

# Data Protection Ireland

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## Headlines

- DPC’s fine on Tusla confirmed in Court, p.18
- Irish Prison Service to appeal decision about officers’ thumbprints, p.19
- 799 data breaches notified by government departments in 2019, p.20

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## Board issues Schrems II guidance and EC consults on new SCCs

The European Data Protection Board has published its long awaited recommendations confirming how EU standards of data protection must travel with personal data when they go overseas following the *Schrems II* judgment.

The first recommendation updates the European Essential Guarantees for surveillance measures. The second has been published for public consultation (open until 21st December 2020), and looks at the extra measures organisations may take to support the international transfer of data to meet EU stand-

ards. This recommendation follows previous EDPB guidance stating that organisations must conduct a risk assessment as to whether a transfer tool, such as Standard Contractual Clauses (‘SCCs’), provides enough protection within the legal framework of the destination country. If not, organisations must put extra measures in place to mitigate the risks.

As the EDPB published its guidance, the European Commission published a draft implementing decision on SCCs for the transfer of personal data to third countries pursuant to the GDPR,

along with a draft set of SCCs. The new SCCs include several modules to be used by organisations depending on the transfer scenario and designation of the parties under the GDPR (i.e. controller to controller, or controller to processor, etc.). The new SCCs are open for public consultation until 10th December 2020 and the final SCCs are expected to be adopted in early 2021.

The European Commission also adopted controller-to-processor SCCs. In addition to the data protection obligations set

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## Irish organisations prepare for Brexit

With a month to go before the transitional arrangements between the EU and the UK expire, Irish organisations are preparing for the impact on data flows between Ireland and the UK given there is still no adequacy arrangement.

The UK government has written the GDPR into UK law so that, after Brexit, a ‘UK GDPR’ will apply. Irish organisations that process UK employees’ or custom-

ers’ data will need to know how this differs from the EU GDPR.

The primary consideration is that from 1st January 2021, the UK will be considered a non-EEA country under European data protection law, meaning that the legal mechanisms already in place for personal data transfers to non-EEA countries will also apply to those from Ireland to the UK.

Standard Contractual Clauses — the most common legal mechanism used to transfer data from Ireland (and the EEA) to non-EEA countries — is what is typically recommended as the basis for data transfers in the context of Brexit.

Other mechanisms include a country adequacy decision and Binding

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