Data protection and academic research

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Data protection law

• Standards for handling (‘processing’) of information (‘personal data’) about living identifiable individuals (‘data subjects’) by organisations (‘data controllers’)
  ➢ Data protection principles
  ➢ Data subject rights
  ➢ Accountability obligations

• Certain types of activity exempt from certain aspects of the law

• Since 1 January 2021
  ➢ UK General Data Protection Regulation (UK GDPR) plus
  ➢ Data Protection Act 2018
Principles

• Personal data shall be

  ➢ Processed fairly, lawfully and transparently – need an underpinning ‘legal basis’ plus an extra legal basis for sensitive (‘special category’) personal data

  ➢ Processed only for specified, explicit and legitimate purposes

  ➢ Adequate, relevant and limited (‘data minimisation’)

  ➢ Accurate

  ➢ Not kept for longer than necessary

  ➢ Processed securely – confidentiality, integrity and availability

• Data controller must be able to *demonstrate* compliance with principles
Rights

• Data subject rights
  – Being informed about how personal data are being used – privacy notices
  – Access
  – Rectification of inaccurate personal data
  – Erasure (‘the right to be forgotten’)
  – Restriction pending verification or correction
  – Portability
  – Objection (including to profiling and direct marketing)

• All rights are qualified – various exemptions
Accountability

- Accountability measures
  - Data protection by design and by default
  - Data Protection Impact Assessments for ‘high risk’ personal data processing
  - Prescribed contents of contracts with ‘data processors’
  - Rules about personal data transfers outside the UK
  - Maintenance of a personal data register
  - Reporting certain personal data breaches to ICO within 72 hours
  - Role of independent Data Protection Officer
Relevant exemptions for academic research

- One set of exemptions for **research purposes** – but only if:
  - Complying with standard provisions would seriously impair the research
  - No damage or distress to data subjects
  - No decisions are taken about individual data subjects
  - Safeguards are in place (e.g. pseudonymisation and data minimisation)

- Another set of exemptions for **academic expression** – but only if:
  - Complying with standard provisions would be incompatible with the academic purpose
  - A publication is envisaged
  - That publication will be in the public interest
Research purposes exemptions

- Will be applicable for most academic research involving human participants and secondary personal data use

- Two principles disappplied: can use personal data collected for other purposes for research ones, and can keep personal data indefinitely

- Rights largely disappplied

- But:
  - Still need a legal basis (‘a task carried out in the public interest’)
  - Still need to supply participants with a privacy notice
  - Still need data management plans (e.g. pseudonymisation, minimisation, security, access) and appropriate contracts for sharing of research datasets
  - Still need to comply with University research ethics policies, including ethical review where required, as an accountability measure
Academic expression exemptions

• Will be applicable for most academic research that is akin to journalistic writing – aim is to protect freedom of expression

• All principles disapplied

• All rights (including supply of a privacy notice) disapplied

• But:

  ➢ Still need to comply with University research ethics policies, including ethical review where required, as an accountability measure
Further information

• Websites

https://www.information-compliance.admin.cam.ac.uk/data-protection/guidance/research

https://www.research-integrity.admin.cam.ac.uk/academic-research-involving-personal-data

• Email

data.protection@admin.cam.ac.uk