

## General Data Protection Regulation (GDPR) - FAQ

Rackspace Privacy Center - <https://www.rackspace.com/information/legal/privacycenter>

- **What is GDPR?**

This refers to the General Data Protection Regulation (GDPR), a new European data protection regulation that has been adopted by the EU Commission and becomes effective from the 25<sup>th</sup> May 2018. GDPR seeks to regulate personal data in the broadest sense.

- **Whom does the GDPR apply to?**

The GDPR applies to both individuals and businesses and regulates the way in which personal data of citizens in the European Union should be handled.

- **When it comes to hosted data, is Rackspace a controller or a processor?**

Let's start with a very quick explanation of what 'controller' and 'processor' mean.

A controller is the person who determines why and how personal data is processed. A processor is the person who processes personal data on behalf of the controller.

Rackspace is primarily responsible for providing its customers with hosting infrastructure. Rackspace, therefore, has limited knowledge of the data that each customer processes via the hosting infrastructure. In addition, Rackspace only processes hosted data in accordance with the customer's instructions. With this in mind, Rackspace is a processor of hosted data; the customer is a controller.

- **Will GDPR change the way Rackspace treats customer data?**

Rackspace continues to treat customer data with the sensitivity and confidentiality required. We are undertaking a gap analysis to determine if any changes may be required to the way in which we handle customer data in light of the GDPR. Rackspace will continue to invest in the security of its customer solutions to ensure it remains compliant with applicable legislation.

- **With the new GDPR, can an EU customer continue host personal data outside of the EU?**

### *Personal data*

Provided certain legal mechanisms are in place, EU customers can host personal data outside of the EU.

EU law provides that personal data may be transferred outside of the EU and the EEA when an adequate level of protection for that data is guaranteed. To help achieve this level of protection, Rackspace is Privacy Shield certified at

<https://www.rackspace.com/information/legal/privacystatement/safeharbor>

Privacy Shield is a US Department of Commerce program that enables companies to self-certify.

Rackspace may also enter into Model clause agreements with customers. These agreements are standard documents provided by the EU Commission that allow for the transfer of personal data from the EU to other countries. The agreement is designed to ensure that when a non-EU company processes personal data which has come from the EU, such processing is compliant with EU data protection standards.

- **Can a customer's hosted personal data be subject to a cross-border transfer?**

Transferring personal data between EU member states is unlikely to be of concern to an EU customer. EU member states are subject to the same European Data Protection Directive and soon to be GDPR.

Transferring data to a non-EU country is possible provided it is in accordance with the law. See question above.

- **How does Rackspace treat hosted data?**

Rackspace's treatment of hosted data is set forth in the hosting services agreement. Customers wishing to know more about Rackspace's obligations with regard to hosted data should check the terms of the hosting services agreement.

Rackspace has a privacy statement to cover off its treatment of the data that it collects (for example, a customer's primary account contact and billing contact details). Further information may be found at <https://www.rackspace.com/information/legal/privacycenter>

- **Does the GDPR say that data must be encrypted from May 2018?**

Rackspace customers are reminded of their obligations within Rackspace HSA setting out the terms under which Rackspace provides the services. Rackspace cannot provide legal advice to customers however, the GDPR refers to encryption as a method of minimising data loss. It is up to our customers to determine their interpretation of the legislation.

- **Who is responsible for the deletion of hosted data?**

According to law, personal data should not be kept for longer than is necessary.

Customers are controllers of their data and are therefore primarily responsible for the deletion of personal data that is processed using the hosted system. Rackspace only processes hosted data in accordance with the customer's instructions.

- **Do we have a procedure for handling complaints raised about customer hosted data?**

The hosting services agreement governs Rackspace's relationship with customers. Customers should check the agreement for relevant provisions or contact their account manager.

Customers also have obligations under Rackspace's Acceptable Use Policy. This policy provides a mechanism for notifying Rackspace where a customer engages in activities not permitted on the Rackspace network.

- **Can I continue to host my data with Rackspace if the UK leaves the EU?**

Customers can continue to use Rackspace as your managed cloud provider. There are special rules for managing the transfer of EU citizens' Personal Data outside of the E.U./EEA. Personal Data is typically information that identifies a living EU Citizen. Rackspace meets and exceeds E.U. and U.K. legal requirements on how we process any customer Personal Data, and intend to continue doing so.

- **Won't I be in breach of the data protection laws if Rackspace transfers my Personal Data outside the E.U./EEA?**

The current laws allow Rackspace to process Personal Data and therefore support your services from outside the EEA if you have given us your consent, or if data is transferred to a non-E.U. jurisdiction deemed by the European Commission to offer an adequate level of protection for Personal Data, or if the transfer is subject to Model Clauses. The Model Clauses are standard contractual clauses from the E.U. Commission that detail how cross border transfer of Personal Data should be handled. Rackspace uses Model Clauses when required and will continue doing so. There are no current plans to change these mechanisms to legitimise the transfer of Personal Data outside of the E.U./EEA.

- **Can you keep my data in the E.U. only?**

Rackspace is able to offer Fanatical support by operating a 24/7 "follow the sun" support model that leverages our support engineers in both the U.K. and the U.S. This means that although we will not move your Personal Data into another jurisdiction without your consent, sometimes we will need to provide you with support from outside the E.U. As above, we comply at all times with applicable laws.

- **Will the Data Protection laws/GDPR apply when Britain leaves the E.U.?**

The U.K. legislation on data protection (Data Protection Act 1998) is derived from the E.U. Directive on data protection. The new General Data Protection Act, which is effective from May 2018, will replace the U.K. legislation and the U.K. Information Commissioner (data protection authority) has confirmed that the U.K. will comply with the GDPR to enable it do business in Europe. Rackspace fully intends to comply with the requirements of both E.U. and U.K laws.