
Report Stage: Wednesday 22 November 2023

Data Protection and Digital Information Bill (Amendment Paper)

This document lists all amendments tabled to the Data Protection and Digital Information Bill . Any withdrawn amendments are listed at the end of the document. The amendments are arranged in the order in which it is expected they will be decided.

★ New Amendments.

New Amendments: 1 to 16 and NC3 to NC5

Jane Hunt

NC1

Peter Aldous
Mrs Flick Drummond
Mr David Jones
Greg Smith
Martin Vickers

Selaine Saxby
Holly Mumby-Croft

Sir Oliver Heald
Robin Millar

Sally-Ann Hart

To move the following Clause—

“Processing of data in relation to a case-file prepared by the police service for submission to the Crown Prosecution Service for a charging decision

- (1) The 2018 Act is amended in accordance with subsection (2).
- (2) In the 2018 Act, after section 40 insert—

“40A Processing of data in relation to a case-file prepared by the police service for submission to the Crown Prosecution Service for a charging decision

- (1) This section applies to a set of processing operations consisting of the preparation of a case-file by the police service for submission to the Crown Prosecution Service for a charging decision, the making of a charging decision by the Crown Prosecution Service, and the return of the case-file by the Crown Prosecution Service to the police service after a charging decision has been made.
- (2) The police service is not obliged to comply with the first data protection principle except insofar as that principle requires processing to be fair,

or the third data protection principle, in preparing a case-file for submission to the Crown Prosecution Service for a charging decision.

- (3) The Crown Prosecution Service is not obliged to comply with the first data protection principle except insofar as that principle requires processing to be fair, or the third data protection principle, in making a charging decision on a case-file submitted for that purpose by the police service.
- (4) If the Crown Prosecution Service decides that a charge will not be pursued when it makes a charging decision on a case-file submitted for that purpose by the police service it must take all steps reasonably required to destroy and delete all copies of the case-file in its possession.
- (5) If the Crown Prosecution Service decides that a charge will be pursued when it makes a charging decision on a case-file submitted for that purpose by the police service it must return the case-file to the police service and take all steps reasonably required to destroy and delete all copies of the case-file in its possession.
- (6) Where the Crown Prosecution Service decides that a charge will be pursued when it makes a charging decision on a case-file submitted for that purpose by the police service and returns the case-file to the police service under subsection (5), the police service must comply with the first data protection principle and the third data protection principle in relation to any subsequent processing of the data contained in the case-file.
- (7) For the purposes of this section—
 - (a) The police service means—
 - (i) constabulary maintained by virtue of an enactment, or
 - (ii) subject to section 126 of the Criminal Justice and Public Order Act 1994 (prison staff not to be regarded as in police service), any other service whose members have the powers or privileges of a constable.
 - (b) The preparation of, or preparing, a case-file by the police service for submission to the Crown Prosecution Service for a charging decision includes the submission of the file.
 - (c) A case-file includes all information obtained by the police service for the purpose of preparing a case-file for submission to the Crown Prosecution Service for a charging decision.””

Member's explanatory statement

This new clause adjusts Section 40 of the Data Protection Act 2018 to exempt the police service and the Crown Prosecution Service from the first and third data protection principles contained within the 2018 Act so that they can share unredacted data with one another when making a charging decision.

John Penrose

NC2

To move the following Clause—

“Common standards and timeline for implementation

- (1) Within one month of the passage of this Act, the Secretary of State must by regulations require those appointed as decision-makers to create, publish and update as required open and common standards for access to customer data and business data.
- (2) Standards created by virtue of subsection (1) must be interoperable with those created as a consequence of Part 2 of the Retail Banking Market Investigation Order 2017, made by the Competition and Markets Authority.
- (3) Regulations under section 66 and 68 must ensure interoperability of customer data and business data with standards created by virtue of subsection (1).
- (4) Within one month of the passage of this Act, the Secretary of State must publish a list of the sectors to which regulations under section 66 and section 68 will apply within three years of the passage of the Act, and the date by which those regulations will take effect in each case.”

Member's explanatory statement

This new clause, which is intended to be placed in Part 3 (Customer data and business data) of the Bill, would require interoperability across all sectors of the economy in smart data standards, including the Open Banking standards already in effect, and the publication of a timeline for implementation.

Sir Chris Bryant

NC3

★ To move the following Clause—

“Provision about representation of data subjects

- (1) Section 190 of the Data Protection Act 2018 is amended as follows.
- (2) In subsection (1), leave out “After the report under section 189(1) is laid before Parliament, the Secretary of State may” and insert “The Secretary of State must, within three months of the passage of the Data Protection and Digital Information Act 2024, ”.

Member's explanatory statement

This new clause would require the Secretary of State to exercise powers under s190 DPA2018 to allow organisations to raise data breach complaints on behalf of data subjects generally, in the absence of a particular subject who wishes to bring forward a claim about misuse of their own personal data.

Sir Chris Bryant

NC4

★ To move the following Clause—

“Review of notification of changes of circumstances legislation

- (1) The Secretary of State must commission a review of the operation of the Social Security (Notification of Changes of Circumstances) Regulations 2010.
- (2) In conducting the review, the designated reviewer must—
 - (a) consider the current operation and effectiveness of the legislation;
 - (b) identify any gaps in its operation and provisions;
 - (c) consider and publish recommendations as to how the scope of the legislation could be expanded to include non-public sector, voluntary and private sector holders of personal data.
- (3) In undertaking the review, the reviewer must consult—
 - (a) specialists in data sharing;
 - (b) people and organisations who campaign for the interests of people affected by the legislation;
 - (c) people and organisations who use the legislation;
 - (d) any other persons and organisations the review considers appropriate.
- (4) The Secretary of State must lay a report of the review before each House of Parliament within six months of this Act coming into force.”

Member's explanatory statement

This new clause requires a review of the operation of the “Tell Us Once” programme, which seeks to provide simpler mechanisms for citizens to pass information regarding births and deaths to government, and consideration of whether the progress of “Tell Us Once” could be extended to non-public sector holders of data.

Sir Chris Bryant

NC5

★ To move the following Clause—

“Definition of “biometric data”

Article 9 of the UK GDPR is amended by the omission, in paragraph 1, of the words “for the purpose of uniquely identifying a natural person”.”

Member's explanatory statement

This new clause would amend the UK General Data Protection Regulation to extend the protections currently in place for biometric data for identification to include biometric data for the purpose of classification.

Kate Osborne

11

★ Clause 5, page 7, line 12, at end insert—

““internal administrative purposes”, in relation to special category data, means the conditions set out for lawful processing in Schedule 1(1) of the Data Protection Act 2018.”

Member's explanatory statement

This amendment clarifies that the processing of special category data in employment must follow established principles for reasonable processing, as defined by Schedule 1(1) of the Data Protection Act 2018.

Sir Chris Bryant

3

★ Clause 8, page 10, leave out line 31

Member's explanatory statement

This amendment would mean that the resources available to the controller could not be taken into account when determining whether a request is vexatious or excessive.

Sir Chris Bryant

2

★ Clause 8, page 11, line 34, at end insert—

“(6A) When informing the data subject of the reasons for not taking action on the request in accordance with subsection (6), the controller must provide evidence of why the request has been treated as vexatious or excessive.”

Member's explanatory statement

This amendment would require the data controller to provide evidence of why a request has been considered vexatious or excessive if the controller is refusing to take action on the request.

Sir Chris Bryant

5

★ Clause 12, page 19, line 12, after “solely” insert “or partly”

Member's explanatory statement

This amendment would mean that the protections provided for by the new Article 22C would apply where a decision is based either solely or partly on automated processing, not only where it is based solely on such processing.

Sir Chris Bryant

4

- ★ Clause 15, page 25, line 4, at end insert “(including in the cases specified in sub-paragraphs (a) to (c) of paragraph 3 of Article 35)”

Member's explanatory statement

This amendment, together with Amendment 1, would provide a definition of what constitutes “high risk processing” for the purposes of applying Articles 27A, 27B and 27C, which require data controllers to designate, and specify the duties of, a “senior responsible individual” with responsibility for such processing.

Kate Osborne

12

- ★ Page 32, line 7, leave out Clause 17

Member's explanatory statement

This amendment keeps the current requirement on police in the Data Protection Act 2018 to justify why they have accessed an individual’s personal data.

Sir Chris Bryant

1

- ★ Clause 18, page 32, line 17, leave out paragraph (c) and insert—

- “(c) omit paragraph 2,
- (ca) in paragraph 3—
 - (i) for “data protection” substitute “high risk processing”,
 - (ii) in sub-paragraph (a), for “natural persons” substitute “individuals”,
 - (iii) in sub-paragraph (a) for “natural person” substitute “individual” in both places where it occurs,
- (cb) omit paragraphs 4 and 5,”

Member's explanatory statement

This amendment would leave paragraph 3 of Article 35 of the UK GDPR in place (with amendments reflecting amendments made by the Bill elsewhere in the Article), thereby ensuring that there is a definition of “high risk processing” on the face of the Regulation.

Sir Chris Bryant

6

- ★ Clause 83, page 107, leave out from line 26 to the end of line 34 on page 108

Member's explanatory statement

This amendment would leave out the proposed new regulation 6B of the PEC Regulations, which would enable consent to be given, or an objection to be made, to cookies automatically.

Sir Chris Bryant

7

★ Clause 89, page 114, line 12, at end insert—

“(2A) A provider of a public electronic communications service or network is not required to intercept or examine the content of any communication in order to comply with their duty under this regulation.”

Member's explanatory statement

This amendment would clarify that a public electronic communications service or network is not required to intercept or examine the content of any communication in order to comply with their duty to notify the Commissioner of unlawful direct marketing.

Sir Chris Bryant

8

★ Clause 89, page 117, line 3, at end insert—

“(5) In regulation 1—

- (a) at the start, insert “(1)”;
- (b) after “shall”, insert “save for regulation 26A”;
- (c) at end, insert—

“(2) Regulation 26A comes into force six months after the Commissioner has published guidance under regulation 26C (Guidance in relation to regulation 26A).”

Member's explanatory statement

This amendment would provide for the new regulation 26A, Duty to notify Commissioner of unlawful direct marketing, not to come into force until six months after the Commissioner has published guidance in relation to that duty.

Sir Chris Bryant

9

★ Clause 101, page 127, line 24, at end insert—

“(2A) After section 25, insert—

“25A Review of form in which registers are to be kept

- (1) The Secretary of State must commission a review of the provisions of this Act and of related legislation, with a view to the creation of a single digital register of births and deaths.
- (2) The review must consider and make recommendations on the effect of the creation of a single digital register on—
 - (a) fraud,
 - (b) data collection, and
 - (c) ease of registration.

- (3) The Secretary of State must lay a report of the review before each House of Parliament within six months of this section coming into force.””

Member's explanatory statement

This amendment would insert a new section into the Births and Deaths Registration Act 1953 requiring a review of relevant legislation, with consideration of creating a single digital register for registered births and registered deaths and recommendations on the effects of such a change on reducing fraud, improving data collection and streamlining digital registration.

Sir Chris Bryant

10

- ★ Clause 113, page 136, line 35, leave out “which allows or confirms the unique identification of that individual”

Member's explanatory statement

This amendment would amend the definition of “biometric data” for the purpose of the oversight of law enforcement biometrics databases so as to extend the protections currently in place for biometric data for identification to include biometric data for the purpose of classification.

Kate Osborne

15

- ★ Schedule, page 154, line 2, at end insert—

“(g) the views of the Information Commission on suitability of international transfer of data to the country or organisation.”

Member's explanatory statement

This amendment requires the Secretary of State to seek the views of the Information Commission on whether a country or organisation has met the data protection test for international data transfer.

Kate Osborne

14

- ★ Schedule, page 154, line 25, at end insert—

“5. In relation to special category data, the Information Commissioner must assess whether the data protection test is met for data transfer to a third country or international organisation.”

Member's explanatory statement

This amendment requires the Information Commission to assess suitability for international transfer of special category data to a third country or international organisation.

Kate Osborne

13

- ★ Schedule, page 154, line 30, leave out “ongoing” and insert “annual”

Member's explanatory statement

This amendment mandates that a country's suitability for international transfer of data is monitored on an annual basis.

Kate Osborne

16

★ Schedule, page 162, line 36, at end insert—

“(g) the views of the Information Commission on suitability of international transfer of data to the country or organisation.”

Member's explanatory statement

This amendment requires the Secretary of State to seek the views of the Information Commission on whether a country or organisation has met the data protection test for international data transfer in relation to law enforcement processing.

Order of the House

[17 April 2023]

That the following provisions shall apply to the Data Protection and Digital Information (No. 2) Bill:

Committal

1. The Bill shall be committed to a Public Bill Committee.

Proceedings in Public Bill Committee

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Tuesday 13 June 2023.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

Consideration and Third Reading

4. Proceedings on Consideration shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which those proceedings are commenced.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.
6. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and Third Reading.

Other proceedings

7. Any other proceedings on the Bill may be programmed.