

2 August 2017

The Rt Hon. Karen Bradley MP
Secretary of State
Department for Digital, Culture, Media and Sport

EU General Data Protection Regulation

Dear Rt Hon. Karen Bradley MP,

Research Libraries UK is a consortium representing 37 of the leading and most significant research libraries in the UK and Ireland. Our purpose is to shape the research library agenda and optimise the contribution that research libraries and collections make to the economic, technological and cultural success of the UK and Ireland. I am writing with regard to the implementation of the General Data Protection Regulation to ensure that research libraries, archives and their activities are adequately reflected.

Libraries have a long and strong tradition of protecting the privacy of their patrons pre-dating the introduction of data protection legislation. At the same time, our role as keepers of the historical record requires that we have the legal freedoms to share our collections. Over and above research, there is of course a democratic imperative as libraries and archives are a pillar of freedom of expression and information in our society.

We believe the following points must be clearly enabled in the upcoming bill:

1. The Data Protection Act 1998 does not **define** what is means by research. The GDPR, however, refers to “scientific” “statistical” and “historical research” purposes only. We believe that construing these as expansively as possible is vital in order not to limit many types of commercial and non-commercial research legitimately undertaken without harm to data subjects’ rights and freedoms. For example, a company wishing to consult its own archives for business purposes that have been deposited with an archive. Confirmation of a broader definition would be beneficial for businesses and researchers alike.
2. As outlined in **Recital 158** there is a need for legislation in the UK defining the activities of “archiving in the public interest”, irrespective of whether undertaken by a public or private archive¹. Without this, no organisation that holds archival collections will be able to enjoy the archiving exemptions provided for in the regulation which will have deeply disruptive effects on organisations’ ability to legally collect, preserve and provide access to materials or maintain accurate archival records.
3. It would be very enabling if the government were to make an explicit reference, either in the implementation of the GDPR or in any legislation that defines archiving in the public interest, to the fact that **archiving encompasses digital materials** and the access to digitised archives **online** and is not a purely analogue activity.
4. The derogations related to archiving and research in **Article 89** are important to ensure the accuracy and completeness of the historic record in library and archival collections, as well

¹ For example probably the UK’s single largest medical archive is held by a private organisation, the Wellcome Trust.

as the contemporary record of history, science, and culture. Additionally, many libraries and archives have already digitised 20th and 21st century collections, whose benefits would be significantly curtailed should Article 89 not be implemented.

5. Research relies on the ability to process personal data to create insights and new findings. Libraries and archives provide access to data and tools that support this work, through our collections and by facilitating the use of research methods such as Text and Data Mining. Implementation of **Article 89** will ensure that libraries and archives continue to have the ability to support high quality research in the UK.
6. Given the importance of journalistic, academic, artistic and literary expression, and the role of libraries and archives in ensuring the completeness and accuracy of the contemporary and historic record, the derogations in **Article 85** are required. Data protection laws should not in any way lead to suppression of access to archival collections of a political or other public interest nature. Libraries and archives particularly those holding significant collections of audiovisual or news media that may also be published online, require Article 85 to continue to fulfil these roles.
7. As universities, libraries and archives rely on a range of funding sources including from public funds, the bill must not prevent such organisations from relying on any valid grounds for lawfully processing personal data (as set out in **Article 6** of the GDPR), including tasks carried out in the public interest and activities carried out for the purposes of legitimate interests.
8. Furthermore, the unenforceable bar in **Section 33 of the UK Data Protection Act** on historical researchers using records to make decisions regarding the activities of living individuals should be removed. Research based on historical records may very regularly involve such decisions, for instance in the production of biographies, journalism, finding aids and other media based on material in library and archival collections. Such a bar would be concerning from a public interest and freedom of expression perspective.

RLUK would be happy to follow up any of these points with you by email or in another suitable form.

Kind regards,



David Prosser
Executive Director
Research Libraries UK