Bristows

The UK Data (Use and Access) Act 2025

On 11 June 2025, the UK's Data (Use and Access) Bill finally passed through both Houses of Parliament, and is now awaiting Royal Assent. The law introduces new provisions to facilitate the sharing of customer data and business data, govern digital verification services, and create new public registers. **However, the most significant changes are those to the UK GDPR and the Privacy and Electronic Communications Regulations (the UK's implementation of the ePrivacy Directive).**

Reforms to the UK GDPR were first proposed by the Conservative Government in 2023, and returned under the current Labour Government in a significantly reduced form. Ultimately, this is not an 'overhaul' of the UK GDPR, and the UK and EU regimes remain extremely closely aligned. Many of the supposed 'changes' in the new law are, in fact, simply codifying *existing* GDPR Recitals into the main body of the law (reflecting the fact that UK legislation does not otherwise have recitals).

The last few weeks of the Bill's progress through Parliament were dominated by attempts by the House of Lords to introduce new transparency obligations on AI developers in respect of holders of copyright in training data. These amendments were ultimately rejected by the Commons, and so haven't made it into the final law.

Here we summarise the key changes to the UK data protection regime under the new law:

- **Automated Decision-Making:** Perhaps the most significant divergence from the EU regime. Article 22 of the UK GDPR is amended so that the *prohibition* on ADM only applies where the automated decision is based entirely or partly on special category data. However, the safeguards (transparency, human review etc.) will continue to be required for all solely automated decisions.

- **Adequacy decisions:** UK adequacy decisions by the Secretary of State will be subject to a new standard: "*if the standard of the protection provided for data subjects with regard to general processing of personal data in the country or by the organisation is* ***not materially lower****"* than the UK. This is lower than the standard of "essential equivalence" required in the EU, and has led to some concerns about the UK's continued adequacy status by the EU.

- **PECR enforcement:** A very significant change – the Information Commission's fining powers under PECR (currently capped at £500,000) will rise to GDPR levels. This means that breach of the cookie and marketing rules could potentially lead to fines of up to £17.5 million or 4% of worldwide turnover. Given how many fines the ICO issues for direct marketing breaches, it will be very interesting to see how the regulator uses its new powers.

- **New PECR exemptions:** One of key benefits of the reforms was supposed to be a reduction in cookie banners, by expanding the PECR exemptions. In practice, however, the new exemptions remain narrow and subject to stringent conditions – meaning cookie banners will almost certainly remain for all but a very lucky few:

    - New exemption for cookies for "**statistical purposes**" regarding how the service is used with a view to making improvements to the service, subject to transparency and an opt-out. The exemption does not apply to information transmitted automatically, for which consent is still required.
    - New exemption for cookies whose sole purpose is to enable the **website appearance** to adapt to the preferences of the user, or to enhance the appearance or functionality of the website – again, subject to transparency and an opt-out.

- **Definition of scientific research:** A new definition of scientific research is introduced: "*processing for the purposes of any research that can reasonably be described as scientific,*

whether publicly or privately funded and whether carried out as a commercial or non-commercial activity." Not necessarily a *change*, but should provide greater certainty to businesses – and, ideally, facilitate more scientific research in the UK.

- **Recognised legitimate interests:** One of the most vaunted aspects of the reforms as a means of cutting red-tape, but in practice one of the most underwhelming. No balancing test is required to process data for these 'recognised' legitimate interests (despite the fact that, ironically, they are also some of the most high risk):

    - Disclosure for purposes of public interest task
    - National security, public security & defence
    - Responding to an emergency
    - Prevention and detection of crime
    - Safeguarding vulnerable individuals.

- **Deemed compatible processing:** A similar idea to the recognised legitimate interests, designed to make re-use of data easier. Nine 'compatible' purposes are listed in the Act, for which the controller does not need to undertake a compatibility assessment. It's essentially the same as the five recognised legitimate interests, but with a few others in the same vein: assessment or collection of tax; compliance with a legal obligation; and protection of vital interests.

- **Subject Access Rights:** A very welcome change – controllers will only need to provide information in response to a DSAR based on "reasonable and proportionate searches". In practice, the ICO has inferred an element of proportionality here, but it's enormously helpful to see it included in the statute. The reforms also codify the ICO's position that the 'clock' does not start until the controller has been able to confirm the data subject's identity.

- **Complaints mechanisms:** The right of data subjects to complain to the controller is enshrined in law, and the controller must *facilitate the making of complaints, such as by providing a complaint form that can be completed electronically*. Controllers must acknowledge complaints within 30 days, and take steps to respond without undue delay.

- **Information Commission:** The ICO will henceforth be the "Information Commission", a change intended to give the regulator a more modern structure.

If you have any questions about the reforms, please contact any member of the Bristows data protection team.

Mark Watts
Partner
mark.watts@bristows.com

Marc Dautlich
Partner
marc.dautlich@bristows.com

Hannah Crowther
Partner
hannah.crowther@bristows.com

Jamie Drucker
Partner
jamie.drucker@bristows.com