

DATA PROTECTION FAQs

1. Why is Thomas a Data Controller?

Thomas is a data controller because of the level of control Thomas has in deciding the purpose and means of processing when it provides its assessments to its customers and their candidates. The fact that personal data is shared between two parties under a contract does not automatically make the sharing party a data controller and the receiving party a data processor - the activities that are taking place by the parties under Thomas' standard terms mean that both Thomas is a data controller for the data it collects, and the small amount of data provided to it by the customer.

Very little personal data is provided to Thomas directly by the customer organisation, as in the vast majority of cases personal data is provided to Thomas directly from the data subject (i.e. the candidate themselves). Any use of this personal data will be as a data controller as the customer organisation is not involved.

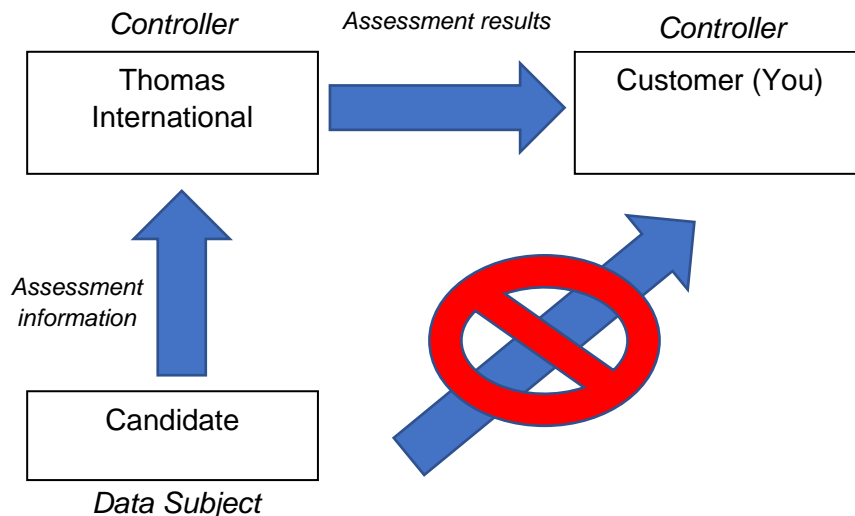
When the customer requests that a candidate takes an online assessment, the customer is the initial data controller and Thomas will be acting as a second data controller once the candidate is invited to take the assessment by Thomas' systems. Rather than simply acting on the customer's instructions, Thomas exercises overall control of the purpose and means of the processing in order to produce the output from the assessments (i.e. Thomas decides what data to process and why in order to produce the final product).

Rather than reducing the protection Thomas is obliged to give to personal data, acting as a data controller actually places more responsibility on Thomas.

By way of example, typically a customer will provide Thomas with very basic information about a candidate, such as their name and email address. This is a controller to controller transfer of personal data; the customer does not determine the means for this processing of candidate personal data.



Thomas then collects various information from the candidate directly in order to carry out assessments with the candidate. This is done subject to Thomas' own privacy policy and end user terms of use.



This may include a variety of assessment information about the candidate that in no circumstances will be in the literal or legal 'control' of the customer. For instance, if a candidate answers a question in an assessment relating to how they feel about certain political concepts or ideologies – this information would not, and could not, be considered in the customer's control. This information would only be used in order to generate the assessment results. On this basis, Thomas always acts as its own independent controller of the personal data it receives regarding candidates.

2. **Is a separate Data Processing Agreement (DPA) needed?**
No, there is no need for customers to enter into a separate data processing agreement with Thomas as Thomas is a data controller and not a data processor (for the reasons explained in FAQ 1 above), plus Thomas' standard terms include the necessary contractual wording to comply with the requirements of GDPR.
3. **What is the 'lawful basis' (Article 6 of GDPR) for the processing of candidate data Thomas undertakes?**
When the candidate accesses the Thomas portal the candidate accepts Thomas' website terms and privacy policy. Thomas processes the data on the basis that processing is necessary for the performance of the contract to which the data subject (i.e. the candidate) is party (Article 6(b)), or on the basis of Thomas' legitimate interest (Article 6(f)).
4. **We act as a data controller as well as Thomas. Whose responsibility it is to deal with data subject requests?**
Thomas will action data subject access requests or rights to be forgotten where it is necessary and/or relevant to us in our capacity as data controller of the relevant personal data Thomas holds.
However, where the data subject request relates to personal data held and/or processed by the customer, we will re-direct the request to the client by following the relevant internal procedures. More details on this and the procedures in place can be found in Thomas' [privacy notice](#).

5. What safeguards are in place for the transfer of data outside of the EEA?
In circumstances where Thomas transfers personal data outside of the EEA, where necessary Thomas puts in place contractual standard data protection clauses which guarantee the same level of data protection as required under EEA countries. In the absence of this, Thomas will have other appropriate safeguards in place as required by Article 46 of the GDPR.

6. What steps are you taking in relation to Brexit?
The UK has left the EU and is now in a “transition period” until 31 December 2020. During this period the current rules on trade, travel, and business for the UK and EU will continue to apply, this includes the rules relating to the GDPR and data cross border data transfers.

It is currently not possible to predict exactly what contractual provisions will be required to appropriately and legally allow for the free transfer of personal data across borders if at the end of the transition period the UK is seen, from the GDPR’s perspective as a “third country”. However, Clause 8 of Thomas’ Master Terms ensures that regardless of what happens following the transition period, personal data that is transferred pursuant to Thomas’ agreements with its customers is done responsibly and legally from the perspective of both the UK and the EU by incorporating the relevant Standard Contractual Clauses.

The provisions of clause 8.5 of Thomas’ Master Terms apply in the event of a “Relevant Transfer”. This is effectively a transfer of personal data that would not be lawful unless “standard contractual clauses” (clauses that protect individual’s personal data to the same level as that required currently under the GDPR) are put into place between the parties. Read more about standard contractual clauses [here](#).

7. Could you please explain what happens with data once it has been generated?
We are committed to continually improving our assessments. To do so, we ask candidates to provide us with additional information such as age range, educational attainment, ethnicity and similar matters. Provision of this information is voluntary and not required to complete an assessment.
Any personal information provided to us for research will be used for research purposes only and will not be disclosed to any third party. We will store it securely and in the strictest confidence. Should we share our results with third parties, only anonymised and aggregated results from which no individual can be identified will be shared.

For further details on how Thomas collects, uses and shares personal information, please see Thomas’ [privacy notice](#)