



Data Protection Act 2018

2018 CHAPTER 12

PART 6

ENFORCEMENT

The special purposes

174 The special purposes

- (1) In this Part, “the special purposes” means one or more of the following—
 - (a) the purposes of journalism;
 - (b) academic purposes;
 - (c) artistic purposes;
 - (d) literary purposes.
- (2) In this Part, “special purposes proceedings” means legal proceedings against a controller or processor which relate, wholly or partly, to personal data processed for the special purposes and which are—
 - (a) proceedings under section 167 (including proceedings on an application under Article 79 of the GDPR), or
 - (b) proceedings under Article 82 of the GDPR or section 169.
- (3) The Commissioner may make a written determination, in relation to the processing of personal data, that—
 - (a) the personal data is not being processed only for the special purposes;
 - (b) the personal data is not being processed with a view to the publication by a person of journalistic, academic, artistic or literary material which has not previously been published by the controller.
- (4) The Commissioner must give written notice of the determination to the controller and the processor.
- (5) The notice must provide information about the rights of appeal under section 162.

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- (6) The determination does not take effect until one of the following conditions is satisfied—
- (a) the period for the controller or the processor to appeal against the determination has ended without an appeal having been brought, or
 - (b) an appeal has been brought against the determination and—
 - (i) the appeal and any further appeal in relation to the determination has been decided or has otherwise ended, and
 - (ii) the time for appealing against the result of the appeal or further appeal has ended without another appeal having been brought.

175 Provision of assistance in special purposes proceedings

- (1) An individual who is a party, or prospective party, to special purposes proceedings may apply to the Commissioner for assistance in those proceedings.
- (2) As soon as reasonably practicable after receiving an application under subsection (1), the Commissioner must decide whether, and to what extent, to grant it.
- (3) The Commissioner must not grant the application unless, in the Commissioner's opinion, the case involves a matter of substantial public importance.
- (4) If the Commissioner decides not to provide assistance, the Commissioner must, as soon as reasonably practicable, notify the applicant of the decision, giving reasons for the decision.
- (5) If the Commissioner decides to provide assistance, the Commissioner must—
 - (a) as soon as reasonably practicable, notify the applicant of the decision, stating the extent of the assistance to be provided, and
 - (b) secure that the person against whom the proceedings are, or are to be, brought is informed that the Commissioner is providing assistance.
- (6) The assistance that may be provided by the Commissioner includes—
 - (a) paying costs in connection with the proceedings, and
 - (b) indemnifying the applicant in respect of liability to pay costs, expenses or damages in connection with the proceedings.
- (7) In England and Wales or Northern Ireland, the recovery of expenses incurred by the Commissioner in providing an applicant with assistance under this section (as taxed or assessed in accordance with rules of court) is to constitute a first charge for the benefit of the Commissioner—
 - (a) on any costs which, by virtue of any judgment or order of the court, are payable to the applicant by any other person in respect of the matter in connection with which the assistance is provided, and
 - (b) on any sum payable to the applicant under a compromise or settlement arrived at in connection with that matter to avoid, or bring to an end, any proceedings.
- (8) In Scotland, the recovery of such expenses (as taxed or assessed in accordance with rules of court) is to be paid to the Commissioner, in priority to other debts—
 - (a) out of any expenses which, by virtue of any judgment or order of the court, are payable to the applicant by any other person in respect of the matter in connection with which the assistance is provided, and

- (b) out of any sum payable to the applicant under a compromise or settlement arrived at in connection with that matter to avoid, or bring to an end, any proceedings.

176 Staying special purposes proceedings

- (1) In any special purposes proceedings before a court, if the controller or processor claims, or it appears to the court, that any personal data to which the proceedings relate—
 - (a) is being processed only for the special purposes,
 - (b) is being processed with a view to the publication by any person of journalistic, academic, artistic or literary material, and
 - (c) has not previously been published by the controller,the court must stay or, in Scotland, sist the proceedings.
- (2) In considering, for the purposes of subsection (1)(c), whether material has previously been published, publication in the immediately preceding 24 hours is to be ignored.
- (3) Under subsection (1), the court must stay or sist the proceedings until either of the following conditions is met—
 - (a) a determination of the Commissioner under section 174 with respect to the personal data or the processing takes effect;
 - (b) where the proceedings were stayed or sisted on the making of a claim, the claim is withdrawn.

177 Guidance about how to seek redress against media organisations

- (1) The Commissioner must produce and publish guidance about the steps that may be taken where an individual considers that a media organisation is failing or has failed to comply with the data protection legislation.
- (2) In this section, “media organisation” means a body or other organisation whose activities consist of or include journalism.
- (3) The guidance must include provision about relevant complaints procedures, including—
 - (a) who runs them,
 - (b) what can be complained about, and
 - (c) how to make a complaint.
- (4) For the purposes of subsection (3), relevant complaints procedures include procedures for making complaints to the Commissioner, the Office of Communications, the British Broadcasting Corporation and other persons who produce or enforce codes of practice for media organisations.
- (5) The guidance must also include provision about—
 - (a) the powers available to the Commissioner in relation to a failure to comply with the data protection legislation,
 - (b) when a claim in respect of such a failure may be made before a court and how to make such a claim,
 - (c) alternative dispute resolution procedures,

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- (d) the rights of bodies and other organisations to make complaints and claims on behalf of data subjects, and
 - (e) the Commissioner’s power to provide assistance in special purpose proceedings.
- (6) The Commissioner—
- (a) may alter or replace the guidance, and
 - (b) must publish any altered or replacement guidance.
- (7) The Commissioner must produce and publish the first guidance under this section before the end of the period of 1 year beginning when this Act is passed.

178 Review of processing of personal data for the purposes of journalism

- (1) The Commissioner must—
- (a) review the extent to which, during each review period, the processing of personal data for the purposes of journalism complied with—
 - (i) the data protection legislation, and
 - (ii) good practice in the processing of personal data for the purposes of journalism,
 - (b) prepare a report of the review, and
 - (c) submit the report to the Secretary of State.
- (2) In this section—
- “good practice in the processing of personal data for the purposes of journalism” has the same meaning as in section 124;
 - “review period” means—
 - (a) the period of 4 years beginning with the day on which Chapter 2 of Part 2 of this Act comes into force, and
 - (b) each subsequent period of 5 years beginning with the day after the day on which the previous review period ended.
- (3) The Commissioner must start a review under this section, in respect of a review period, within the period of 6 months beginning when the review period ends.
- (4) The Commissioner must submit the report of a review under this section to the Secretary of State—
- (a) in the case of the first review, before the end of the period of 18 months beginning when the Commissioner started the review, and
 - (b) in the case of each subsequent review, before the end of the period of 12 months beginning when the Commissioner started the review.
- (5) The report must include consideration of the extent of compliance (as described in subsection (1)(a)) in each part of the United Kingdom.
- (6) The Secretary of State must—
- (a) lay the report before Parliament, and
 - (b) send a copy of the report to—
 - (i) the Scottish Ministers,
 - (ii) the Welsh Ministers, and
 - (iii) the Executive Office in Northern Ireland.

(7) Schedule 17 makes further provision for the purposes of a review under this section.

179 Effectiveness of the media’s dispute resolution procedures

(1) The Secretary of State must, before the end of each review period, lay before Parliament a report produced by the Secretary of State or an appropriate person on—

- (a) the use of relevant alternative dispute resolution procedures, during that period, in cases involving a failure, or alleged failure, by a relevant media organisation to comply with the data protection legislation, and
- (b) the effectiveness of those procedures in such cases.

(2) In this section—

“appropriate person” means a person who the Secretary of State considers has appropriate experience and skills to produce a report described in subsection (1);

“relevant alternative dispute resolution procedures” means alternative dispute resolution procedures provided by persons who produce or enforce codes of practice for relevant media organisations;

“relevant media organisation” means a body or other organisation whose activities consist of or include journalism, other than a broadcaster;

“review period” means—

- (a) the period of 3 years beginning when this Act is passed, and
- (b) each subsequent period of 3 years.

(3) The Secretary of State must send a copy of the report to—

- (a) the Scottish Ministers,
- (b) the Welsh Ministers, and
- (c) the Executive Office in Northern Ireland.