

General Data Protection Regulation: academic research

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What is the GDPR?

- EU General Data Protection Regulation has applied *in full* since 25 May 2018
- Supplemented in UK by new Data Protection Act 2018 that adds additional rules and exemptions
- UK Data Protection Act 1998 was repealed on same date
- Sets standards for handling ('processing') of information ('personal data') about living identifiable individuals ('data subjects') by organisations ('data controllers')
 - Data protection principles and data subject rights
 - Certain types of activity exempt from certain aspects of the standards
- More prescriptive and punitive than DPA 1998: Information Commissioner's Office (ICO) fines up to €20m instead of £500k

Principles

- Personal data shall be:
 - Processed fairly, lawfully and transparently – and only if a valid ‘legal basis’ exists
 - Processed only for specified, explicit and legitimate purposes
 - Adequate, relevant and limited
 - Accurate (and rectified if inaccurate)
 - Not kept for longer than necessary
 - Processed securely – to preserve the confidentiality, integrity and availability of the personal data
- Data controller must be able to *demonstrate* compliance with principles

Rights

- Rights of:
 - Being informed about how personal data are used (usually via a detailed ‘privacy notice’ covering prescribed topics)
 - Access
 - Rectification of inaccurate personal data
 - Restriction pending verification or correction
 - Objection (including to profiling and direct marketing)
 - Erasure (‘the right to be forgotten’)
 - Portability
- All rights are qualified, and DPA 2018 adds numerous specific exemptions

Accountability

- Focus in GDPR on accountability measures
 - Data Protection Impact Assessments for ‘high risk’ processing
 - Prescribed contents of contracts with data processors, including transfers outside the EEA
 - Maintenance of a personal data register
 - Reporting certain personal data breaches to ICO within 72 hours
 - Newly prescribed 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 individual decision-making about data subjects
 - Safeguards are in place e.g. pseudonymisation
- 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. minimisation, security, access)
 - 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>

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

- Email

data.protection@admin.cam.ac.uk