

## The Ethical Use of Human Research Data in the Public Domain

**Please note: this statement is neither final nor definitive. The University Ethics Committee has this issue under review and will consult in the near future about this.**

The notion of *in the public domain* is difficult. Some data that exists in the public domain is intended for use by researchers and may not need ethical review. This might cover, *inter alia*, data available through the Office for National Statistics or archives maintained by UKRI or Universities. The curators of such datasets may have their own guidance.

Other data that could potentially be considered *in the public domain* – social media data for example – is not straightforward. The idea of data being *intentionally public* is important here. If one has to go through a process to join a website in order to access the data (for example by registering, or being invited to join) then the site, while widely visible, is not *in the public domain* and concerns for anonymity, confidentiality, data protection and privacy apply.

The ESRC have helpful guidance <<https://esrc.ukri.org/funding/guidance-for-applicants/research-ethics/frequently-raised-topics/internet-mediated-research/>> that identifies a number of potential ethical concerns about internet-mediated research taking place in a range of settings including, *inter alia*, email, chat rooms, web pages, social media (such as Facebook and Twitter) and various forms of instant messaging. Ethical dilemmas can include ...

- What constitutes 'privacy' in an online environment?
- How easy is it to get informed consent from the participants in the community being researched?
- What does informed consent entail in that context?
- How certain is the researcher that they can establish the 'real' identity of the participants?
- When is deception or covert observation justifiable?
- How are issues of identifiability addressed?
- How do country-specific legal requirements (eg for data protection) apply in internet-mediated research that crosses national boundaries?

Data Protection: *In the public domain* is not a concept recognised within GDPR but there are important principles that come into play. For example (1) personal data must be processed lawfully, fairly and in a transparent manner; (2) the purpose limitation principle – will further processing be compatible with the original purpose? (3) Data minimisation: data must be adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed.

**It is important that research involving human participants is ethically approved by School/Department or University Ethics Committee, as appropriate. Research undertaken without approval exposes researchers to risk of liability without insurance cover, as well as to potential reputational damage. These are risks mitigated by ethical review. Any researchers who are working with data that could fall into the category of *in the public domain* should use their School/Department Ethics Committee and the University Ethics Committee to talk through their planned studies and obtain the best advice before proceeding.**

Philip Winn  
Chair, University Ethics Committee  
18 November 2020