



University College London response to the Information Commissioner's Office draft guidance on the research provisions in the UK GDPR and DPA 2018

University College London

1. UCL is the UK's largest research-intensive university and was rated the top university in the UK for research strength in the most recent Research Excellence Framework. It is ranked 8th in the 2022 QS World University Rankings and is a diverse global community of world-class academics, students, industry links, external partners, and alumni. Our powerful collective of individuals and institutions work together to explore new possibilities.
2. UCL prides itself on academic excellence and there have been 30 Nobel Prize laureates amongst UCL's alumni and current and former staff to date. We have 11 academic faculties, 14,300 staff, 43,800 students and offer 440 undergraduate programmes and 675 postgraduate programmes.
3. Therefore, this guidance for researchers is incredibly important for UCL, as it will inform much of our research and be a very valuable tool.

Consultation response

4. We welcome the ICO's draft guidance on the research provisions within the UK GDPR and the DPA 2018. To note, this response is drafted on the basis of continued alignment between the UK GDPR and the EU GDPR.
5. The guidance is clear and easily accessible, so will be a very useful tool for our researchers who process personal data. We will also use it for international partners, in order to continue to explain to them our requirements under the UK GDPR.
6. In particular, the guidance about consent in the context of research is welcomed. The guidance clearly distinguishes between ethical and legal obligations to obtain consent from consent as a legal basis of processing under the GDPR. The word 'consent' is used so often in research and we understand that for researchers and participants it can be confusing that it is used to mean different things: ethical consent; legal consent; GDPR consent; sometimes merely assent (particularly in the case of children). Therefore it is very helpful to have clear guidance from the ICO describing the interplay between these various types of consent and data protection legislation.

Data protection and ethics

7. We appreciate the guidance given as to when research related processing is 'in the public interest' (p.27 of the guidance). We believe this guidance gives clarity to the issue and emphasises that there needs to be tangible/genuine public benefit. To bolster this guidance further, we would find it helpful to include what the ICO means by 'your own private interests' (p.27). It would be helpful to include examples here in

order to clarify whether private interests relate to private companies or profit making activities only, or whether this risks relating to academic researchers in public sector Higher Education Institutions as well.

8. We would also appreciate further clarification and examples provided specifically about the 'advancement of academic knowledge', what this means and what it would look like in practice to satisfy this criterion. The examples given, and most of the guidance, make it clear that it is a requirement to demonstrate a public benefit (or at least to intend to be able to demonstrate) to use such data. However, we would appreciate further examples to confirm that advancing academic knowledge is in and of itself a public benefit, when undertaken by academic researchers in public sector Higher Education Institutions.
9. As referred to above, the guidance about consent in the context of research is welcomed. We have also received feedback from active researchers that it would be helpful if the guidance could make clear the different types or forms of informed consent and how this would take into account the interests of diverse populations, particularly vulnerable populations who require support in understanding the implications of their participation in a study.

Exemptions to data protection rights

10. It is very helpful that the guidance builds on the UK GDPR exemptions to certain data protection rights in the context of research. What we would find helpful is if there were further examples given, specifically what constitutes 'prevent or seriously impair the achievement of the purposes for processing'. In this context, taking too much time to address a large volume of requests is mentioned but it would be very helpful if this was quantified – e.g. is half a day sufficient? In addition, does this include for example the time required to regenerate results once the data has been removed from the results?

Conclusion

11. In conclusion, UCL believes this is well drafted guidance which will be of practical use to researchers. We welcome the ICO's draft guidance on the research provisions within the UK GDPR and the DPA 2018. The guidance is clear and easily accessible, so will be a very useful tool for our researchers who process personal data.