Methods note: data protection

What does Nigeria's data protection law require of a research study?

The Nigeria Data Protection Act 2023 has no general exemption for research, and the Commission's 2025 directive adds duties that many social surveys will meet. A plain account of what applies, and where the law is still untested.

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In short

- There is no general exemption for research. The Act treats further use of data for research or statistics as compatible with the original purpose, but every other duty in the Act still applies.
- Under the Commission's 2025 directive, consent is required to process sensitive data, which include health, ethnic origin, religion and political opinion, and any child's data; and an impact assessment must be filed with the Commission before processing sensitive data, or data about vulnerable people, begins.
- Oral consent is valid under the Act, but the organisation must be able to prove it. Personal data sent abroad, including to a foreign server or repository, needs a recorded legal basis.

Research is covered

The Act applies to anyone processing personal data who is domiciled, resident or operating in Nigeria, to processing that takes place in Nigeria, and to processing of data about people in Nigeria from abroad [1]. It does not apply to purely personal or household use. Section 3(2) lifts most of the duties in Part V, though not sections 24, 25, 32 and 40, for criminal justice, public health emergencies and national security handled by competent authorities, for publication in the public interest for journalism, educational, artistic and literary purposes, to the extent that the duties are incompatible with those purposes, and for legal claims. Research is not named, though the Commission may by regulation exempt other types of personal data and processing [1].

Section 24(4)(b) provides that 'further processing for archiving purposes in the public interest, scientific, historical research purposes, or statistical purposes shall not be considered to be incompatible with the initial purposes' [1]. That permits reuse. It does not lift the duties to process fairly and transparently, collect no more than is needed and keep data no longer than necessary [1]. The GAID lets an organisation's interest override a request for erasure where the data are important information serving research or statistical purposes and erasure would be likely to impair or halt that work [2].

Personal data are information about a person who 'can be identified or is identifiable, directly or indirectly', including by reference to 'location data' [1]. The Act defines pseudonymisation but not anonymisation [1]. Data that can be re-linked to people using information held separately are still personal data; whether a de-identified dataset falls outside the Act is a judgement the Act does not make for you.

Lawful basis and consent

Processing needs a lawful basis under section 25, such as consent, a legal obligation or legitimate interests [1]. Consent must be affirmative and 'may be provided in writing, orally, or through electronic means'; silence is not consent, and the organisation 'shall bear the burden of proof for establishing' it [1]. Before collecting data, it must tell people who it is, the purpose and the legal basis, who will receive the data, how long they will be kept, and that they may complain to the Commission [1].

Sensitive personal data include health status, race or ethnic origin, religious or similar beliefs, political opinions, sex life and trade union membership[1]. The Act's research ground for sensitive data, section 30(1)(i), applies only where the processing is 'on the basis of a law' that is proportionate and provides suitable and specific safeguards; otherwise another condition in section 30(1) is needed, usually consent[1]. The Commission's General Application and Implementation Directive (GAID) 2025 goes further and requires consent 'for the processing of sensitive personal data' and 'for the processing of the personal data of a child'[2]. For a private research organisation with no such law to rely on, consent is therefore the basis for any survey that asks about these subjects.

For a child, the Act requires the consent of a parent or legal guardian, with appropriate checks of age, and takes its meaning of 'child' from the Child's Rights Act[1].

Impact assessments, security and breaches

The Act requires a data privacy impact assessment before any processing likely to result in high risk to people's rights[1]. The GAID makes the assessment mandatory, and to be filed with the Commission, in listed circumstances that include processing 'sensitive or highly personal data' and processing that 'relates to vulnerable data subjects'. It must be carried out before processing starts and signed by a data protection officer accredited by the Commission[2]. A survey that asks about health, ethnicity or religion meets the first of these conditions.

The Act lists pseudonymisation and encryption among the security measures an organisation may adopt[1]. A breach likely to put people's rights at risk must be reported to the Commission within 72 hours, and to the people affected 'immediately' if the risk to them is high[1].

Where no law sets a retention period, the GAID provides that storage should end no later than six months after the original purpose of the processing has been accomplished[2]. How this applies to research data kept for verification or reanalysis has not been tested, so we state the retention period on the consent form.

Sending data abroad

Personal data may leave Nigeria only if the recipient is subject to adequate protection, or one of the conditions in section 43 applies, such as the person's consent after being told the risks, and the organisation must record the basis it relied on[1]. We treat uploading a file that still holds personal data to a server or data repository outside Nigeria as such a transfer; the Act does not define transfer. The GAID requires consent before personal data go to a country for which the Commission has not made an adequacy decision[2].

Registration, data protection officers and annual returns

The Act requires data controllers and processors 'of major importance' to register with the Commission, and such controllers to appoint a data protection officer. The GAID extends the officer requirement to processors, and requires compliance audit returns every year, except from Ordinary-High Level organisations that renew their registration annually[1,2]. The Act leaves the threshold for 'major importance' to the Commission, and the GAID sorts such organisations into three tiers by factors that include the number of people whose data they process and how sensitive the data are[1,2]. The thresholds are set in a separate Guidance Notice of 19 December 2024: an organisation that processes the personal data of more than 200 people in six months is of major importance, and the tiers start at more than 200, 1,000 and 5,000 people in six months[3]. A survey of more than 200 people within six months therefore reaches it.

Across Africa

Data protection law is national. The African Union's Convention on Cyber Security and Personal Data Protection, the Malabo Convention, entered into force on 8 June 2023; as at 2 February 2026, 20 of the AU's 55 member states had ratified it, and Nigeria had signed in January 2024 but not ratified[4]. UNCTAD's global tracker puts the share of African countries with data protection legislation at 61%, without a date for its data[5]. A multi-country study has to meet each country's law.

Our practice

These are the rules every Probatio Africa study follows. Read them as commitments you can hold us to.

- [x] Before any study that collects sensitive data or interviews children, an impact assessment signed by an accredited data protection officer, filed with the Commission where the GAID requires it.
- [x] Consent recorded for every participant, in writing, orally or by witnessed thumbprint as the ethics committee approves, after the notice the Act requires has been read out in the respondent's language.
- [x] Names, phone numbers and exact locations kept apart from answers, encrypted, and deleted when the study no longer needs them, on a date stated on the consent form.
- [x] No personal data stored or sent outside Nigeria without a basis under sections 41–43 recorded before the transfer and, for a country without an adequacy decision, the participant's consent, as the GAID requires.
- [x] A breach reported to the Commission within 72 hours, and to the people affected immediately if the risk to them is high.

What the evidence cannot settle

- Whether, and when, a de-identified dataset falls outside the Act. The Act does not define anonymisation, and we found no guidance on it from the Commission.
- How the GAID's default retention period applies to research data kept for verification or follow-up.
- When the GAID took effect. The published text we could read carries no commencement date.

Sources

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