

Data Protection and Digital Information Bill

AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

After Clause 4

BARONESS KIDRON
LORD CLEMENT-JONES

After Clause 4, insert the following new Clause—

“Data community”

In this Act, a “data community” means an entity established to facilitate the collective activation of data subjects’ data rights in Chapters III and VIII of the UK GDPR and members of a data community assign specific data rights to a nominated entity to exercise those rights on their behalf.”

Member's explanatory statement

This amendment provides a definition of “data community”. It is one of a series of amendments that would establish the ability to assign data rights to a third party.

After Clause 13

BARONESS KIDRON
LORD CLEMENT-JONES

After Clause 13, insert the following new Clause—

“Right to assign data rights to a data community

- (1) Data subjects shall have the right to mandate a data community to exercise their data rights as set out in Chapters III and VIII of the UK GDPR on their behalf.
- (2) The data subject has the right to specify which data and which rights over that data they assign to the data community for what purpose and for how long, with respect to which data controllers.
- (3) The subject has the right to amend or withdraw the assignment partially or in full at any time.”

Member's explanatory statement

This amendment creates a mechanism for data subjects to assign their data rights to be managed and asserted collectively. It seeks to address the asymmetry between the ability of data subjects and data controllers to understand and direct how data is used within data sets. It is one of a series of amendments that would establish the ability to assign data rights to a third party.

Clause 17

LORD CLEMENT-JONES

Clause 17, page 34, line 41, at end insert –

- “5. Where a Senior Responsible Individual submits an assessment for advice, the Commissioner must provide advice which must have the status of assured advice such that when followed and implemented in full, no subsequent prosecution or enforcement is possible unless it is rescinded prior to the action for which prosecution or enforcement is proposed.”

Member's explanatory statement

This amendment would introduce a system of assured advice.

After Clause 35BARONESS KIDRON
LORD CLEMENT-JONES

After Clause 35, insert the following new Clause –

“Code of practice on EdTech

- (1) The Commissioner must prepare a code of practice in consultation with the Department for Education and in accordance with sections 33 and 34 of this Act which contains such guidance as the Commissioner considers appropriate on the processing of children's data by providers of EdTech services and products.
- (2) In addition, in preparing a code or amendments under this section, the Commissioner must –
 - (a) have regard to –
 - (i) children's interests and fundamental rights and freedoms as set out in the United Nations Convention on the Rights of the Child and General Comment 25 on Children's Rights in relation to the Digital Environment, and
 - (ii) the fact that children are entitled to a higher standard of protection than adults with regard to their personal data as established in the 2018 Act;
 - (b) consult with –
 - (i) children,
 - (ii) educators,
 - (iii) parents,

- (iv) EdTech providers, and
 - (v) persons who appear to the Commissioner to represent the interests of children.
- (3) EdTech Controllers or processors providing services or products to schools must comply with any such code and provide information on compliance to schools as part of the school's procurement procedures.
- (4) Demonstrated adherence by an EdTech provider to the EdTech Code of Practice may be used by a school as a means of demonstrating compliance with their obligations as a data controller.
- (5) The Commissioner must prepare a report, in consultation with the EdTech industry, on the steps required to develop a certification scheme under Article 42 of the UK GDPR, to enable the industry to demonstrate the compliance of EdTech services and products with the UK GDPR, and conformity with the Age Appropriate Design Code of Practice and the EdTech Code of Practice.
- (6) In this section –
- “EdTech” means a service or product that digitise education functions including administration and management information systems, learning and assessment and safeguarding. They include services or products used within school settings and at home on the recommendation, advice or instruction of a school;
 - “school” means a school that falls within the definition of school in section 14, 15 or 16 of Part 4 of Schedule 3 of the 2018 Act.”

Member's explanatory statement

This amendment proposes a statutory Code of Practice to provide guidance to companies that provide EdTech services and products. It aims to ensure that such companies meet their legal obligations under existing data protection law, protect children and empower schools.

BARONESS KIDRON
LORD CLEMENT-JONES

After Clause 35, insert the following new Clause –

“Code of practice on data communities

- (1) The Commissioner must prepare a code of practice in accordance with sections 33 and 34 of this Act and which contains –
- (a) practical guidance on establishing, operating and joining a data community,
 - (b) practical guidance for data controllers and data processors on responding to requests made by data communities, and
 - (c) such other guidance as the Commissioner considers appropriate to promote good practice in all aspects of data communities schemes.
- (2) The data subject has the right to specify which data and which rights over that data they assign to the data community for what purpose and for how long, with respect to which data controllers.

(3) In this section—

“good practice in data community” means such practice in as appears to the Commissioner to be desirable having regard to the interests of data subjects whose data forms part of a data community, including compliance with the requirements mentioned in subsection (1).”

Member's explanatory statement

This amendment requires the Commissioner to draw up a code of practice setting out the way in which data communities must operate and the requirements on data controllers and processors when engaging with data rights activation requests from data communities. In addition to the code of conduct, there would also be the full range of protections already in place with respect to any controller. It is one of a series of amendments that would establish the ability to assign data rights to a third party.

BARONESS KIDRON
LORD CLEMENT-JONES

After Clause 35, insert the following new Clause—

“Register and oversight of data communities

- (1) The Information Commissioner must maintain a register of data communities and make the register publicly available.
- (2) The criteria for suitability for inclusion in the register will be set out in the Code of Practice on Data Communities.
- (3) The Information Commissioner must create a complaints mechanism to receive, review and adjudicate complaints raised by data subjects about a data community controller.
- (4) Complaints under subsection (3) can only be based on a failure to meet the standards set out in the Code of Practice on Data Communities.
- (5) The Information Commissioner must create a complaints mechanism to receive, review and adjudicate complaints raised by a data community controller on behalf of its members about a data controller or processor.
- (6) Complaints under subsection (5) must be based on a failure to meet the standards set out in the Code of Practice on Data Communities.”

Member's explanatory statement

This amendment ensures that data communities operate transparently and are subject to regulatory oversight. It is one of a series of amendments that would establish the ability to assign data rights to a third party. A data community controller will have the responsibilities assigned to a controller as well as additional protections as set out the proposed code of conduct.

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