



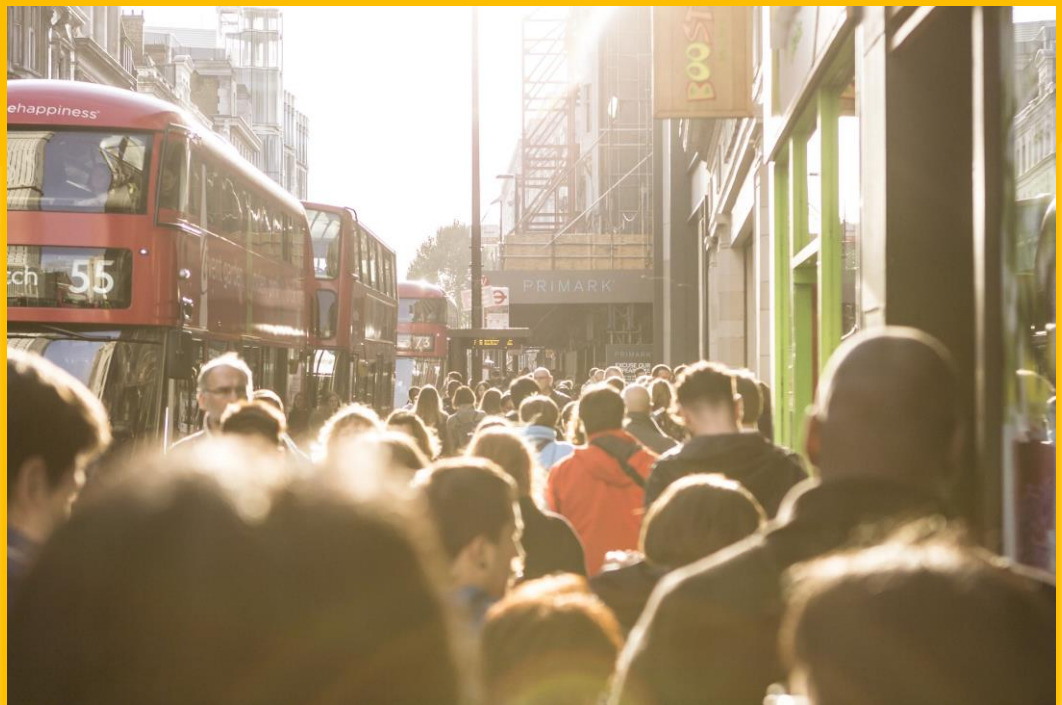
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# **Briefing Doc**

## **UK Data Reform - Data (Use and Access) Bill**



## Detailed Briefing Document

### UK Data Reform - Data (Use and Access) Bill

The Data (Use and Access) Bill represents a significant step in reshaping the UK data protection landscape. While simplifying certain aspects of compliance for organisations, it also enhances the ICO's powers and introduces measures to better balance privacy with innovation and public interest needs.

Date: November 8, 2024

#### Key Themes:

##### Streamlining data protection law

The Bill aims to make compliance easier for organisations while strengthening some data protection measures.

##### Empowering the Information Commissioner's Office (ICO)

The Bill restructures and grants more enforcement power to the ICO, including handling e-privacy breaches.

##### Balancing innovation and privacy:

The Bill aims to promote innovation and competition while ensuring adequate data protection.

#### Most Important Ideas/Facts:

##### 1. Special Category Data Expansion:

The Bill allows for expanding special category data classifications via secondary legislation. This could significantly impact data processing requirements.



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## 2. Simplified Data Transfers:

The Bill streamlines data transfer risk assessments by focusing on "materially lower" protection standards compared to the UK.

This allows organisations to simplify processes for low-risk data transfers. New data protection tests replace "adequacy" decisions, considering factors like rule of law, human rights, and supervisory authorities.

## 3. E-Privacy Updates:

Cookie consent rules will apply to those who "instigate" data storage, potentially targeting website publishers.

Exemptions from cookie consent are introduced for low-risk processing like analytics, security, and fraud prevention.

ICO's enforcement power for e-privacy breaches (including cookies and electronic marketing) is significantly increased.

## 4. Data Subject Rights and Automated Decision Making:

A new right for data subjects to complain to controllers is introduced, requiring complaint facilitation mechanisms.

Controllers may be obliged to notify the ICO of the number of complaints they have received.

The definition of "solely" automated decision-making is clarified, allowing for more situations where it is permitted, as long as specific safeguards are in place.

## 5. Legitimate Interest Clarification:

The Bill provides examples and a formal list of "recognised legitimate interests," making it easier for organisations to determine if their data processing purpose qualifies.

This simplifies the assessment for specific purposes like disclosures to public bodies and national security needs.

## **6. Purpose Limitation and Research:**

The Bill clarifies purpose limitation rules and introduces "deemed compatible" purposes, streamlining data use for public interest tasks, emergencies, and safeguarding vulnerable individuals.

Specific provisions for research purposes are introduced, including exemptions from providing privacy notices in certain situations.

## **7. Restructuring and Empowering the ICO:**

The Bill transforms the ICO from a "corporation sole" to a corporate body with non-executive and executive members, similar to other regulatory bodies.

This grants more influence to non-executive members in the ICO's decision-making process.

New enforcement powers are introduced, including requiring specific document provision, mandating independent reports, and compelling individuals for interviews.

## **8. International Law Enforcement Requests:**

The Bill simplifies data sharing with US law enforcement for countering serious crime, acknowledging the "special" relationship between the UK and USA.

This allows organisations to rely on legal obligation as a lawful basis for processing data for such requests.

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