to transfer the personal data to UK based data importers after the end of 2020 without the requirement to apply additional safeguards such as Standard Contractual Clauses, administrative arrangements or other appropriate safeguards ^[2]outlined in Chapter V of the GDPR.
- The EU Commission plans to adopt an Adequacy decision within the specified period. The effect of such a decision is that personal data can flow from the EEA to the UK without any further safeguard being necessary. In other words, the transfer is the same as if was carried out within the EEA.

[1] Trade and Cooperation Agreement

[2] DPC guidance on International Transfers