

Data (Use and Access) Act 2025

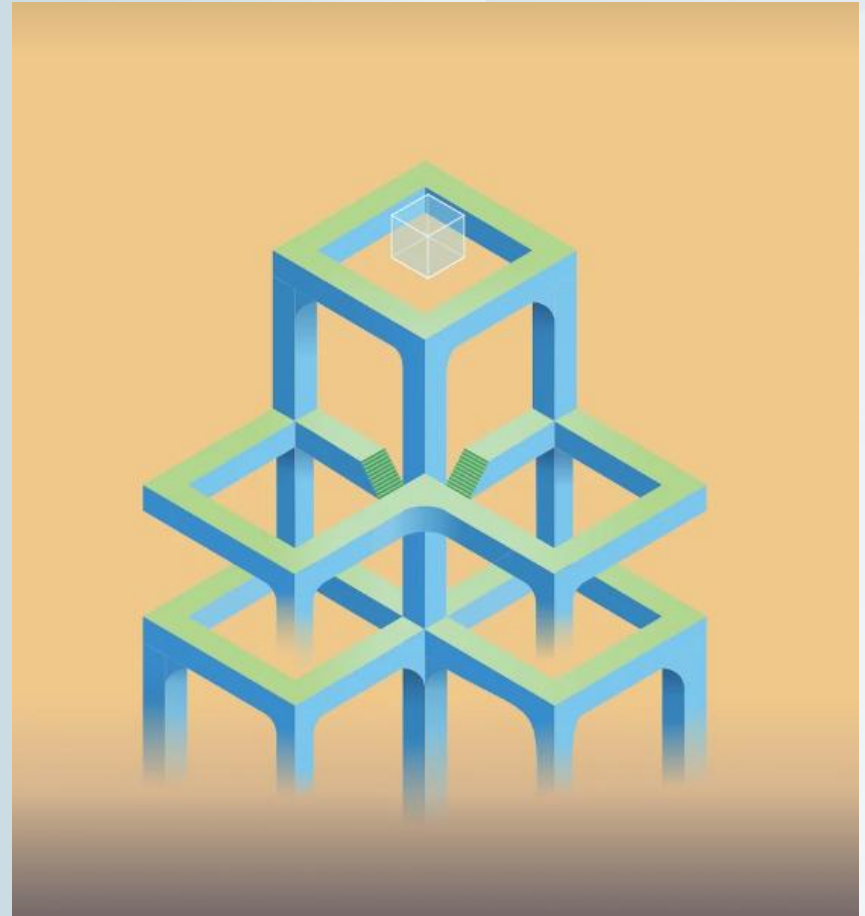
Opportunities, Consequences & Compliance Challenges

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Head of Data & Privacy



Structure of this session

- Context – reform in the digital space EU & UK
- What's changed?
- Top tips for getting the most out of your data protection compliance programme



Learning outcomes

By the end of this session you should be better able to:

- Think strategically about your compliance programme
- Get ready for what's coming
- Stay ahead of the competition



Context – reform in the digital space – EU & UK

Challenge

- AI revolution
- Exponential change
- The law's not finished



Context – reform in the digital space - EU

Mario Draghi – “The Future of European Competitiveness”

“slowing growth”

“Only four of the world’s top 50 tech companies are European



Context – reform in the digital space- EU



Mario Draghi

“regulatory burdens”

“self-defeating”

“More than half of SMEs in Europe flag regulatory obstacles and the administrative burden as their greatest challenge”

Context – reform in the digital space - EU

Table 1: Overview of EU Legislations in the Digital Sector

Applicable law	Published in the Official Journal of the European Union.
In negotiation	Proposal by the European Commission entered the legislative process.
Planned initiative	Mentioned by the European Commission as potential legislative initiative.

Research & Innovation	Industrial Policy	Connectivity	Data & Privacy	IPR	Cybersecurity	Law Enforcement	Trust & Safety	E-commerce & Consumer Protection	Competition	Media
Digital Europe Programme Regulation, (EU) 2021/694	Recovery and Resilience Facility Regulation, (EU) 2021/241	Frequency Bands Directive, (EEC) 1987/372	ePrivacy Directive, (EC) 2002/59, 2017/0003(COD)	Database Directive, (EC) 1996/9	Regulation for a Cybersecurity Act, (EU) 2019/881, 2023/0108(COD)	Law Enforcement Directive, (EU) 2016/680	Product Liability Directive (PLD), (EEC) 1985/374, 2022/0302(COD)	Unfair Contract Terms Directive (UCTD), (EEC) 1993/13	EC Merger regulation, (EC) 2004/139	Satellite and Cable Directive, (EEC) 1993/83
Horizon Europe Regulation, (EU) 2021/695, (EU) 2021/764	InvestEU Programme Regulation, (EU) 2021/523	Radio Spectrum Decision, (EC) 2002/676	European Statistics, (EC) 2009/223, 2023/0237(COD)	Community Design Directive, (EC) 2002/6, 2022/0391(COD)	Regulation to establish a European Cybersecurity Competence Centre, (EU) 2021/887	Directive on combating fraud and counterfeiting of non-cash means of payment, (EU) 2019/713	Toys Regulation, (EC) 2009/48, 2023/0290(COD)	Price Indication Directive, (EC) 1998/6	Technology Transfer Block Exemption, (EU) 2014/316	Information Society Directive, (EC) 2001/29
Regulation on a pilot regime for distributed ledger technology, (EU) 2022/858	Connecting Europe Facility Regulation, (EU) 2021/1153	Open Internet Access Regulation, (EU) 2015/2120	General Data Protection Regulation (GDPR), (EU) 2016/679	Enforcement Directive (IPR), (EC) 2004/48	NIS 2 Directive, (EU) 2022/2555	Regulation on interoperability between EU information systems in the field of borders and visa, (EU) 2019/817	European Standardization Regulation, (EU) 2012/1025	E-commerce Directive, (EC) 2000/31	Company Law Directive, (EU) 2017/1132, 2023/0089(COD)	Audio-visual Media Services Directive (AVMSD), (EU) 2010/13
Regulation on High Performance Computing Joint Undertaking, (EU) 2023/1173, 2024/0016(CNS)	European Electronic Communications Code Directive (EECC), (EU) 2018/1972	Regulation to protect personal data processed by EU institutions, bodies, offices and agencies, (EU) 2018/1725	Directive on the protection of trade secrets, (EU) 2016/943	Cybersecurity Regulation, (EU) 2023/2841	Regulation on terrorist content online, (EU) 2021/784	Radio Equipment Directive (RED), (EU) 2014/53	Unfair Commercial Practices Directive (UCPD), (EC) 2005/29	Market Surveillance Regulation, (EU) 2019/1020	Portability Regulation, (EU) 2017/1128	Portability Regulation, (EU) 2017/1128
Regulation on Joint Undertakings under Horizon Europe, (EU) 2021/2085, 2022/0033(INLE)	.eu top-level domain Regulation, (EU) 2019/517	Regulation on the free flow of non-personal data, (EU) 2018/1807	Design Directive, 2022/0392(COD)	Information Security Regulation, 2022/0084(COD)	Temporary CSAM Regulation, (EU) 2021/1232, 2022/0155(COD)	eIDAS Regulation (European Digital Identity Framework), (EU) 2014/910	Directive on Consumer Rights (CRD), (EU) 2011/83	P2B Regulation, (EU) 2019/1150	Satellite and Cable II Directive, (EU) 2019/789	Satellite and Cable II Directive, (EU) 2019/789
Decision on a path to the Digital Decade, (EU) 2022/2481	Roaming Regulation, (EU) 2022/612	Open Data Directive (PSI), (EU) 2019/1024	Compulsory licensing of patents, 2023/0129(COD)	Cyber Resilience Act, 2022/0272(COD)	E-evidence Regulation, (EU) 2023/1543	Regulation for a Single Digital Gateway, (EU) 2018/1724	e-invoicing Directive, (EU) 2014/55	Single Market Programme, (EU) 2021/690	Copyright Directive, (EU) 2019/790	Copyright Directive, (EU) 2019/790
European Chips Act (Regulation), (EU) 2023/1781	Union Secure Connectivity Programme, (EU) 2023/588	Data Governance Act (DGA Regulation), (EU) 2022/868	Standard essential patents, 2023/0133(COD)	Cyber Solidarity Act (Regulation), 2023/0109(COD)	Digitalisation of cross-border judicial cooperation, (EU) 2023/2844	General Product Safety Regulation, (EU) 2023/988	Regulation on cooperation for the enforcement of consumer protection laws, (EU) 2017/2394	Vertical Block Exemption Regulation (VBER), (EU) 2022/720	European Media Freedom Act, (EU) 2024/1083	European Media Freedom Act, (EU) 2024/1083
Establishing the Strategic Technologies for Europe Platform (STEP), (EU) 2024/795	Gigabit Infrastructure Act, (EU) 2024/1309	European Data Act (Regulation), (EU) 2023/2854			Directive on combating violence against women, 2022/0066(COD)	Machinery Regulation, (EU) 2023/1230	Geo-Blocking Regulation, (EU) 2018/302	Digital Market Act (DMA Regulation), (EU) 2022/1925	Remuneration of musicians from third countries for recorded music played in the EU	Remuneration of musicians from third countries for recorded music played in the EU
European critical raw materials	New radio spectrum	Interoperable			Directive for combating counterfeits and falsified					



Context – reform in the digital space - EU



- Preußisches Allgemeines Landrecht
- Fredrick the Great
- 17,000 articles regulating every area of life in Prussia
- Outside influences
- Replaced by high-level and principles-based law

Context – reform in the digital space – UK



Constraints on UK

- Data adequacy
- Free flow of data
- Avoidance of barriers to trade
- Cost of loss to UK businesses up to £1.6bn

Context – reform in the digital space - UK

UK Data Protection changes

UK GDPR

Data Protection and Digital Information Bill

Data (Use and Access) Bill



Context – reform in the digital space - UK



King's Speech 13th May 2026

Legislation will be introduced to... reduce the burden of unnecessary regulation through innovation [Regulating for Growth Bill].

- Secondary legislation
- Turn off data protection rights?

Context – reform in the digital space - UK



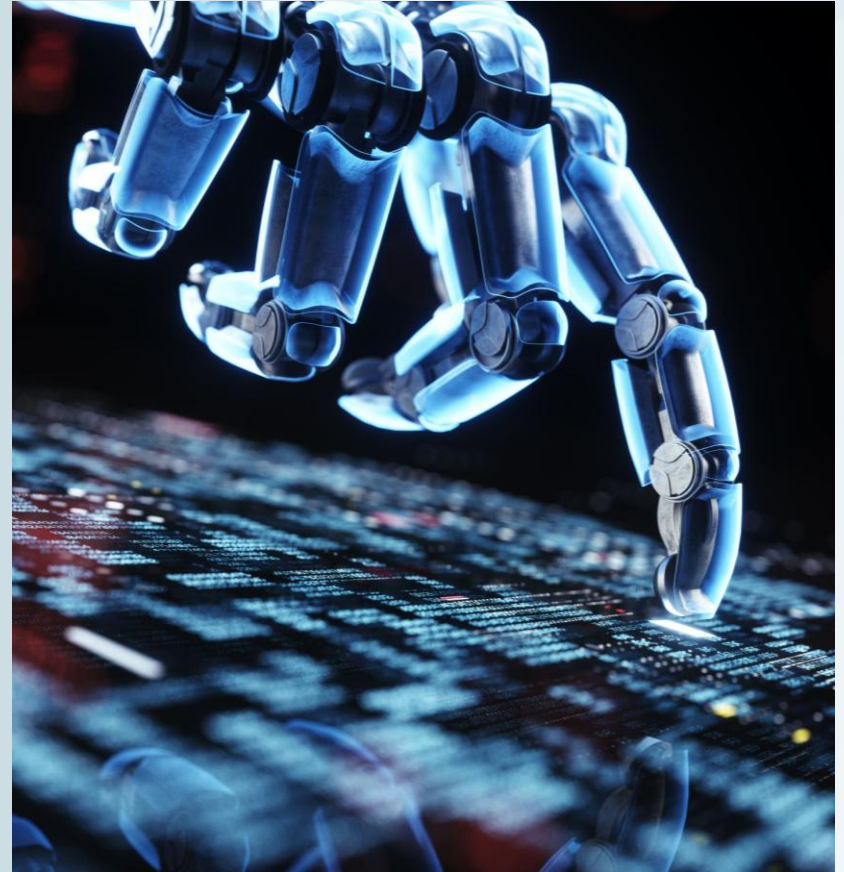
Data (Use and Access) Act 2025

Objectives

- Growing the economy
- Improving UK public services
- Making people's lives easier
- AI superpower

Data (Use and Access) Act 2025

- Prohibition on solely automated decision-making ('ADM')
- Significant/legal
- Prohibition lifted (except special category personal data)



Data (Use and Access) Act 2025

ADM

Safeguards

- Human review
- Contest the decision



Data (Use and Access) Act 2025



ADM

- Transparency
- Risk assessments
- Record keeping

Data (Use and Access) Act 2025



ADM

- AI and ADM code of practice - ICO
- Regulatory enforcement

Data (Use and Access) Act 2025

Research

Definition of research

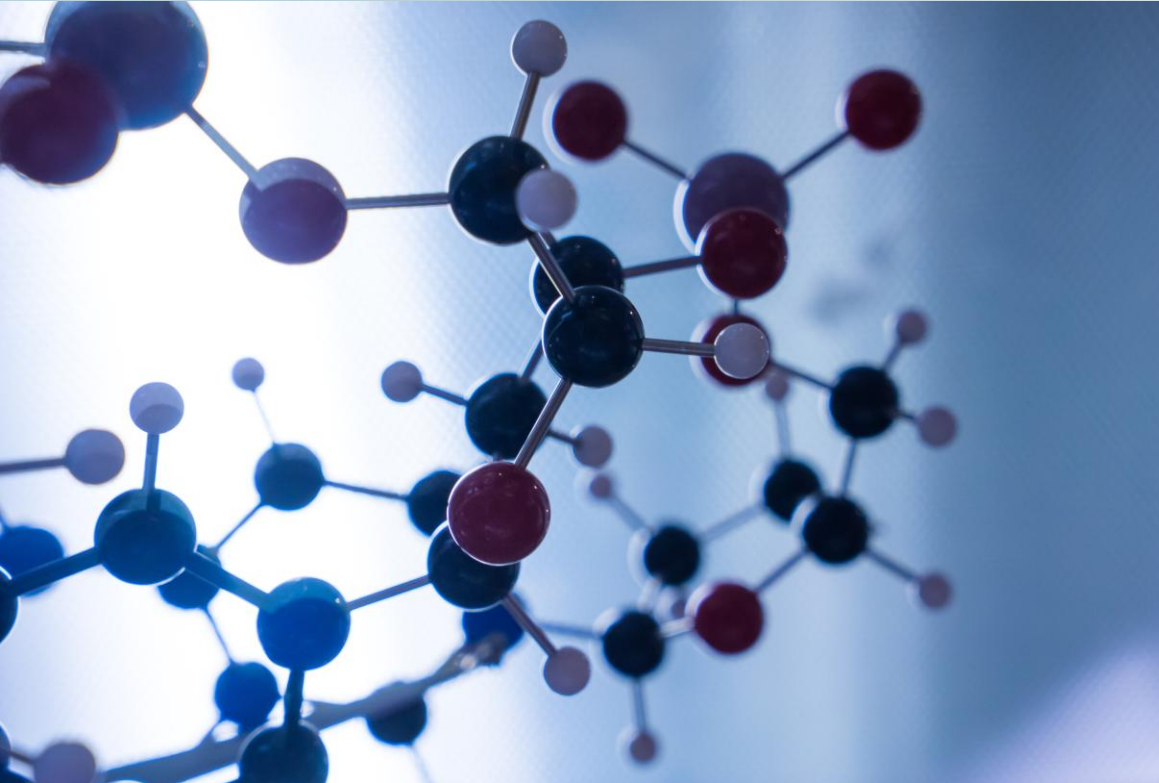
Includes commercial scientific research eg vaccine development, development of AI



Data (Use and Access) Act 2025

Consent

- Consent for purposes of scientific research
- Broad consent (eg for study of certain diseases)



Data (Use and Access) Act 2025



International data transfers

- “essentially equivalent standard of protection” (EU)
- “not materially lower” (UK)

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International data transfers

- Using standard clauses to transfer data internationally
- acting reasonably and proportionately – consider protection not materially lower
- Justifications

Data (Use and Access) Act 2025



Subject access requests

- Reasonable and proportionate searches etc

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Complaints procedure

- Controller must facilitate making of complaints (eg electronic complaint form)
- Acknowledge receipt within 30 days
- Deal without undue delay
- **19th June 2026**

Top tips

- Remember – data protection should make sense!
- Human rights balancing test



Top tips



For new technologies

- Data Protection impact assessments
- AI governance frameworks

Top tips

- Be proactive
- Invest - compliance is a commercial advantage!
- Reactive compliance is expensive
- Trust is part of your brand
- pragmatic and proportionate



Learning outcomes

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M&C Insights | Services overview

Cybersecurity

- We help educate your legal team about cyber security and the law
- We help you comply with cyber security and data law and regulation
- We help you prepare for and protect yourself against cyber incidents
- We help advise you in a cyber incident

Artificial Intelligence

- We help educate your legal team about AI and the law
- We help you design your AI governance and compliance
- We help you comply with AI law and regulation
- We help advise you of the legal risks when deploying or using AI, whether you buy or build

Data & Privacy

- We help educate your legal team about data & privacy laws and regulations
- We help you design your data compliance programme
- We help you comply with data law and regulation, e.g. DPIAs, or data transfer questions
- We help advise you of the data legal risks in your AI product or cyber programme

...complementing the world-class work Marks & Clerk already offers protecting and enforcing IP rights in the AI and Cyber security ecosystem, so that together we offer advice across the AI and Cyber security life cycle