

# 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 disapplied: can use personal data collected for other purposes for research ones, and can keep personal data indefinitely
- Rights largely disapplied
- 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](mailto:data.protection@admin.cam.ac.uk)