

TRANSFERS OF PERSONAL DATA TO NON-EEA COUNTRIES

CHECKLIST

	FACTORS TO BE CONSIDERED	NOTES/COMMENTS
1.	Is there a transfer of personal data to a third country	
2.	Is that transfer necessary	
3.	Does the EU formally consider the non-EEA country to have an adequate level of protection	
4.	Do any of the other exceptions on prohibition of transfer apply – see list below	
5.	Does the University have, or can it put into place, adequate safeguards between itself and the other parties to protect that data (e.g. model clauses or binding corporate rules)	
6.	Subject to a risk assessment and legal advice, does the University want to consider making its own assessment of adequacy	

EXCEPTIONS/CIRCUMSTANCES WHERE DATA MAY BE TRANSFERRED

The GDPR provides a number of circumstances in which the prohibition on the transfer of the personal data in question is not applied:

1. The data subject has explicitly consented to the transfer
2. The transfer is necessary for the performance of a contract between the data subject and the data controller, or the implementation of pre-contractual measures taken at the data subject's request
3. The transfer is necessary for the conclusion or performance of a contract concluded in the interest of the data subject between the controller and another natural or legal person

4. The transfer is necessary for important reasons of public interest
5. The transfer is necessary for the establishment, exercise or defence of legal claims
6. The transfer is necessary in order to protect the vital interests of the data subject or of other persons, where the data subject is physically or legally incapable of giving consent
7. The transfer is made from a register which according to Union or Member State law is intended to provide information to the public and which is open to consultation either by the public in general or by any person who can demonstrate a legitimate interest, but only to the extent that the conditions laid down by Union or Member State law for consultation are fulfilled in the particular case.

It is likely that only numbers 1-3 above will be applicable to the University in the normal course of its business. Examples may include:

- requests by the University to non-EEA governments, agencies, and organisations for information necessary to determine academic eligibility for attending a course of study in the UK
- transfers of personal data to non-EEA governments, agencies, and organisations sponsoring students to attend a course offered by the University in the UK, where such sponsorship is dependent upon attendance and/or performance criteria
- transfers of personal information e.g. examination marks relating to, and required by, data subjects engaged in distance learning courses.