



Cronfa Amaethyddol Ewrop ar
gyfer Datblygu Gwledig
Ewrop yn Buddsoddi mewn Ardaloedd Gwledig
European Agricultural Fund for
Rural Development
Europe Investing in Rural Areas



Llywodraeth Cymru
Welsh Government



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Welsh Government Rural Communities – Rural Development Programme 2014-2020

General Data Protection Regulation (GDPR) 2018

Rural Development Programme (RDP)

General Data Protection Regulation (GDPR) 2018 and the Rural Development Programme (RDP)

1. What is the GDPR?

The General Data Protection Regulation (GDPR) is a new, Europe-wide law that replaces the Data Protection Act 1998 in the UK. It is part of the wider package of reform to the data protection landscape that includes the Data Protection Bill. The EU's GDPR legislation aims to "harmonise" data privacy laws across Europe as well as give greater protection and rights to individuals.

The Information Commissioner has a range of guidance which explains the terms used in this guidance and gives more detailed advice on the GDPR.

<https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/>

2. Who is this guidance for?

Beneficiaries i.e. anyone involved in implementing a RDP funded operation.

3. Who is the data controller and data processor?

For the data that the Welsh Government requires beneficiaries to collect (i.e. that set out in Section 4), the Welsh Government is the data controller. If you, as a LAG/beneficiary, collect any other personal data not required by the Welsh Government you would be the data controller for that data.

The Data Protection Officer for the Welsh Government can be contacted on Data.ProtectionOfficer@gov.wales.

As a beneficiary, you would be the data processor for the data we require you to collect. Any third parties you or we share the personal data with would also be data processors.

4. What data does this cover?

Monitoring Data - This includes individual participant level data and Enterprise level data of individuals or businesses supported as part of the Rural Development Programme. For the remainder of the document, when we refer to 'participants' we mean participants or individuals supported under the Rural Development Programme and supported enterprises for whom we collect contact details for monitoring and evaluation purposes.

5. What does Welsh Government use the data for?

The Welsh Government uses the monitoring data (including the individual participant records) to monitor and evaluate the Rural Development Programme in Wales as laid out in the Evaluation Plan. For example, the Welsh Government will commission surveys of participants supported under the Rural Development Programme. We may also link participant records to other information about them held by the Welsh Government and UK Government departments – for more information, see Section 6, below. You may also use the data for scheme level evaluations or the evaluation of your LAG.

The Welsh Government uses the eligibility information to verify the eligibility of participants.

6. Who will we share the data with?

We will share the monitoring data (including the individual participant records) with research organisations interviewing participants. To help us understand the effectiveness of the programmes we may share the contact details of participants with research organisations so that they can talk to them about their experiences. Not everyone who takes part in the programmes will be contacted. If a participant is contacted by researchers, the purpose of the research will be explained to the individual and they will be given the option not to take part in the research. The research organisations will delete the participants' contact details once the research is complete.

To support the research we may link participant records from the monitoring data to other information about them held by the Welsh Government and UK Government departments. This might include the Longitudinal Educational Outcomes dataset, Careers Wales data, the Lifelong Learning Wales Record, records held by HMRC and DWP, the Labour Force Survey, Annual Population Survey and ESF Participants Survey. This will be done only for the purpose of evaluating the impact of RDP support on the people who took part and research on related topics undertaken by the Welsh Government or approved social research organisations. We will never publish information which would identify any individuals.

Monitoring data (including the individual participant records) will also be shared with the relevant Welsh Government teams and European Commission (EC) auditors to ensure the project has followed the correct procedures and to ascertain the validity of claims. The eligibility information will also be shared with these teams for such purposes. We may also share the monitoring data and eligibility information with independent auditors.

7. What is the lawful basis for controlling or processing personal data under the Rural Development Programme?

Article 6(1)(e) of the GDPR gives you a lawful basis for processing personal data where:

“processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller”

8. What is the task?

Implementing Structural Funds in line with the regulations of the European Parliament and of the Council of the European Union.

Article 54(2) of REGULATION (EU) No 1303/2013 common provisions on the ESI Funds (CPR Regulation) states that “Member States shall provide the resources necessary for carrying out evaluations, and shall ensure that procedures are in place to produce and collect the data necessary for evaluations, including data related to common and where appropriate programme-specific indicators.”

In addition, data is collected relating to Welsh Language to ensure the Programmes can demonstrate that they are in line with the Welsh Language (Wales) Measure 2011.

9. What about Sensitive Personal Data?

The GDPR recognises that some types of personal data are more sensitive, and so need more protection. This is classed as ‘special category data’.

The only special category data we are asking beneficiaries to collect are data on Ethnicity / whether from a Black and Minority Ethnic background; Migrant Status; Work Limiting Health Condition; and Disability. To process special category data, we need to satisfy a specific condition under Article 9 of GDPR. We are using special category condition (g), i.e.:

“processing is necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject”

Accordingly this data helps us to ensure equitable participation from all areas of society in the European Funded Programmes in line with the Equality Act 2010.

For these special category data we suggest that beneficiaries give participants the option of ‘prefer not to say’ for these types of data so that they can choose not to provide this data if they wish. However you must make an attempt to collect the data, e.g. by ensuring that any enrolment forms etc. ask for this information.

When data is used for research purposes no identifiable data will be published without explicit consent from the individual; for example in case studies.

10. What rights do participants have in relation to their data?

Under GDPR, individuals have a range of rights in relation to their data. However, some of these rights depend on the lawful basis under which we are processing their data. Participants’ rights are briefly discussed below. However, it is important that you visit the ICO website to ensure you fully understand these rights.

(a) The right to be informed

You must provide participants with the following information: your lawful basis for processing the data (ICO website see Section 7 of this guidance); your purposes for processing their personal data (see Section 5); your retention periods for the personal data (see Section 11); who it will be shared with (see Section 6); the identity and contact details of the data controller and the contact details of the Data Protection Officer (see Section 3); and the participants’ rights in relation to their data (this section). You should set this out in a Privacy Notice.

(b) The right of access

Participants have the right to access their personal data that you / we hold on them.

(c) The right to rectification

Participants have the right to have inaccurate personal data rectified, or completed if it is incomplete. Participants can make a request for rectification verbally or in writing.

(d) The right to erasure

The right to erasure is also known as ‘the right to be forgotten’ and, in certain circumstances, gives individuals the right to have their personal data erased. Generally, participants do not have the right to erasure because this right does not apply if using the public task lawful basis. The only circumstances under which it would apply would be if participants’ personal data is no longer necessary for the purpose which you originally collected or processed it for,

or if you have processed the personal data unlawfully. Neither of these circumstances should arise as personal data should only be held for the duration of the Welsh Government retention periods (unless you have justification for keeping it longer) and this guidance is intended to help beneficiaries ensure they are processing personal data lawfully.

(e) The right to restrict processing

Participants have the right to request the restriction or suppression of their personal data in the following circumstances:

- the participant contests the accuracy of their personal data and you are verifying the accuracy of the data;
- the data has been unlawfully processed and the participant opposes erasure and requests restriction instead;
- you no longer need the personal data but the participant needs you to keep it in order to establish, exercise or defend a legal claim; or
- the individual has exercised their right to object (g) to you processing their data, and you are considering whether your legitimate grounds override those of the participants.

In practice, these circumstances are highly unlikely to occur.

(f) The right to data portability

The right to data portability allows individuals to obtain and reuse the personal data for their own purposes across different services. The right to data portability only applies when your lawful basis for processing this information is consent or for the performance of a contract; and you are carrying out the processing by automated means (i.e. excluding paper files). Therefore participants do not have the right to data portability.

(g) The right to object

Participants have the right to object to the processing of their personal data. However, they must give specific reasons why they are objecting to the processing of their data and you / we can continue processing if we can demonstrate compelling legitimate grounds for the processing, which override the interests, rights and freedoms of the individual. The ICO advises that we consider any objection on its own merits, rather than refusing it outright.

If one of your participants exercises their right to object to the processing of their personal data, please contact SMU / RPW for further advice. In practice, whilst we may not agree to stop processing the data as part of our verification of participant eligibility we may agree to exclude the participant from any research fieldwork (e.g. surveys) or any data linking undertaken for research purposes.

(f) Rights in relation to automated decision making and profiling

These rights relate to automated individual decision-making (making a decision solely by automated means without any human involvement); and profiling (automated processing of personal data to evaluate certain things about an individual). We will not be undertaking any automated decision-making or profiling and we will not be asking you to do so either so these rights do not apply. If you intend to undertake any automated decision-making or profiling based on the data we are asking you to collect you must ensure you uphold participants' rights in this area.

11. What is the data retention period?

In accordance with Article 140 of Regulation 1303/2013 data will be retained until at least 31 December 2026.

12. What about additional data?

If you collect additional information to what is set out in Section 4 then you need to ensure that you meet the requirements as laid out in the GDPR.

13. What if I want to use the data in Section 4 for other uses?

If you want to use the data in Section 4 for other uses apart from those identified in Section 5 (i.e. apart from monitoring, research and evaluation or for confirming eligibility for support) then you need to ensure that you meet the requirements as laid out in the GDPR.