**Beyond Freedom of Information Legislation: Navigating**

**Access to Government Data for Independent Research in the UK**

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Freedom of information (FOI) legislation has been a significant pillar of democratic public discourse in the UK by enabling independent researchers to hold the government of the day accountable and scrutinise its actions in an evidence-based manner. The rise of the digital state, however, has placed significant limits on the extent to which UK FOI legislation empowers independent researchers to speak truth to power: modern-day policy decisions are increasingly data-driven, relying on massive datasets that are collected, processed and re-purposed on an ongoing and agile basis. Considering the challenges posed by the data-driven character of modern government, this paper draws on the findings of a mixed-methods historical study based on triangulation of data sources to illustrate the rules that govern independent researcher access to public-sector administrative data in the UK. Examining both data sharing law and practice, the analysis yields the conclusion that data-holding public bodies tend to write and enforce their own access rules, often imposing requirements of relevance to their own policy-making priorities. This often results in insurmountable barriers for researchers who seek to gain access without jeopardising the independent and critical character of their research. To ensure that digital experimentation in the public sector is accompanied by sufficient and independent evidence-based scrutiny, reforming existing legislation is a necessary next step.

*Keywords:* government data; data sharing; data protection; freedom of information; independent research

# **Introduction**

The emergence and proliferation of the ‘‘digital State’’[[1]](#footnote-1) in the UK over recent decades has given rise to an intriguing paradox. On the one hand, government departments have been creating, collecting, and processing more information about citizens to serve their policymaking aims than ever before. On the other, independent researchers face increasing struggles to access the information on which government policies and reforms can be critically assessed.[[2]](#footnote-2) Against the backdrop of intensive digital experimentation in the public sector and ‘‘datafication’’ of such areas of policy as welfare benefits,[[3]](#footnote-3) health[[4]](#footnote-4) and immigration,[[5]](#footnote-5) critical and independent assessment of government policies is of utmost importance for democratic accountability purposes.

Freedom of Information (FOI) legislation has been a crucial facilitator of independent research that speaks truth to power.[[6]](#footnote-6) Numerous researchers in the UK and beyond have employed FOI legislation to gain access to previously unpublicised information about the design and implementation of government policies affecting individual citizens and groups.[[7]](#footnote-7) Rapid developments in data science and big data analytics, however, have imposed novel limits on the capacity of such legislation as the UK Freedom of Information Act (FOIA) 2000 to facilitate research that speaks truth to power. The use of government data is now much more dynamic, often involving continuous information flows between the system users and the civil service.[[8]](#footnote-8) In many cases, researchers need on-going access to massive government datasets, which must be regularly cleaned, curated, and updated, as well as linked to other government datasets, to effectively scrutinise government policies.[[9]](#footnote-9) The FOIA is not apt for achieving such sustained and comprehensive access, for reasons related both to its textual limitations and its scope. Nor, as it will be shown, does data sharing legislation applicable in the UK provide satisfactory grounds for independent[[10]](#footnote-10) researchers to claim that they are entitled to receive access to government data.

What, then, are the rules that govern independent researcher access to public-sector administrative data in the UK? I draw on a mixed-methods historical study based on triangulation of data sources to illustrate the ways in which different organisational actors have interacted with one another to shape the regulation of research data access decisions over the last four decades (1980-2020). These findings stem from the analysis of data from documents (organisational documents, literature studies, grey literature) and forty-two (42) semi-structured interviews with individuals working for bodies holding government data (data controllers) and researchers with experience in data access negotiations. A picture of fragmentation and power imbalance emerges, with researchers often struggling to understand the precise requirements for data access or the timeframe within which they will get their hands on the data. Treating government data as ‘‘owned’’ by them, many data controllers write and enforce their own data access rules, often imposing requirements of research relevance to their own policy-making priorities. Data access for independent researchers is, in practice, a privilege, not a right. Legal regulation of government data access both complementing and amending the FOIA is, it is argued, necessary to safeguard and facilitate independent research on digital experiments and reforms in the public sector.

To elaborate on this argument, I first discuss the intersection between FOI legislation and independent research, reflecting on the FOIA’s limitations in the contemporary status quo. A presentation of the methodology employed in the present study follows. The discussion, then, focuses on the regulation of government data access decisions, first providing an overview of applicable data sharing legislation and then sketching the actual dynamics of how data access decisions have been governed on-the-ground over the last four decades in the UK public sector. In conclusion, I reflect on legal and non-legal prerequisites for widening access to government data for independent research purposes.

# **Freedom of Information Legislation and Independent Research**

## *The UK Freedom of Information Act (FOIA) 2000: An Overview*

The legacy and the emerging limitations of freedom of information legislation are presented here by reference to the UK Freedom of Information Act (FOIA) 2000. The FOIA was introduced in 1997 and passed in 2000 as an ambitious reform that was intended to make the UK a world leader in government transparency and information access.[[11]](#footnote-11) It entered into force in 2005, applying to over 110,000 bodies in the UK public sector.[[12]](#footnote-12) The Act empowers ‘‘any person’’, including legal persons, to receive a written response about the existence of specific information in the records of a public authority.[[13]](#footnote-13) The requesting party does not have to be located in the UK. In case the public authority holds the requested records, the requester is entitled to receive them. If the information is exempt from the obligation of disclosure, or if the public authority does not hold it, the requester is entitled to a notice of denial.[[14]](#footnote-14)

Exemptions lie at the heart of the Act’s operation. In principle, there is a distinction between ‘‘harm-based’’ and ‘‘class-based’’ exemptions. In the case of ‘‘harm-based’’ exemptions (e.g., sections 26 and 27 of the Act concerning defence and international relations), authorities assess that the disclosure of information would cause harm or prejudice to such interests as national security, international relations, or national defence. In this case, there is a need to perform a balancing exercise to assess whether the harm caused by the release of the information would outweigh the public interest in disclosing the information.[[15]](#footnote-15) ‘‘Class-based’’ exemptions (e.g., section 32 of the Act concerning court records) apply when public authorities have established that the requested information falls within the ambit of the class of information specified in the exemption, regardless of harms caused by the disclosure. Crucially, under section 40(2) of the Act, an absolute exemption applies if the disclosure of information would constitute a breach of the principles of the UK GDPR, e.g., in case there is no lawful basis for processing personal data and disclosing it.[[16]](#footnote-16) How has the act, then, enabled independent researchers to hold the government accountable in practice?

*The FOIA’s Legacy for Independent Researchers*

Freedom of information legislation has been hailed for its ‘‘democratising’’ potential when it comes to facilitating independent research that can hold public power accountable in an effective way. As Savage and Hyde point out, FOI legislation can be employed by virtually anyone who is interested in scrutinising government policies through research, not only established institutional actors such as Universities or other research organisations and researchers working within their confines. It is, thus, no coincidence that scholars operating within disciplines traditionally concerned with power and accountability – including law,[[17]](#footnote-17) sociology,[[18]](#footnote-18) criminology,[[19]](#footnote-19) criminal justice[[20]](#footnote-20) and political science[[21]](#footnote-21) – have pioneered the use of such legislation for research purposes.

Scholars in different countries have used freedom of information legislation. In Canada, freedom of information requests have been used as a primary data source in a variety of research contexts, from policing and national security, to corporate security and post-secondary education.[[22]](#footnote-22) In the United States, scholars employed freedom of information requests to find information about the surveillance practices of the Federal Bureau of Investigation (FBI) against academics suspected to be radicals.[[23]](#footnote-23) In the UK, scholars working in the area of policing from socio-legal and broader social-scientific perspectives have particularly utilised the FOIA. Savage used the FOIA to gain access to the whistleblowing policies of 39 UK police constabularies in 2015.[[24]](#footnote-24) Kingston and others used the FOIA to interrogate how cost calculations block requests for information by the police in England and Wales in 2018.[[25]](#footnote-25) Other scholars have used FOIA requests to assess the resources dedicated to combating economic crimes or the number of police station closures and reductions in opening hours.[[26]](#footnote-26)

Despite this diversity in use and democratising potential, relying on freedom of information laws for research purposes is far from a well-established scientific practice. Scholars have only recently started to develop the methodology aspects of using FOI requests,[[27]](#footnote-27) and there are understandably many open questions as to how researchers can ensure quality in their research and implement best practices in submitting FOI requests and analysing data gained from them. Furthermore, FOI requests do not automatically disarm government resistance to transparency and accountability. Many scholars have reported abuses of power by public officials in characterising FOI requests as vexatious or invoking resource constraints to avoid responding to requests.[[28]](#footnote-28) There may often also be significant barriers to gaining access to the data a researcher hopes to access. Researchers have reported higher than estimated delays, redactions, overstretching of exemptions and poor-quality data in that regard.[[29]](#footnote-29)

There is, still, a wealth of information that researchers would never be able to access without such legislation. This is particularly the case in security-sensitive research contexts that require access to confidential government documents like internal communiqués and reports, drafts of policy agendas, internal emails and other classified information.[[30]](#footnote-30) In case of certain research questions, particularly in fields like political science, international relations or the sociology of organisations, officially produced state documents may prove to be invaluable sources of information.[[31]](#footnote-31) Another significant advantage of FOI relates to its capacity to produce large amounts of data, especially if the researchers simultaneously submit multiple relevant requests to many public authorities.[[32]](#footnote-32) Considering the time pressures inherent in publicly-funded academic research projects, effectively utilising FOI may allow an optimal allocation of efforts and time into developing other aspects of the research design while awaiting the response of public authorities to gain access to the data. How does, then, this important legacy of the FOIA survive in the contemporary UK public sector?

*The Limitations on the FOIA’s ‘Bite’ in the Digital State*

While the FOIA’s legacy in enabling independent research that critically scrutinises government policies cannot be underestimated, the rise of the so-called ‘‘digital state’’ in the UK, as in other countries, has imposed serious limitations on this empowering capacity. Simply put, the FOIA is apt for providing access to information in a more *static* manner: researchers can use the legislation to identify certain important pieces of information, or certain databases, and request access. In most cases, this request will refer to previously collected or created information, potentially reflecting public service delivery some years ago. The modernised State, however, is collecting and producing information in a much more *dynamic* fashion. Massive government datasets are updated daily and must be organised and curated to ensure that the contributions of thousands of civil servants and the data points of millions of citizens are registered during the routine operation of the government in a coherent and meaningful manner.[[33]](#footnote-33) For example, if one were to scrutinise the fairness of immigration decisions by the UK border control authorities, one would have to enjoy ongoing access to massive datasets that are continuously updated through everyday border control activities, as well as in the process of bureaucratic decisions about e.g., the settled status of EU citizens in the UK. Many of the relevant datasets will belong to different public bodies apart from the main decision-maker (in this case the Home Office), such as the HM Revenue and Customs and the Department for Work and Pensions.[[34]](#footnote-34)

There is increasing policy appetite to enable wider data sharing between public bodies, in the interest of making the delivery of services more cost-efficient and tailored to real needs. As continuous data sharing between public bodies is becoming the norm,[[35]](#footnote-35) ongoing access to up-to-date government information will be required before a complete picture of the progress made by public policy-making and delivery can be ascertained. To make things even more complicated, the automation of certain civil service processes blurs the boundaries between human decision-makers and algorithms, raising challenges for mapping information flows. For example, public bodies may use automated systems to triage user requests or augment (if not make) certain decisions affecting the rights and the obligations of citizens e.g., regarding social welfare benefits.[[36]](#footnote-36) With powerful private actors often being involved in the deployment of such systems,[[37]](#footnote-37) it may be difficult for researchers to hold the exercise of public power accountable without on-going and regularly updated knowledge about existing data sharing practices.

Such on-going knowledge presupposes established and predictable data access arrangements. Big government datasets have not been collected for research purposes and, thus, they need to be edited before being used by researchers. In practice, this requires significant efforts on behalf of the data controller: officials with statistical expertise and knowledge of the subject area need to identify the most appropriate datasets, as well as the most appropriate variables within these datasets, for research use. Then, there is a need to curate and ‘‘clean’’ these datasets,[[38]](#footnote-38) to ensure that research will not be hindered by missing or poor-quality data. Assuming that datasets are usable, the data controller will have to make specific arrangements for personal data access by researchers. Such issues as the need to have an accreditation system in place to ensure responsible data use, both in terms of the individuals accessing the data and the projects they want to pursue, need to be comprehensively considered and reflected in legally binding data sharing agreements between the data controllers and the researchers. Finally, yet importantly, even after the researchers have extracted the necessary information, there is still the need to perform controls and oversight, known as Statistical Disclosure Control,[[39]](#footnote-39) to ensure that no identifiable data to a living natural person are included in the research outputs.

The above is, of course, only a high-level view of the different phases of government data sharing for independent research purposes, and one could identify even more sub-phases and processes depending on the specific data controller. Nonetheless, this view already indicates the nature of the data sharing relationship between public bodies and researchers: it is a long-drawn and multi-layered process, defined by both complex technical requirements and legal and ethical safeguards. Both parties must communicate smoothly and efficiently to work around the different requirements and build a long-term relationship of trust. This is, as it will be shown, as important as satisfying the formal data access requirements in moving things forward.

This is not to say that the FOIA’s inadequacy is the sole source of difficulties for independent researchers. Surely, producing critical research that effectively holds public power accountable is not only hindered by the lack of an appropriate legal instrument. For example, the incentives structure of the contemporary academic world, e.g., the need to demonstrate impact on policy-making activities, already introduces limitations on how relationships between independent researchers and public bodies are to be managed.[[40]](#footnote-40) A highly critical approach is, in practice, quite likely to result in several doors closing, causing damage to one’s research and career ambitions. Taking into consideration this reality, it is important to consider the regulation of access to UK government data for independent research purposes *beyond* the FOIA. Can researchers rely on other legal sources to establish a predictable working relationship with data controllers without jeopardising their independence and critical voice?

*Exploring alternatives: administrative data sharing law*

Apart from FOI law, it is important to provide an overview of the data sharing legislation in the UK and enquire whether it provides sufficient grounds for independent researchers to speak truth to power. Legal regulation can either be *restrictive,* seeking to limit the actions of regulated entities and ensure their compliance with certain rules, or *facilitative*, seeking to empower regulated entities to engage in certain types of activity, or both.[[41]](#footnote-41) In the case of research data access, legal regulation is in principle facilitative, since the particular type of data sharing is always *discretionary* and not mandatory, combined with a number of restrictions to ensure compliance with privacy and data protection safeguards. Data controllers are enabled, by law, to engage in providing data access to third parties for several legitimate purposes, including social-scientific research.

This is not to say that legal powers to provide access to government data for social-scientific research are unconditional. The UK Supreme Court clarified in *Christian Institute* that such powers are ‘‘conditional upon compliance’’ with the requirements of data protection and human rights law.[[42]](#footnote-42) A legal analysis of these requirements can illuminate the extent to which they limit the powers of public bodies to engage in research data sharing,[[43]](#footnote-43) but, for present purposes, the focus is on whether data sharing law establishes strong claims of access in the first place.

An analysis of the relevant legal powers indicates that in data sharing law access is indeed a privilege, decided at the discretion of the data controllers, not a right. The most paradigmatic legal source of data sharing powers is (administrative) statutory law. In general, there are many different and context-specific legal powers to share administrative data deriving from statutory acts.[[44]](#footnote-44) To give a few examples, key ‘‘gateways’’ are to be found in sections 251 of the National Health Service (NHS) Act 2006, 39 of the Statistics and Registration Services Act (SRSA) 2007, 261 of the Health and Social Care (HSC) Act 2012, 3 of the Prescribed Persons Act 2009 and 64 of the Digital Economy Act (DEA) 2017. Until the very recent enactment of the DEA, these gateways empowered only a few public bodies to share data for research. For example, the ‘‘approved researcher’’ gateway in the SRSA empowers the Office for National Statistics to share data for statistical research purposes. The NHS and HSC Acts are similarly limited in the scope of research allowed. Section 251(12) of the former confines its use to *medical* research; section 261 of the latter, after its amendment by section 122 of the Care Act 2014, requires that the purposes of data sharing are limited to the ‘‘promotion of health’’, i.e., proposing improvements in the operation of the health and social care system.

The enactment of the DEA in April 2017 was a step-change to this piecemeal approach. Section 64(1) of the Act empowers all public authorities to disclose data they hold ‘in the context of their functions’ for research purposes. Public bodies may disclose such data in accordance with the conditions outlined in sections 64(3)-(10),[[45]](#footnote-45) as well as with the Data Protection Act 2018 which implements the EU General Data Protection Regulation into domestic law. While section 73(2) of the DEA excludes information held relating to health and social care functions, the discretionary power established by section 64(1) is now the major legal source for most research-data-sharing purposes. What happens, however, in cases not covered by explicit statutory language, e.g. when public authorities are unsure about the nexus between the requested datasets and their functions?

An answer to the above question may be given by the so-called ‘‘implied powers’’ of public bodies. The Law Commission maintains that in the absence of an explicit legal gateway, the power may be impliedif ‘‘data sharing is *reasonably incidental* to an express power to do something else’’ (emphasis added).[[46]](#footnote-46) The problem is that there has been very limited discussion on implied powers in the research context. In fact, one struggles to find a single legal resource or precedent on implied powers as the legal basis for research data sharing. The 2014 Law Commission report ‘‘Data Sharing Between Public Bodies: A Scoping Report’’, for example, mentions several examples of implied powers, emerging e.g. from a duty to co-operate or ensure the proper functioning of a regulatory body; none are related to research.[[47]](#footnote-47) This might explain the reluctance of many data controllers in the research data sharing space, such as the Northern Irish Statistics and Research Agency or the Department for Work and Pensions, to rely on implied powers.[[48]](#footnote-48)

The ‘‘administrative’’ common law powers of the Crown present another solution. These powers are limited to data controllers who are ministerial departments. The doctrinal legal analysis of common law powers is arguably more straightforward than implied powers. Lord Sumption noted in *New London College* that ‘‘the Crown possesses some general administrative powers (…) which are not exercises of the royal prerogative and do not require statutory authority’’.[[49]](#footnote-49) Perry describes such powers as ‘‘unglamorous, but important’’, accounting for ‘‘much of the ordinary business of the government’’.[[50]](#footnote-50) This category encompasses such powers as the power of public bodies to form contracts, conveying property, making *ex gratia* payments, appointing agents and creating policies.[[51]](#footnote-51) While administrative datasets are not ‘‘property’’ of the public bodies, the latter are, by law, responsible for their use and management. Within this ambit, public bodies would be allowed to provide access based on data sharing agreements that observe legal requirements. Common law powers must be exercised in conformity with statutory legislation. In this case, the main limitations stem from the right to private life under Article 8 of the European Convention on Human Rights (ECHR) and the requirements of data protection law, found in the Data Protection Act 2018 and the EU General Data Protection Regulation (GDPR).

Considering the discretionary nature of the legal powers to share data and the absence of stronger rights established by legislation like the FOIA, the question emerges: how is research access to government data governed in everyday practice? What are the rules that govern independent researchers’ access to government data in the UK? Before providing an answer to these questions, the following section outlines the research methods employed in the present study.

# **Methodology**

The present study adopted a mixed-methods historical approach based on triangulation of data sources.[[52]](#footnote-52) The approach relied on the combination of primary and secondary data sources. First, it involved forty-two (42) semi-structured interviews with individuals experienced in negotiating research data access in the UK public sector. Second, it relied on the secondary literature about administrative data sharing in the UK, including grey literature, organisational reports, and published accounts.[[53]](#footnote-53) Interviews and documents, as well as informal conversations with research data sharing participants,[[54]](#footnote-54) were used for collecting data about the regulation of research data sharing decisions in the UK public-sector. Interviewing was employed to capture the thoughts and interpretations of research data sharing participants in respect of how the prevalent criteria and the appropriate requirements in the context of data access decisions have been shaped over time.[[55]](#footnote-55) Semi-structured interviews were employed to both focus discussion and allow respondents to elaborate on the issues they considered most important. With both interviewee and document selection, a strategy of *purposive sampling* was adopted. Emphasis was put on selecting data sources that had the potential to yield insight about the various factors that shape data sharing decisions, according to my constantly developing explanatory account.[[56]](#footnote-56) A ‘‘theoretically meaningful’’ sample was sought by involving ‘‘certain characteristics or criteria which helped develop and test’’ my emerging theoretical account.[[57]](#footnote-57)

In analysing the data, a ‘thematic analysis’ approach was followed, aiming to ‘‘identify, analyse and report patterns within data’’.[[58]](#footnote-58) This was an *inductive* and *grounded* approach to analysis, identifying patterns from the data in a bottom-up way, even if I did not follow all the procedures of a grounded theory approach. For example, I coded sentences or small paragraphs in lieu of performing exhaustive line-by-line coding. I did also not deliberately disregard the existing literature on the potential explanatory factors of the phenomenon.[[59]](#footnote-59) Such literature provided me with broad directions in the early phases of coding. Analysis involved a succession of stages. Data were read and familiarised with, taking note of items of potential interest to answer the research question by creating the relevant ‘‘nodes’’ in the NVivo 12 software.

# **Access to Government Data for Independent Researchers: Data Sharing Governance in Practice**

Despite the multitude of legal sources on which to rely with a view to share administrative data for research purposes, an empirical study involving interviews conducted between 2016 and 2020 in the four UK countries and documentary analysis reveals that the rules governing researcher access are often written far beyond the legal or policy-making spotlight. High-level policies, as it will be shown, are often reshaped as they are implemented in different organisational environments.

*Early beginnings: ad-hoc and commissioned research*

Back in the 1980s, government departments used to commission research for their own purposes. As departments started to use administrative data for research purposes on a routine basis in the late 1980s and early 1990s,[[60]](#footnote-60) the first research data centre for health data in the UK was established by the Office for National Statistics and the Economic and Social Research Council to stimulate the interest of external researchers in analysing government data.[[61]](#footnote-61) Similar developments took longer to materialise regarding other types of data, with data holders being reluctant to widen access to administrative records for social research purposes. An interviewee who has worked for the Department for Work and Pensions recalls the nervousness caused within the department after a massive data breach concerning child benefit data:

*‘‘It was always quite difficult to get hold of the benefit data. After the loss, everything came to an absolute standstill for a year, and nobody could get access to it. Even by the time I left, you had to be next to God before you could get access to data.’’*[[62]](#footnote-62)

Government departments have, according to literature accounts, perceived external researchers as less professional and diligent compared to their own statisticians,[[63]](#footnote-63) preferring to monitor every disclosure for research purposes. An interviewee who has worked for the Administrative Data Service, a publicly-funded body seeking to facilitate wider access to administrative data for academic researchers, recalls that the DWP’s ‘‘established processes for receiving requests for data’’ had to be re-designed before applying to academic requesters.[[64]](#footnote-64)

During the 1990s, government departments started to see the motivation in creating more formalised and stable routes for external researchers to access their data. Administrative data research may involve complex and sophisticated statistical methods, which the department ‘‘wouldn’t have the capacity to do’’.[[65]](#footnote-65) In other cases, the department would find it more palatable to present a particular research finding as carried out by someone ‘‘neutral and independent’’ rather than by its own statisticians.[[66]](#footnote-66) To facilitate engaging experts from the academic sector in an ongoing basis, departments started supporting ‘‘infrastructure initiatives’’ that were deemed to be significant enough in terms of policy impact to warrant central government support.[[67]](#footnote-67) Such initiatives were initially introduced in the health data context both in England and the devolved countries, eg the (English) Millennium Cohort Study,[[68]](#footnote-68) the Scottish Longitudinal Study,[[69]](#footnote-69) the Northern Ireland Longitudinal Study[[70]](#footnote-70) and the SAIL Databank in Wales.[[71]](#footnote-71) Two individuals working for the Welsh government concur that, at this historical time, public bodies holding the data largely relied on informal relationships and the circumstance of knowing someone within a particular government department to gain access, often due to the shared subject matter of interest between academics and policy-makers:

*‘‘Wales being a small country (…) people know their academics (…) within their field quite well and some would do commissioned work or analysis of linked data sets.’’[[72]](#footnote-72)*

As the number of requests gradually increased, the research potential of administrative data became clearer to both researchers and policymakers, leading to the rise of formalised governance frameworks.

*The rise of formalised governance frameworks*

In 2002, the Cabinet Office published a set of recommendations about making use of government data more widespread and coordinated. These recommendations reflected an increasingly held appreciation that administrative data are a ‘‘largely untapped source of information for research and policy evaluation in the UK’’, the potential of which can only be fully realised if departments become more transparent about their data sharing policies.[[73]](#footnote-73) In the light of statistical research methodologies also becoming more sophisticated in the early 2000s, central government encouraged public-sector bodies to consider facilitating ‘‘general research not directed by the department’’ in a more streamlined and systematic way.[[74]](#footnote-74) An interviewee who has worked for the HM Revenue and Customs (HMRC) highlights that their department was motivated to set a ‘’uniform data sharing strategy’’ so as to use its data ‘’as effectively as it could do’’ and also facilitate the ‘’public benefit or the benefit of other departments’’.*[[75]](#footnote-75)* To meet these goals, access to government data for social-science research purposes had to become more predictable, organised and reliable, in the interest of attracting the interest of expert researchers that can, at a low cost for the government, contribute to the production of a robust evidence-basis for UK policymaking.

At the same time, with evidence-based policymaking increasingly regarded as an ‘‘essential part of good governance’’ per the government’s own policy proclamations,[[76]](#footnote-76) accountability idealsstarted taking shape, drawing on ideals of transparency and openness in governmental decision-making, with a view to consolidating public trust in the executive. By streamlining access to government data for independent social-science research, the government aspired to realise the value of data ‘‘in holding governments to account (…) (and) driving choice and improvements in public services’’.[[77]](#footnote-77) An interviewee working for the Office for National Statistics argues that there is ‘public benefit’ in external researchers using the Office’s data to ‘prove that our statistics are incorrect’ or to ‘‘produce a better measure of inflation’’, even if there is no ‘‘direct use’’ of these findings for public policy.[[78]](#footnote-78)Another interviewee working as an administrative data researcher in Northern Ireland expresses the same ideal in the following words:

‘‘*There has to be an aspiration (…) that this is public data and (…) if you have an ethically approved, methodologically sound project that addresses something that has public benefits, then we should be advocating for this project to be supported’’*.[[79]](#footnote-79)

Following this line of thought, one of the first research data infrastructures in the UK public sector to facilitate streamlined access of external researchers was established by the Office for National Statistics (ONS). The ONS created a specific governance infrastructure, the Micro-Data Release Panel (MRP), and entrusted it with responsibilities to manage the strategic and operational aspects of research data access. External researchers, interested in using ONS datasets, have to submit an application to the MRP, convincing the panel that their request is ‘‘related to a viable and relevant research topic’’ and that they themselves are able to undertake high-quality research that will ‘‘add significant value to existing research in that area’’.[[80]](#footnote-80) Crucially, the ONS has not only published guidance, but, in fact, consulted the research community about the appropriateness of its criteria in July 2016. An interviewee working for the ONS highlights the significance of formalisation for external researchers by referring to the function of access decisions as precedents for other researchers:

*‘‘Over the years, we built up a system of precedent decisions (…) we decided we had to rework the whole process and formalise it a lot more. (…) So now we have a written set of precedents, which allow us to make decisions and the understanding is this is a lot more formal and transparent procedure (…) We want to make sure that everybody understands the precedents and we apply them consistently and correctly.’’[[81]](#footnote-81)*

Other data controllers followed this example. The HMRC were one of the first major government departments in the UK to formalise access to their datasets for academic researchers ‘‘working independently’’ through the ‘‘HMRC DataLab’’.[[82]](#footnote-82) Only allowing access on-site, HMRC sought to establish a secure research environment within which researchers would access ‘‘anonymised taxpayer and customs data for research and analysis purposes’’,[[83]](#footnote-83) with a view to producing high-quality research that would benefit both the HMRC and the academic community. Mirroring the Office for National Statistics governance procedures, HMRC created their own Microdata Release Panel. This Panel handles operational aspects of data sharing, reviewing research proposals and performing output validation and disclosure control checks to assess identifiability risks.[[84]](#footnote-84) Researchers applying for access to the HMRC DataLab have to demonstrate that their proposed research will ‘‘deliver a public benefit to society’’.[[85]](#footnote-85)

Beyond England, the Honest Broker Service (HBS), part of the Business Services Organisation within the Health and Social Care department of the Northern Irish government, is one of the luminary data controllers in formalising external researcher access to its resources.[[86]](#footnote-86) The HBS created ‘‘safe havens’’ for secure data linkage and de-identification, allowing access to anonymised data for researchers interested in the social dimensions of health and social care.[[87]](#footnote-87) An interviewee working for the HBS confirm that they have established their own Governance Board and follow a similar decision-making procedure with other departments:

*‘‘So, we have our discussion, an in-depth discussion, about what their intentions are, what the aims of the project are, perhaps tease out a bit more the variables they are interested in, (…) mindful of the requirements of the Governance Board, what they will be looking to see in that application, and there are some sets of criteria that it must meet’’.[[88]](#footnote-88)*

To encourage broader consistency and transparency through widespread formalisation of research data sharing, the central government, through the Economic and Social Research Council, created in 2013 a UK-wide Administrative Data Research Network (ADRN), accompanied by one Administrative Data Research Centre in each of the four UK countries.[[89]](#footnote-89) Through this network, researcher access to administrative data would become much more uniform and streamlined. This would be assisted by establishing common training and accreditation processes, as well as common approval requirements. Crucially, especially for the latter aim, the central government relied on the collaboration between departments (or other data controllers) and the UK research community.[[90]](#footnote-90)

Indeed, as claimed by its then director, the ADRN, in its five (5) years of operation, worked towards extending the formalisation of research data sharing processes from a handful of pioneer data controllers to the vast number of public-sector bodies in the UK.[[91]](#footnote-91) In the words of an interviewee working for the ESRC, the aim of the Network was to use ‘‘the wealth of the UK’s administrative data for the purpose of scientific research, in social science and economics’’.[[92]](#footnote-92) With ‘‘independent’’ – understood as ‘‘original’’ and ‘‘non-commissioned’’[[93]](#footnote-93) – research at the heart of its mandate, the network established a clear and transparent process to handle data sharing requests, assisting academics in preparing their applications. The ADRN’s Approvals Panel would consider a set of key considerations: the feasibility of the proposed study, its ethical acceptability (considering the lack of consent), its scientific merit and potential for yielding benefits to the public, as well as the risks from a privacy and data protection perspective.[[94]](#footnote-94) Applicants, supported by ADRN officers, would submit their research proposals, often receiving feedback and requests for amendments by the Approvals Panel.

One might assume that the rise of formalised governance frameworks in different parts of the UK public sector means that we have predictable and consistent data sharing procedures across the board. Can, however, independent researchers navigate the requirements and rely on gaining access without jeopardising the critical character of their study?

*The persistence of power imbalance: navigating the access labyrinth*

Despite this progress in formalising research data access, most of the UK public-sector data controllers remain somewhat cryptic and inconsistent as to the ways in which they handle access to their data for independent research purposes. The Administrative Data Research Network (ADRN), the body that was supposed to operate as a major facilitator of researcher access to government data, soon faced significant barriers. Access to government-held administrative data was more difficult than expected and, at times, impossible.[[95]](#footnote-95) After its first year of operation (2013), the ADRN was particularly struggling in facilitating access to government held UK-wide data in such areas as social security, licensing and tax records.[[96]](#footnote-96) In 2016, its mid-term review report noted that despite spending £25.3M (66% of its overall budget) it was ‘‘behind its intended schedule for linked data projects, and far behind schedule for projects that made use of linked UK-wide data’’.[[97]](#footnote-97) The ADRN’s funding finished in 2018, as originally foreseen by the Economic and Social Research Council (ESRC), and its successor body, Administrative Data Research (ADR) UK, received ESRC funding on the condition that it would adopt a more effective approach than the ADRN in securing access to government data.

Currently, for a vast amount of data controllers, a fragmented picture emerges when seeking to identify the data sharing frameworks they are actively operating, with both major ministerial departments and smaller public bodies or local authorities being silent about their preferable standards and procedures. A researcher working in Scotland concedes that major data controllers like the National Records of Scotland do not have ‘‘any discoverability for their datasets’’.[[98]](#footnote-98) Another interviewee, who has worked for the Department for Education (DfE) in England and is now working for the National Foundation for Education Research (an independent research organisation), concedes that while they are familiar with the DfE’s data sharing procedures, the same can hardly be said about other departments:

*‘‘Do I know how to do this with the Department for Work and Pensions? No (…) I don’t know how long other government departments take (…) We have applied for data from Wales and Scotland while I’m here – that was hard work, very hard work, especially Scotland.’’[[99]](#footnote-99)*

An interviewee with a similar background, i.e., first a DfE analyst and now working for the Education Policy Institute (an independent research organisation), complains about lack of clarity in the DfE’s own procedures. Especially in the beginning of their interactions with the DfE as external researchers, they found the DfE guidance as ‘‘quite limited’’ and ‘‘information does not really flow appropriately many times’’.[[100]](#footnote-100) Interviewees with experience in negotiating data access across the UK corroborate this impression of uncertainty. A researcher working in Scotland finds the approval procedures in the Scottish public sector as ‘‘extremely messy’’ and ‘‘very bumpy’’,[[101]](#footnote-101) whereas an interviewee working for a research organisation in Scotland claims that ‘‘disparity among data providers and how they do things’’ is even greater when trying to access central government data.[[102]](#footnote-102) Another interviewee working as an administrative data researcher in Scotland associates lack of clarity with lack of experience in developing data sharing policies. In their view, transparency around data sharing is ‘‘hit and miss’’ with smaller organisations.[[103]](#footnote-103)

Other interviewees caution against the meaningfulness of this distinction, highlighting that, with larger organisations, there is a lot of internal disparity in how data sharing works. Departments like the Department for Education are ‘‘complex organisations, with lots of different parts’’.[[104]](#footnote-104) An interviewee working for the Welsh government makes this point eloquently when referring to their own department:

*‘‘The thing about Welsh Government is that even Welsh Government is not a homogenous whole. (…) surely, there are still pockets of Welsh Government that would not know data linking if you kicked them on the head.’’[[105]](#footnote-105)*

The lack of procedural clarity becomes more striking when thinking about the major major government departments and agencies with significant organisational capacities and a wealth of administrative datasets at their disposal. For example, HM Courts and Tribunals, while amid an ambitious digitalisation reform that will generate a wealth of novel justice-related datasets, delegate their research data sharing decision-making to an informal data access panel which communicates via e-mail and does not record or publicise minutes of meetings or particular access requirements.[[106]](#footnote-106) The Department for Work and Pensions (DWP), one of the pioneer bodies in government-led administrative data research,[[107]](#footnote-107) is also laconic about its research data sharing procedure, encouraging researchers to submit a written application to the department and avoiding publishing information about the progress of applications online. Transparent and formalised data sharing frameworks, similarly, shine through their absence on the websites of most local authorities or smaller public bodies. Beyond merely neglecting to disclose information about their data sharing practices, some data controllers actively resist providing any relevant information to the public. The DWP recently rejected a Freedom of Information Act (FOIA) 2000 request to disclose information about its use of customers’ data.[[108]](#footnote-108)

As a result, despite the significant progress in formalising independent research access to government data, it currently seems ‘‘unlikely that a standard pattern of use for researchers in general would emerge across government’’.[[109]](#footnote-109) In many cases, data access seemingly remains ‘‘unregulated, unreliable and haphazard’’,[[110]](#footnote-110) with researchers facing the tall task of navigating a complex landscape without a reliable compass in their possession. This seems to sketch a picture that is often present in power struggles: both conflict and bargaining is helpful to ameliorate power imbalances, yet this is often not enough to radically eradicate such imbalances.

In the absence of comprehensive knowledge about the data sharing standards and procedures that are applied by most data controllers in the UK public sector,[[111]](#footnote-111) commentators and stakeholders have drawn on anecdotal information or individual researcher narratives to reflect on the governing forces of data access. According to Elias, most controllers prioritise such factors as the legality of the request, the public interest, the resources they will need to allocate in meeting the request and the risks they would be exposed to if they grant access.[[112]](#footnote-112) As resources and disclosure risks become increasingly pertinent, the ideal of bolstering the accountability of government towards its citizens through independent research on administrative datasets breaks down, with more efficiency-driven rationales becoming more prominent. With data controllers being likely to approve requests which do not generate risks of portraying them negatively or critically,[[113]](#footnote-113) Administrative Data Research (ADR) UK, the Administrative Data Research Network’s successor, has opted to facilitate research that can ‘‘predominantly help inform (…) government policy decisions (….) ensuring that decision making is evidence-based’’.[[114]](#footnote-114) Researchers are called to ‘‘compromise on the detail of the data’’ and potentially ‘‘bundle together a number of projects’’ in the interest of satisfying the appetite of government departments.[[115]](#footnote-115) Access to administrative data is often being regarded as a ‘‘privilege, not a right’’.[[116]](#footnote-116)

In those circumstances, researchers have to grapple with a ‘‘complex and changeable’’ landscape within which they are unable to predict how long they will need to access data and how they should fulfil data provider requirements.[[117]](#footnote-117) Such requirements are often communicated in a way that is not helpful to researchers or relate to technical and legal information governance issues that they are not necessarily able to comprehend.[[118]](#footnote-118) A researcher working in Scotland recalls their surprise when, after an initial approval from the data controllers, they were asked to undergo a ‘‘whole new process’’ of ‘‘negotiating the contracts (and) (…) the particular conditions of access etc’’.[[119]](#footnote-119) Another interviewee who has worked for the Department for Education concedes that the expansion of data sharing policies to novel areas may take really long and make the lives of researchers very difficult:

*‘‘If you do it for the first time, then good luck, I don't think you will necessarily navigate this, at least not after a long time.’’[[120]](#footnote-120)*

The task is even taller for researchers who are interested in linking datasets managed by more than one data controller. Without sufficient clarity on the compatibility between the respective data sharing frameworks, researchers are often expected to conform with conflicting rules and guidance on meeting various data sharing requirements.[[121]](#footnote-121) An interviewee who has been attempting to link datasets between different parts of the Scottish government reflects on their so-far unsuccessful efforts over the last six (6) years:

*‘‘To be honest, it's been such a long time, I'm not entirely sure what the roadblock was other than the fact that we had to have the right sign-off from (…) as part of their internal sub-linkage things’’.[[122]](#footnote-122)*

Under these circumstances, access becomes a time-demanding and herculean task, whereas disclosure decisions are hardly consistent across government departments in respect of the application of access rules. As a result, less researchers are inclined to embark on administrative data research, observing that many of their colleagues had to abandon existing plans and funding due to the data not arriving in time (or at all). An interviewee working in Scotland goes as far as conceding that they amended their research agenda in the light of data sharing considerations:

*‘‘Let's say that it was not the original focus we were interested in, it was part of a wider research program (…) In the course of the applications process, we had to (…) change the focus.’’[[123]](#footnote-123)*

The secondary literature is also awash with researcher narratives of long delays and struggles in getting access to administrative data. Iveson and Deary report long delays and uncertainty in trying to use data from the Scottish Census and link it to health data.[[124]](#footnote-124) While they found health data permissions and access procedures in Scotland much more streamlined, they faced various complications such as a change in the legal interpretation of the power to share data by the Scottish government or an unpredictably long queue to have their request considered.[[125]](#footnote-125) Eventually, they had to wait more than three years to acquire access to linked data, also opting for a more modest choice of datasets than originally envisaged.[[126]](#footnote-126) Morris and colleagues offer a lucid account of similar difficulties while trying to link datasets belonging to the Department of Education (the National Pupil Database) and the National Health Service Digital (Hospital Episode Statistics).[[127]](#footnote-127) The research team negotiated access with data controllers over three (3) years and eleven (11) months, conducting six (6) meetings and one-hundred and eight (108) email and phone correspondences with the controllers before an agreement on linkage of datasets could be reached.[[128]](#footnote-128)

Other researchers corroborate that they faced a ‘‘complex landscape, unclear and conflicting guidelines’’,[[129]](#footnote-129) lamenting the ‘‘extraordinarily disturbing’’ impact on the careers of academics, particularly early career researchers who will produce a reduced research output as a result.[[130]](#footnote-130) The implications of this may be dramatic for funded research – a researcher with experience in Northern Ireland explains that delays have caused major complications in one of his projects:

*‘‘In this project, we still don't have a data sharing agreement signed, because there was a change of staff (…) and the new guy didn't agree with the older guy's policy and was much more conservative and saying ‘'you are not having it'’. And he is still saying ‘'you are not having it.’’’[[131]](#footnote-131)*

Data protection policies and legal restrictions are indeed invoked as a barrier. As an interviewee working for a data controller body in Wales concedes, however, the legal framework is often used as a *post-hoc* justification to justify a whimsical decision:

*‘‘What tends to happen is you make the decision; you then look at the Regulations and see whether you can back that up with what the Regulation says’’.*[[132]](#footnote-132)

The less regulated data access is from the legal framework, the more it becomes a question of addressing the organisational priorities of the data controller. A researcher with experience in negotiating data access with the DWP recounts an instance where this was explicitly mentioned by the data controllers:

‘‘*From first-hand experience of being in a meeting, asking them to provide data for specific purposes, being told that they could not see where there was any value for them. I think it's very much in the front of their mind in terms of ‘'what's in it for us'’’’[[133]](#footnote-133)*

Even if researchers eventually manage to get access, it may very well be the case that the scope of their research will have changed significantly. In one case, a researcher’s request to get access to specific variables was rejected without a convincing justification:

*‘’There were variables that we would very much like to have used, but one individual was able to stop us from getting it because they thought it would be too difficult for us to analyse and I think that's ridiculous that one person can hold so much power (…) you need one person, it knocks everything you've been building’’*[[134]](#footnote-134)

These narratives are telling of power imbalances between researchers and data controllers. As it would be expected, this has injected a certain degree of pragmatism in the way in which researchers approach data controllers, often seeking to provide them with a quid pro quo:

*‘‘I am approaching you; you are a government department; I want to know what projects would benefit you. I will work with you on those projects, you will share data with me to do those projects and at the end we will establish a relationship where you are happy to provide data in the future’’*[[135]](#footnote-135)

# **Reforming the law?**

The current conditions of power imbalance raise the question of whether reforming the law can bring forward positive change for independent researchers seeking to access government data. The FOIA has played an instrumental role in democratising information and making the UK government more transparent. The emergence of the digital State has, however, rendered its application to modern-day, data-driven research that can effectively scrutinise government work somewhat limited. As a non-profit research group notes, the FOIA ‘‘is static while the ways in which public services are delivered are changing’’.[[136]](#footnote-136) This study has shown that, in the absence of a regulatory instrument with the accountability function of the FOIA, the existing data sharing legislation and practice create a maze that is often hard to navigate for independent researchers, particularly if the latter are not holding secure employment in academic and other organisations and are, thus, under strict time pressures to complete their projects in time. In the absence of relevant legal regulation, efficiency-driven new public management rationales are likely to overshadow democratic ideals of government accountability, placing independent researchers before the crude dilemma: compromise with what the data controller wants you to do or face inertia and lack of access to the data.

Legal reform can help ameliorate the situation and enable researchers to speak truth to power in the context of modern-day government. There are both legislative reforms that can be considered by parliament and regulatory reforms that can take place either on central government level, or on sectoral level. Legislative reform could proceed from reforming the FOIA itself. A few proposals of direct relevance to data sharing for independent research merit consideration.[[137]](#footnote-137) Since many public services are contracted-out in the UK,[[138]](#footnote-138) it would be significant for the UK government to follow the Scottish government approach and expand FOI obligations to private providers of public services under section 5 of the Scottish FOIA.[[139]](#footnote-139) Furthermore, in line with the existing government commitment to promote transparency about the use of government data,[[140]](#footnote-140) the FOIA should be amended to require that public bodies retain comprehensive statistics on the volume and processing of data access requests, covering both FOIA requests and requests based on the Digital Economy Act (DEA) 2017.[[141]](#footnote-141) This would enhance the accountability of public bodies in the public eye, demonstrating which bodies are more open to enabling independent research using their datasets, as compared to bodies which are more reluctant to do so. These reforms would enable independent researchers to assert their rights to access information more effectively and gather a complete picture by relying on both FOI legislation and the DEA for more on-going access.

In addition, government regulators shall initiate reforms to enable researchers to rely more convincingly both on the FOIA and on a reformed version of the DEA 2017. In fact, this latter reform could be part of the new National Data Strategy proclaimed by the UK government to unlock ‘‘not only economic benefits but wider societal benefits’’ through greater personal data use.[[142]](#footnote-142) This would enhance the third mission of the Strategy, i.e., ‘‘transforming government’s use of data to drive efficiency and improve public services’’,[[143]](#footnote-143) by ensuring that independent researchers can evaluate government policies with a view to scrutinising shortcomings and contributing towards improvements in public services. While the government has mostly focused on STEM scientists e.g., in life sciences,[[144]](#footnote-144) researchers that can produce other types of ‘‘life-enhancing research’’ such as sociologists and economists shall be deemed as benefactors of the reform. It has been shown in this article that social science research can greatly contribute to societal and economic goals and can, thus, be ‘‘life-enhancing’’ too. Current proposals to ‘‘improve the delivery of government services through better use and sharing of personal data’’[[145]](#footnote-145) seek to reform the data sharing powers in the DEA 2017, mostly in the direction of expanding powers that are currently available to government departments for businesses.[[146]](#footnote-146)

Yet, more fundamental legal changes would be required to enhance the right to access administrative data for independent researchers. It is proposed that a legal presumption in favour of providing access to data for independent researchers shall be established, like the presumption in the FOIA that government information shall be disclosed to interested parties *unless* an exemption applies or there is a legally protected interested (e.g., national security) outweighing the public interest in the disclosure of information. In practical terms, this would require a definition of public-sector data as a ‘‘public good’’ that is to be used in the interest of the society, departing from the approach in section 64(1) of the DEA 2017. This section reads: ‘‘information held by a public authority in connection with the authority’s functions may be disclosed to another person for the purposes of research which is being or is to be carried out’’.[[147]](#footnote-147) The current provision leaves it entirely to the discretion of the public body to decide whether information that is ‘‘in connection with’’ its ‘‘functions’’ will be disclosed to another person for research purposes. Currently, there is nothing in the Act expressing the political will for government data to serve the public interest more effectively through independent research. This shall be clearly prescribed. In other words, it shall be established that in principle and under reasonable conditions, administrative data of the UK government shall be made available to independent researchers on an on-going basis, so that these researchers can cross-validate, interrogate, and challenge existing government work. This would alter the current situation where access to data is a privilege, not a right for researchers, and would require a justification from public bodies where it is reasonable not to provide access to the data. In this way not only will researchers not be subject to the whims of public-sector data controllers, but also the research community will be able to contribute to improved collective economic and social knowledge and, ultimately, improved policy making and delivery.

Finally, yet importantly, sectoral reforms and collaboration via guidance for data controllers and soft law regulatory instruments shall be explored for delineating common baseline principles for giving access to public sector data. This would follow the idea established in the UK’s national AI strategy,[[148]](#footnote-148) where sectoral regulators are asked to collaborate and establish cross-sectoral principles for regulating AI. Experienced and better-resourced public bodies, such as the Department for Work and Pensions, could be asked to lead the way and initiate communication and policymaking with a view to framing the researcher-data controller relationship in a way that mitigates the risk of arbitrary decision-making by data controllers. Such policymaking activity would also fall within the ambit of Mission 4 of the National Data Strategy, i.e., ‘‘ensuring the security and resilience of the infrastructure on which data relies’’,[[149]](#footnote-149) by encouraging the consideration of research uses of data at the level of infrastructure design, e.g., by collecting and storing data in a research friendly format.

# **Conclusion**

What are the central lessons learned from the so-far analysis about the present and future of regulating government data access for independent research in the UK? The increasing digitalisation of civil service provision, including the potential automation of crucial administrative decisions, makes it very likely that increased interest in the conditions for independent research data access will be sustained. Both government and civil society actors, as well as researchers, will grapple with the prerequisites for achieving a robust evidence-basis in the four countries of the UK, allowing both the improvement of government policymaking and the independent scrutiny and evaluation of delivered policies, can be maintained. Legal reform is a necessary next step to ensure that this aim will be met without jeopardising the independence of researchers that can effectively scrutinise government authority.

This is not to say that reform will resolve all problems overnight. Governed by technically complex and long-drawn interactions among a variety of organisations, research data access is negotiated through the interactions between data sharing participants within and outside of formal decision-making channels. Even if reform seeks to prescribe more facilitative conditions for independent researchers’ data access, controllers might very well use their interpretative latitude to resist disclosure when it is against their established views about e.g., their entitlements over administrative data or the appropriateness of research without a clear policy relevance as an activity that uses public resources. Civil service leadership should embrace the effort to shift the culture in the UK public sector, providing incentives for public officials to become more transparent about their management of administrative data. Small steps can bring substantial change, such as the requirement that research data sharing decision-making criteria and steps are published, as well as making publicly available comprehensive catalogues of the datasets that the departments hold and can be used by researchers. The perceptions that administrative data is a ‘‘public good’’, to be managed and shared in the name of the public, shall be gradually infused across the civil service.

1. J. Tomlinson*, Justice in the digital state* (Bristol: Bristol Policy Press, 2019) 114. [↑](#footnote-ref-1)
2. M. Iveson and I. Deary, ‘‘Navigating the landscape of administrative data in Scotland’’ (2019) 4 Wellcome Open Research 97; H. Morris et al, ‘‘Challenges of administrative data linkages: experiences of Administrative Data Research Centre for England (ADRC-E) researchers’’ (2018) 3(2) International Journal of Population Data Science 97. [↑](#footnote-ref-2)
3. L. Dencik, ‘‘The datafied welfare state: a perspective from the UK’’ in A. Hepp et al (eds.), *The Ambivalences of Data Power: New perspectives in critical data studies* (London: Palgrave Macmillan, 2021). [↑](#footnote-ref-3)
4. T. Zayas-Cabán et al, ‘‘Identifying opportunities for workflow automation in health care: lessons learned from other industries’’ (2021) 12(3) Applied Clinical Informatics 686-697. [↑](#footnote-ref-4)
5. M. Oluwasanmi, ‘‘Algorithms & the Border’’ (2021) 22(1) Federalism-E 87-98. [↑](#footnote-ref-5)
6. A. Savage and R. Hyde, ‘‘Using freedom of information requests to facilitate research’’ (2014) 17(3) International Journal of Social Research Methodology 303-317. [↑](#footnote-ref-6)
7. K. Walby and A. Luscombe, ‘‘Ethics review and freedom of information requests in qualitative research’’ (2018) 14(4) Research Ethics 1-15. [↑](#footnote-ref-7)
8. Although data protection law, applying to *personal* data (i.e., data ‘about a particular living individual’), is an important facet of regulating data access for independent research purposes, this study does not confine its interest to government *personal* data due to the contextual character of distinguishing between personal and non-personal data. As argued in M. Mourby et al, ‘‘Are ‘pseudonymised’ data always personal data? Implications of the GDPR for administrative data research in the UK’’ (2018) 34(2) Computer Law & Security Review 222, 224, a set of factors around data processing and the circumstances under which it takes place, determine whether the same information will be personal or non-personal or anonymous. Hence, the article will use the word ‘data’ or ‘administrative data’ to refer to government datasets that may include personal information, examining the relevance of data protection law as applicable during the discussion. [↑](#footnote-ref-8)
9. As ‘data curation’ we mean the ‘active and on-going management of data through its lifecycle and interest and usefulness to scholarship, science, and education’ and as ‘data cleaning’ the ‘process of fixing or removing incorrect, corrupted, incorrectly formatted, duplicate, or incomplete data within a dataset’. See P. Darke et al, ‘‘Curating a longitudinal research resource using linked primary care her data—a UK Biobank case study’’ (2022) 29(3) Journal of the American Medical Informatics Association 546-552. [↑](#footnote-ref-9)
10. This is to distinguish independent research from e.g., commissioned research, in the sense that commissioned research projects have pre-determined research questions and (often) methods, with the researcher having limited scope as to following a different course of action during the project. ‘Independent researchers’ shall not be conflated with researchers without an organisational affiliation, such as e.g., in the case of citizen research. [↑](#footnote-ref-10)
11. D. Vincent, *The Culture of Secrecy 1832–1997* (Oxford: Oxford University Press, 1998). [↑](#footnote-ref-11)
12. B. Worthy, ‘‘More Open but Not More Trusted? The Effect of the Freedom of Information Act 2000 on the United Kingdom Central Government’’ (2010) 23 Governance 561-582. [↑](#footnote-ref-12)
13. C. Bessant (ed.), *Information sharing handbook* (The Law Society, 2009) 18. [↑](#footnote-ref-13)
14. Savage and Hyde ‘‘Using freedom of information requests to facilitate research’’ (2014) page 310. [↑](#footnote-ref-14)
15. Savage and Hyde ‘‘Using freedom of information requests to facilitate research’’ (2014) page 310. [↑](#footnote-ref-15)
16. ICO, ‘’The Guide to Freedom of Information’’ (updated July 2022) <https://ico.org.uk/media/for-organisations/guide-to-freedom-of-information-4-9.pdf> [↑](#footnote-ref-16)
17. K. Walby and A. Luscombe, ‘‘Using Freedom of Information Requests in Socio-Legal Studies, Criminal Justice Studies, and Criminology’’ in M. Deflem and D. Silva (eds.), *Methods of Criminology and Criminal Justice Research* (Emerald 2019) 33-46. [↑](#footnote-ref-17)
18. P. Greenberg, ‘‘Strengthening sociological research through public records requests’’ (2016) 3(2) Social Currents 110-117. [↑](#footnote-ref-18)
19. I. Warren, ‘‘Freedom of Information and Australian criminology’’ in K. Walby and A. Luscombe (eds.), *Freedom of Information and Social Science Research Design* (Routledge 2019) 75-85. [↑](#footnote-ref-19)
20. L. Cooke and P. Sturges, ‘‘Police and media relations in an era of freedom of information’’ (2009) 19(4) Policing & Society 406-424. [↑](#footnote-ref-20)
21. F. Jiwani and T. Krawchenko, ‘‘Public policy, access to government, and qualitative research practices: Conducting research within a culture of information control’’ (2014) 40(1) Canadian Public Policy 57-66. [↑](#footnote-ref-21)
22. K. Walby and A. Luscombe, ‘‘Criteria for quality in qualitative research and use of freedom of information requests in the social sciences’’ (2017) 17(5) Qualitative Research 537-553; J. Piché, ‘‘Accessing the state of imprisonment in Canada: Information barriers and negotiation strategies. Brokering access: Politics, power, and freedom of information in Canada’’ (2012) 234-260. [↑](#footnote-ref-22)
23. S. Diamond*, Compromised campus: The collaboration of universities with the intelligence community* (Oxford: Oxford University Press, 1992); J. Keen and J. Appleby, ‘‘Freedom of information. Quietly does it’’ (1999) 109(5678) The Health service journal 24-26. [↑](#footnote-ref-23)
24. A. Savage, ‘‘Whistle blowing in the Police Service: developments and challenges’’ (2016) 22(1) European Journal of Current Legal Issues. [↑](#footnote-ref-24)
25. S. Kingston, A. Elliott and T. Thomas, ‘‘‘Cost’ calculations as a barrier to gaining information under the Freedom of Information Act 2000 from the police in England and Wales’’ (2019) 29(7) Policing and Society 834. [↑](#footnote-ref-25)
26. R. Smith and P. Somerville, ‘‘The long goodbye: a note on the closure of rural police-stations and the decline of rural policing in Britain’’ (2013) 7(4) Policing 348–358; M. Button et al, ‘‘‘The not so thin blue line after all?’ Investigative resources dedicated to fighting fraud/economic crime in the United Kingdom’’ (2015) 9(2) Policing: A Journal of Policy and Practice 129-142. [↑](#footnote-ref-26)
27. Walby and Luscombe ‘‘Using Freedom of Information Requests in Socio-Legal Studies, Criminal Justice Studies, and Criminology’’ (2019) page 33. [↑](#footnote-ref-27)
28. Walby and Luscombe ‘‘Using Freedom of Information Requests in Socio-Legal Studies, Criminal Justice Studies, and Criminology’’ (2019) pages 33-46. [↑](#footnote-ref-28)
29. D. Clément, ‘“Freedom’ of Information in Canada: Implications for Historical Research’’ (2015) 75 Labour: Journal of Canadian Labour Studies 101-131; Jiwani and Krawchenko ‘‘Public policy, access to government, and qualitative research practices: Conducting research within a culture of information control’’; V. Kazmierski, ‘‘Accessing democracy: The critical relationship between academics and the access to information act’’ (2011) 26(3) Canadian Journal of Law and Society/La Revue Canadienne Droit et Société 613-622; Piché ‘‘Accessing the state of imprisonment in Canada: Information barriers and negotiation strategies. Brokering access: Politics, power, and freedom of information in Canada’’ (2012) page 234. [↑](#footnote-ref-29)
30. Walby and Luscombe ‘‘Using Freedom of Information Requests in Socio-Legal Studies, Criminal Justice Studies, and Criminology’’ page 33. [↑](#footnote-ref-30)
31. Savage and Hyde ‘‘Using freedom of information requests to facilitate research’’ (2014) page 310. [↑](#footnote-ref-31)
32. Savage and Hyde ‘‘Using freedom of information requests to facilitate research’’ (2014) page 310. [↑](#footnote-ref-32)
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