



UK Government announces new Data Use and Access Bill

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On 24 October 2024, the UK Department for Science Innovation and Technology announced new [legislation](#) to modernise the UK’s use of data and boost the UK economy.

The focus of the new Data Use and Access Bill (the “new Bill”) is not just on data protection – it covers wider topics, such as the rules for digital identity verification, minor amendments to the Online Safety Act, the National Underground Asset Registers, technical standards for IT services in health care, and others.

The data protection section is covered in part 5 and it contains some of the changes to the data protection requirements proposed by the previous government in the Data Protection and Digital Information Bill (the “previous Bill”), which failed to pass before the general election. Please see a table showing what changes were kept from the previous Bill below. The new Bill also introduced new additions, such as the following:

- **Data Portability:** The Secretary of State will be empowered to introduce provisions requiring data holders to provide customer data to a customer or third party at the customer’s request, reinforcing the data portability right afforded under the UK GDPR.
- **International transfers:** the Agreement on Access to Electronic Data for the Purpose of Countering Serious Crime was called out as the basis for transfers in reliance on international law. It is between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America.
- **Automated decision-making:** there are further restrictions on automated decision-making involving sensitive processing. Such processing should be allowed only with explicit consent and the decision-making must be authorised or required by law.

Proposed change	Data Protection and Digital Information Bill	Data Use and Access Bill
Personal data definition	Pseudonymised data is only personal data if it can be re-identified using reasonable means, i.e. a person is “reasonably likely to use” (time, cost and effort involved, technology and resources available to the person). Aims to exclude data to which the controller/processor applied technical and organisational measures to prevent third-party access.	This is not contained in the new Bill.

Records processing of	No longer required unless the organisation is involved in high-risk processing.	This is not contained in the new Bill.
Legitimate interests	Direct marketing, the intra-group transmission of personal data, and security of network and information systems are listed as examples of legitimate interest. A balancing test is still required for the foregoing.	The list of examples of legitimate interest was included in the new Bill. Additional list of 'recognised' legitimate interests has also been added to the Bill, for which a balancing test is not required. These legitimate interests are mainly available to public authorities and include national security, emergencies, and safeguarding vulnerable individuals (the latter is not restricted to public authorities).
Further processing for scientific research purposes	(a) Expands the scope to cover any research that can be described as scientific, privately or publicly funded, for commercial or non-commercial activity, including statistical research. (b) Exempts from notifying individuals about such processing if it takes disproportionate effort and data provided by them directly.	(a) is included in the new Bill to include publicly or privately funded research in the definition of the scientific research purposes. It also expands the conditions of consent for scientific research purposes to allow further processing.
Data subjects rights	(a) Allows controllers to refuse a data subject request or charge a fee if it is vexatious (replaces "manifestly unfounded") or excessive. Controllers can take the resources available to them into consideration. Examples listed include a request "intended to cause distress", "not made in good faith", or "an abuse of process". (b) Controllers are allowed to stop the clock to clarify a request if they hold large amounts of data about the requestor.	(a) is not contained in the new Bill, but (b) was included.
DPIA	Replaced with a simplified "assessment of high-risk processing"	This is not contained in the new Bill.
Representatives for controllers/process ors not established in the UK	No longer required	This is not contained in the new Bill.
DPO	No longer required and replaced by a senior manager for organisations involved in high-risk processing	This is not contained in the new Bill.
Adequacy decisions by the UK	Standards applied will be a level of protection "not materially lower" instead of "essentially equivalent" to the UK	This is included in the new Bill.
Privacy and Electronic Communications	(a) Fines for failure to comply with the rules on direct marketing and cookie consent under the PECR are to be	(a) has been included in the new Bill, but not (b).

Regulations (PECR)	<p>raised to the GDPR levels.</p> <p>(b) Public electronic communication services and networks are to report suspicious direct marketing activity to the ICO.</p>	
Cookies consent exemptions	<p>Includes:</p> <p>(a) collecting statistical information to make improvements,</p> <p>(b) enabling the appearance or function of a website to reflect user preferences,</p> <p>(c) installing necessary security updates to software on a device and</p> <p>(d) identifying the individual's geolocation in an emergency.</p>	<p>The exemptions are included with modifications. The list of strictly necessary cookies now includes cookies to protect information provided in connection to the provision of the services requested, the security of the device used to access the services requested, to prevent or detect fraud or technical fault, or to authenticate the identity of the user. The new Bill allows consent to cookies to be provided via browser settings.</p>
Information Commissioners Office	<p>The sole data protection powers of the Information Commissioner's Office (the 'ICO') will be eliminated. It will replace the ICO with a new Information Commission, which will be structured similarly to the Financial Conduct Authority, and the Office of Communications</p>	<p>This has been included in the new Bill. The new Bill includes a provision allowing the ICO to reject or charge for requests deemed "manifestly unfounded or excessive."</p>

The reforms should not pose any risk to the UK's adequacy decision from the EU, which is due to be reconsidered in 2025. We expect the reforms to pass through the legislative process quickly. Businesses should monitor the Bill's progress so that they are ready to comply with the reforms.