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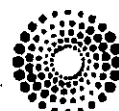
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# **Data Protection Law and Practice**

*Fourth Edition*

**Rosemary Jay**

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# CHAPTER 18

## Research

Ellis Parry

### INTRODUCTION

Research which entails the use of personal data must comply with the Data Protection Act (DPA). Some of the standards required by the DPA and associated legislation may present difficulties in the context of research—these are explored in this chapter.

18-01

The DPA includes only limited exemptions for research so researchers need to understand and apply the data protection principles appropriately particularly in the light of the wider evolving landscape. Policy makers, legislators and the Information Commissioner recognise the benefit of research, but as the Information Commissioner has commented:

“...the public wants...to see their privacy rights respected too. The risks of anonymisation can sometimes be underestimated and in other cases overstated; organisations need to be aware of what those risks are and take a structured approach to assessing them, particularly in light of other personal information in the public domain”.<sup>1</sup>

The nervousness expressed by the Information Commissioner over allowing large administrative datasets gathered for one purpose to be re-used for a secondary purpose, may have its roots in the events surrounding the troubled legislative passage of the Coroners and Justice Bill in 2009. The Bill contained a provision which would have given a “designated authority” powers to make “Information-Sharing Orders” permitting public sector bodies to disclose and use personal data for purposes other than those for which they were initially collected. However, after representations by a range of civil liberty advocates and a softening in the Information Commissioner’s support for the provision, the government withdrew the provision from the Bill and replaced it with provisions for a statutory data sharing code<sup>2</sup>—for a fuller discussion of the failed aspects of the Coroners and Justice Bill, see Ch.25. The data sharing code is not itself hard law rather it is persuasive and advisory only although it is admissible in legal proceedings.

The government continues to champion its transparency agenda advocating that public services can be transformed through the realisation of the benefits

<sup>1</sup> [http://www.ico.gov.uk/news/latest\\_news/2012/ico-consults-on-new-anonymisation-code-of-practice-31052012.aspx](http://www.ico.gov.uk/news/latest_news/2012/ico-consults-on-new-anonymisation-code-of-practice-31052012.aspx) [Accessed September 21, 2012].

<sup>2</sup> [http://www.ico.gov.uk/for\\_organisations/data\\_protection/topic\\_guides/data\\_sharing.aspx](http://www.ico.gov.uk/for_organisations/data_protection/topic_guides/data_sharing.aspx)