

Data Protection and Digital Information Bill

AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

After Clause 30

BARONESS MORGAN OF COTES

After Clause 30, insert the following new 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

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) a 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.

Clause 31

LORD CLEMENT-JONES

Clause 31, page 56, leave out lines 10 to 14 and insert –

- “(a) to monitor the application of GDPR, the applied GDPR and this Act, and ensure they are fully enforced with all due diligence;
- (b) to act upon receiving a complaint, to investigate, to the extent appropriate, the subject matter of the complaint, and to take steps to clarify unsubstantiated issues before dismissing the complaint.”

Member's explanatory statement

This amendment clarifies the statutory objective of the Commissioner by removing secondary objectives introduced by the Bill and clarifying role and responsibility of the Commissioner.

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