# Chapter 105
# The Ethical Issues Surrounding Sections 175–178 of the UK's Data Protection Bill

**Daniel James Mchenry**
*Letterkenny Institute of Technology, Moville, Ireland*

**Nigel Mckelvey**
*Letterkenny Institute of Technology, Moville, Ireland*

## ABSTRACT

*There is growing concern that a new data ethics regime that has been introduced into the current draft of the data protection bill may be ethically problematic. The changes are designed to be a framework for data processing but health data privacy advocacy group medconfidential has voiced their concerns at the development. The provider has claimed that the government is trying to push through the regime without first giving the public a chance to engage in discussions about how public-sector data should be stored and processed. This article will discuss ethical issues surrounding the proposed bill as well as big data analytics and will discuss the role played by government in data processing in the UK. It will discuss the arguments for and against the government's proposals. It will be important for the UK government along with all data processors and data controllers to ensure that large amounts of data from all UK citizens across all sectors is handled correctly.*

## INTRODUCTION

In September 2017, new amendments were added into a draft Data Protection Bill in the UK parliament. According to Lomas (2018), clauses 175-178 have been proposed to handle the processing of public sector data in an attempt to bring the UK into line with the upcoming General Data Protection Regulation or GDPR which is due to come into effect from the 25th of May 2018. According to Curtis (2018), the GDPR legislation is designed to bring all data protection laws into line with the new ways in which data is now currently handled and processed.

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The law that the UK currently uses is the 1998 Data Protection Act. This law will be replaced by the GDPR. Curtis (2018), highlighted that the GDPR legislation was drafted because it is designed to give more control to people in terms of the usage and control of their personal data. In the UK's draft Data Protection Bill, the changes that have been suggested have attracted much attention since their proposal as they are seen to be giving politicians more power to make ethical decisions relating to public sector data processing.

## Background

According to medConfidential (2017a), who are based in the UK and specialise in patient data confidentiality, the company has voiced their concerns about the latest developments; they claim that the Government is attempting to push the bill through parliament without giving the general public enough of a voice on the matter. They make this claim as they believe that the Government are not leaving the proposed changes open for discussion amongst citizens.

medConfidential (2017b), have claimed that patients should be able to trust their health provider with their private data and be entitled to access it on request. They also claim that patients should be entitled to view an online report which gives them information on where and why their data ended up where it did. According to Macaulay (2018), if the bill is enacted, it will enable the Government to take control of citizens' data and use the data as they deem appropriate. Macauley (2018), also states that if the claims that are being made by critics of the bill are correct, then the UK Government may be trying to pass legislation that is ethically flawed as the bill could give the Government the power to judge the ethical use of public sector data without any legal governance or oversight.

# EVALUATION

## Clause 175-178 Concerns

In the draft bill, the concerns mainly centre around clauses 175-178 (p.99-101). This area of the bill contains information relating to a Data Processing Framework that has been proposed by the UK Government. Clause 175 contains details about how the Secretary of State can prepare a document to address data processing and it highlights that they can amend the document if they deem it appropriate to do so.

Clause 176 outlines how the framework should gain approval, Clause 177 outlines how it should be published along with any required reviews or second opinions, and Clause 178 addresses the effect of the framework in terms of how it should be legally adhered to. The proposed framework would be based upon the requirements of the Crown or other Government departments. It also mentions that the Secretary of State would have the right to make amendments to the document or replace it completely if they so wished. According to Macauley (2018), the Government may soon be able to discern the ethics surrounding citizens' data if the bill is passed.

Irwin (2017), outlines that the GDPR will apply to countries based on several factors. These factors include but are not limited to, whether or not a company processes data belonging to EU citizens or is involved in business activity. The number of employees contained in an organisation is also a factor.

Article 30 of the GDPR states that companies with less than 250 employees will not be required to comply with the legislation unless the data processing that is carried out poses risks to data subjects,