

GDPR Obligations When You Use ChatGPT

This Guidance Note was created by ChatGPT in answer to the question, “With a ChatGPT Plus account, is turning off the setting for training the model sufficient for GDPR purposes.”

Note: This guidance is for general information only and does **not** constitute legal advice; please consult a qualified legal professional for advice tailored to your specific circumstances.

Short answer – Disabling “Improve the model for everyone” in a ChatGPT Plus account is **helpful but not, on its own, enough to guarantee GDPR compliance**. Under UK GDPR you are still the data-controller, OpenAI is your processor, and you must (1) have a GDPR-compliant contract/DPA with any processor, (2) ensure a valid transfer mechanism for data that goes to the United States, (3) minimise or anonymise any personal data you send, and (4) keep the usual records, transparency wording, and (where necessary) a DPIA. Today only the **Team/Enterprise/API tiers** give you the OpenAI Data-Processing Addendum and default “no-training” guarantees; a single-user Plus plan does **not**. Below is a fuller explanation and some pragmatic options.

1 Why turning off model-training is only one piece of the puzzle

- **Opt-out kills re-use, not processing** – In a Plus/Free account you can toggle **Settings > Data Controls > “Improve the model for everyone” OFF**; that stops OpenAI using your chats to train its models (help.openai.com). Your prompts are still processed on OpenAI’s U.S. servers and retained for up to 30 days for abuse monitoring (openai.com).
 - **No DPA on personal plans** – GDPR Article 28 requires a written Data Processing Agreement with every processor. OpenAI only offers its standard DPA to Team, Enterprise, API and similar business customers (openai.com, openai.com). A Plus account therefore leaves you without the mandatory contract terms.
 - **International transfers still occur** – Prompts are routed to the U.S. OpenAI now relies on the **EU–U.S. Data Privacy Framework (and the UK extension)**, which is an “adequacy” mechanism (dataprivacyframework.gov). But you must still do a Transfer-Risk Assessment and record it.
 - **Regulators are scrutinising ChatGPT** – Italy’s DPA temporarily banned ChatGPT in 2023 citing transparency and deletion concerns (politico.eu); an EU task-force continues to examine accuracy and compliance issues (reuters.com). The message: tread carefully.
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2 Key GDPR obligations when you use ChatGPT

GDPR duty	Practical meaning for a sole-practitioner
Lawful basis	Decide whether your use is <i>contract</i> or <i>legitimate interests</i> ; document it (legalvision.co.uk).
Transparency & privacy notice	Tell clients you may use AI tooling, name OpenAI as a processor, and explain safeguards (activemind.legal).
Data minimisation	Only paste what is strictly necessary; whenever possible, strip names, addresses, or use dummy data (GDPR Art 5(1)(c)) (wolterskluwer.com).
Processor contract (Art 28)	Either upgrade to Team/Enterprise/API to sign the OpenAI DPA (openai.com), or choose a UK/EU-hosted LLM that will sign.
International transfer mechanism	Record reliance on the EU-U.S. DPF (or SCCs) and do a Transfer-Risk Assessment.
Security (Art 32)	Verify OpenAI's SOC 2 Type 2 controls and encryption (trust.openai.com , openai.com); still apply your own device, access, and retention controls.
DPIA (Art 35)	If prompts could contain special-category data or large volumes, do a DPIA (simpliant.eu , harperjames.co.uk).
Accuracy & human oversight	ICO reminds users to check AI output and avoid over-reliance (ico.org.uk , ico.org.uk).

3 Pragmatic options for a one-person firm

A. Stay on Plus but treat it as “public”

- Never paste any personal data; use it only for generic drafting or research.
- Turn off “model improvement” (as you already did).
- Add a clause in engagement letters saying AI may be used only with anonymised data.

B. Upgrade to ChatGPT Team (two-seat minimum, ~£50/month)

- Gives you the OpenAI DPA, default no-training, SOC 2 controls and admin retention settings (help.openai.com).
- You can still be a one-person firm: create a second dormant “seat” purely to meet the minimum.

C. Use the OpenAI API via a no-code interface

- The API has the same privacy terms as Enterprise (no training, DPA available) (platform.openai.com).
- Tools like **Zapier**, **Make**, **N8N** can let you call GPT-4o without paying for Team seats.

D. EU-hosted alternatives

- Anthropic Claude on AWS-EU, Mistral-hosted models, or Microsoft Copilot/Bing Chat Enterprise (free with M365 E3/E5) all provide “no-training” and EU data-residency options; ICO expects you to assess each processor likewise ([brodies.com](https://www.brodies.com)).

4 Suggested reassurance to your client

“We use ChatGPT only in configurations that meet UK GDPR standards: either with no personal data at all, or through an enterprise-grade account covered by a Data Processing Agreement and EU–U.S. Data Privacy Framework. All prompts are encrypted, retained only briefly, and never used by OpenAI to train models. We also anonymise data wherever possible and keep full human oversight of every AI-generated output.”

TL;DR

- Turning off model-training is necessary but *not* sufficient.
- For full GDPR comfort you need (a) a signed DPA, (b) documented transfer mechanism, (c) minimised/anonymised data, plus usual privacy paperwork.
- Easiest fix: upgrade to ChatGPT Team (two seats) or use the API; otherwise keep Plus for non-personal data only.