

# SOAS ICOP Policy Briefings

## To Inform Government and Parliamentary Debates

**Changes to data protection law and the risks to the UK economy** by Eleonor Duhs, *Barrister, Partner and Head of Privacy at Bates Wells* (5<sup>th</sup> September 2022).

The free flow of personal data across borders is essential to the modern economy. Finance, banking, retail and hospitality, which make up large segments of the service sector powering the UK's prosperity, all depend on the free flow of personal data. The free flow of data between the UK and its biggest trading partner, the EU, is therefore of crucial importance. But reforms to our data protection and human rights frameworks, as well as sweeping changes to laws we inherited from the EU could put EU-UK data flows at risk. [A lack of free flow of personal data from the EU to the UK could cost UK business up to £1.6bn.](#)

Currently, there is a free flow of data from the EU to the UK. This is because the EU has [assessed the UK's framework](#) as providing an equivalent level of protection of personal data as the EU. [The basis for this assessment](#) is:

- the fact that the UK has an **independent regulator for data protection**, the Information Commissioner;
- the UK's **adherence to the European Convention on Human Rights**; and
- the UK's **current data protection regime**, the UK GDPR, which is retained EU law and mirrors the EU's data protection framework.

The Government's legislative agenda risks the free flow of data between the EU and the UK by:

- [Undermining the Information Commissioner's independence](#) by requiring the Commissioner to seek approval from the Secretary of State when issuing codes of practice (see Clause 31 of the Data Protection and Digital Information Bill).
- Placing freedom of speech above the right to privacy in a way which [unbalances the relationship between competing rights](#), potentially **undermining people's ability to enforce their privacy rights** (see Clause 4 of the Bill of Rights Bill).
- Fundamentally **changing the way in which retained EU law** (of which the UK GDPR is an example) **operates and is interpreted**, giving rise to uncertainty (see [proposals for the forthcoming "Brexit Freedoms Bill"](#)).

MPs are urged to use the debate at second reading of the Data Protection and Digital Information Bill to:

- point out that together the Data Protection and Digital Information Bill, the Bill of Rights Bill and the "Brexit Freedoms Bill" will **lower data protection standards in the UK**.
- emphasise that **the reforms risk the free flow of data from the EU**, which will **add to the burdens on UK businesses**.

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