



Data Protection Act 2018

2018 CHAPTER 12

PART 5

THE INFORMATION COMMISSIONER

Codes of practice

121 Data-sharing code

- (1) The Commissioner must prepare a code of practice which contains—
 - (a) practical guidance in relation to the sharing of personal data in accordance with the requirements of the data protection legislation, and
 - (b) such other guidance as the Commissioner considers appropriate to promote good practice in the sharing of personal data.
- (2) Where a code under this section is in force, the Commissioner may prepare amendments of the code or a replacement code.
- (3) Before preparing a code or amendments under this section, the Commissioner must consult the Secretary of State and such of the following as the Commissioner considers appropriate—
 - (a) trade associations;
 - (b) data subjects;
 - (c) persons who appear to the Commissioner to represent the interests of data subjects.
- (4) A code under this section may include transitional provision or savings.
- (5) In this section—

“good practice in the sharing of personal data” means such practice in the sharing of personal data as appears to the Commissioner to be desirable having regard to the interests of data subjects and others, including compliance with the requirements of the data protection legislation;

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“the sharing of personal data” means the disclosure of personal data by transmission, dissemination or otherwise making it available;

“trade association” includes a body representing controllers or processors.

122 Direct marketing code

- (1) The Commissioner must prepare a code of practice which contains—
 - (a) practical guidance in relation to the carrying out of direct marketing in accordance with the requirements of the data protection legislation and the Privacy and Electronic Communications (EC Directive) Regulations 2003 (S.I. 2003/2426), and
 - (b) such other guidance as the Commissioner considers appropriate to promote good practice in direct marketing.
- (2) Where a code under this section is in force, the Commissioner may prepare amendments of the code or a replacement code.
- (3) Before preparing a code or amendments under this section, the Commissioner must consult the Secretary of State and such of the following as the Commissioner considers appropriate—
 - (a) trade associations;
 - (b) data subjects;
 - (c) persons who appear to the Commissioner to represent the interests of data subjects.
- (4) A code under this section may include transitional provision or savings.
- (5) In this section—

“direct marketing” means the communication (by whatever means) of advertising or marketing material which is directed to particular individuals;

“good practice in direct marketing” means such practice in direct marketing as appears to the Commissioner to be desirable having regard to the interests of data subjects and others, including compliance with the requirements mentioned in subsection (1)(a);

“trade association” includes a body representing controllers or processors.

123 Age-appropriate design code

- (1) The Commissioner must prepare a code of practice which contains such guidance as the Commissioner considers appropriate on standards of age-appropriate design of relevant information society services which are likely to be accessed by children.
- (2) Where a code under this section is in force, the Commissioner may prepare amendments of the code or a replacement code.
- (3) Before preparing a code or amendments under this section, the Commissioner must consult the Secretary of State and such other persons as the Commissioner considers appropriate, including—
 - (a) children,
 - (b) parents,
 - (c) persons who appear to the Commissioner to represent the interests of children,
 - (d) child development experts, and

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- (e) trade associations.
- (4) In preparing a code or amendments under this section, the Commissioner must have regard—
 - (a) to the fact that children have different needs at different ages, and
 - (b) to the United Kingdom's obligations under the United Nations Convention on the Rights of the Child.
- (5) A code under this section may include transitional provision or savings.
- (6) Any transitional provision included in the first code under this section must cease to have effect before the end of the period of 12 months beginning when the code comes into force.
- (7) In this section—
 - “age-appropriate design” means the design of services so that they are appropriate for use by, and meet the development needs of, children;
 - “information society services” has the same meaning as in the GDPR, but does not include preventive or counselling services;
 - “relevant information society services” means information society services which involve the processing of personal data to which the GDPR applies;
 - “standards of age-appropriate design of relevant information society services” means such standards of age-appropriate design of such services as appear to the Commissioner to be desirable having regard to the best interests of children;
 - “trade association” includes a body representing controllers or processors;
 - “the United Nations Convention on the Rights of the Child” means the Convention on the Rights of the Child adopted by the General Assembly of the United Nations on 20 November 1989 (including any Protocols to that Convention which are in force in relation to the United Kingdom), subject to any reservations, objections or interpretative declarations by the United Kingdom for the time being in force.

Commencement Information

II S. 123 in force at 23.7.2018 by S.I. 2018/625, reg. 3(a)

124 Data protection and journalism code

- (1) The Commissioner must prepare a code of practice which contains—
 - (a) practical guidance in relation to the processing of personal data for the purposes of journalism in accordance with the requirements of the data protection legislation, and
 - (b) such other guidance as the Commissioner considers appropriate to promote good practice in the processing of personal data for the purposes of journalism.
- (2) Where a code under this section is in force, the Commissioner may prepare amendments of the code or a replacement code.
- (3) Before preparing a code or amendments under this section, the Commissioner must consult such of the following as the Commissioner considers appropriate—
 - (a) trade associations;

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- (b) data subjects;
 - (c) persons who appear to the Commissioner to represent the interests of data subjects.
- (4) A code under this section may include transitional provision or savings.
- (5) In this section—
- “good practice in the processing of personal data for the purposes of journalism” means such practice in the processing of personal data for those purposes as appears to the Commissioner to be desirable having regard to—
 - (a) the interests of data subjects and others, including compliance with the requirements of the data protection legislation, and
 - (b) the special importance of the public interest in the freedom of expression and information;
 - “trade association” includes a body representing controllers or processors.

125 Approval of codes prepared under sections 121 to 124

- (1) When a code is prepared under section 121, 122, 123 or 124—
 - (a) the Commissioner must submit the final version to the Secretary of State, and
 - (b) the Secretary of State must lay the code before Parliament.
- (2) In relation to the first code under section 123—
 - (a) the Commissioner must prepare the code as soon as reasonably practicable and must submit it to the Secretary of State before the end of the period of 18 months beginning when this Act is passed, and
 - (b) the Secretary of State must lay it before Parliament as soon as reasonably practicable.
- (3) If, within the 40-day period, either House of Parliament resolves not to approve a code prepared under section 121, 122, 123 or 124, the Commissioner must not issue the code.
- (4) If no such resolution is made within that period—
 - (a) the Commissioner must issue the code, and
 - (b) the code comes into force at the end of the period of 21 days beginning with the day on which it is issued.
- (5) If, as a result of subsection (3), there is no code in force under section 121, 122, 123 or 124, the Commissioner must prepare another version of the code.
- (6) Nothing in subsection (3) prevents another version of the code being laid before Parliament.
- (7) In this section, “the 40-day period” means—
 - (a) if the code is laid before both Houses of Parliament on the same day, the period of 40 days beginning with that day, or
 - (b) if the code is laid before the Houses of Parliament on different days, the period of 40 days beginning with the later of those days.
- (8) In calculating the 40-day period, no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses of Parliament are adjourned for more than 4 days.

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- (9) This section, other than subsections (2) and (5), applies in relation to amendments prepared under section 121, 122, 123 or 124 as it applies in relation to codes prepared under those sections.

Commencement Information

- I2** [S. 125](#) not in force at Royal Assent; [s. 125](#) in force at 23.7.2018 for specified purposes, see [s. 212\(3\)\(b\)](#)
I3 [S. 125](#) in force at 23.7.2018 for specified purposes by [S.I. 2018/625](#), [reg. 3\(b\)](#)

126 Publication and review of codes issued under section 125(4)

- (1) The Commissioner must publish a code issued under section 125(4).
- (2) Where an amendment of a code is issued under section 125(4), the Commissioner must publish—
- (a) the amendment, or
 - (b) the code as amended by it.
- (3) The Commissioner must keep under review each code issued under section 125(4) for the time being in force.
- (4) Where the Commissioner becomes aware that the terms of such a code could result in a breach of an international obligation of the United Kingdom, the Commissioner must exercise the power under section 121(2), 122(2), 123(2) or 124(2) with a view to remedying the situation.

Commencement Information

- I4** [S. 126](#) not in force at Royal Assent; [s. 126](#) in force at 23.7.2018 for specified purposes, see [s. 212\(3\)\(b\)](#)
I5 [S. 126](#) in force at 23.7.2018 for specified purposes by [S.I. 2018/625](#), [reg. 3\(c\)](#)

127 Effect of codes issued under section 125(4)

- (1) A failure by a person to act in accordance with a provision of a code issued under section 125(4) does not of itself make that person liable to legal proceedings in a court or tribunal.
- (2) A code issued under section 125(4), including an amendment or replacement code, is admissible in evidence in legal proceedings.
- (3) In any proceedings before a court or tribunal, the court or tribunal must take into account a provision of a code issued under section 125(4) in determining a question arising in the proceedings if—
- (a) the question relates to a time when the provision was in force, and
 - (b) the provision appears to the court or tribunal to be relevant to the question.
- (4) Where the Commissioner is carrying out a function described in subsection (5), the Commissioner must take into account a provision of a code issued under section 125(4) in determining a question arising in connection with the carrying out of the function if—
- (a) the question relates to a time when the provision was in force, and

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- (b) the provision appears to the Commissioner to be relevant to the question.
- (5) Those functions are functions under—
- (a) the data protection legislation, or
 - (b) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (S.I. 2003/2426).

Commencement Information

- I6** S. 127 not in force at Royal Assent; s. 127 in force at 23.7.2018 for specified purposes, see s. 212(3)(b)
- I7** S. 127 in force at 23.7.2018 for specified purposes by S.I. 2018/625, reg. 3(d)

128 Other codes of practice

- (1) The Secretary of State may by regulations require the Commissioner—
- (a) to prepare appropriate codes of practice giving guidance as to good practice in the processing of personal data, and
 - (b) to make them available to such persons as the Commissioner considers appropriate.
- (2) Before preparing such codes, the Commissioner must consult such of the following as the Commissioner considers appropriate—
- (a) trade associations;
 - (b) data subjects;
 - (c) persons who appear to the Commissioner to represent the interests of data subjects.
- (3) Regulations under this section—
- (a) must describe the personal data or processing to which the code of practice is to relate, and
 - (b) may describe the persons or classes of person to whom it is to relate.
- (4) Regulations under this section are subject to the negative resolution procedure.
- (5) In this section—
- “good practice in the processing of personal data” means such practice in the processing of personal data as appears to the Commissioner to be desirable having regard to the interests of data subjects and others, including compliance with the requirements of the data protection legislation;
 - “trade association” includes a body representing controllers or processors.

Commencement Information

- I8** S. 128 in force at Royal Assent for specified purposes, see s. 212(2)(f)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 3(10A) inserted by S.I. 2019/419 Sch. 2 para. 4(5)
- s. 15(4A) inserted by S.I. 2019/419 Sch. 2 para. 19(11)
- s. 16(2)(c) and word inserted by S.I. 2019/419 Sch. 2 para. 20(3)(b)
- s. 17A-17C inserted by S.I. 2019/419 Sch. 2 para. 23
- s. 24(2)(ca)(cb) inserted by S.I. 2019/419 Sch. 2 para. 32(3)(b)
- s. 26(2)(g)(iv) inserted by S.I. 2019/419 Sch. 2 para. 34(3)(e)(ii)
- s. 26(2)(fa) inserted by S.I. 2019/419 Sch. 2 para. 34(3)(d)
- s. 28(5) inserted by S.I. 2019/419 Sch. 2 para. 36(5)
- s. 74A-74B inserted by S.I. 2019/419 Sch. 2 para. 42
- s. 116(A1) inserted by S.I. 2019/419 Sch. 2 para. 48(2)
- s. 119A inserted by S.I. 2019/419 Sch. 2 para. 51
- s. 120(2A) inserted by S.I. 2019/419 Sch. 2 para. 52(3)
- s. 183(2A) inserted by S.I. 2019/419 Sch. 2 para. 78(3)
- s. 205(1)(d) word omitted by S.I. 2019/419 Sch. 2 para. 85(2)(a)
- s. 205(1)(f) and word inserted by S.I. 2019/419 Sch. 2 para. 85(2)(b)
- s. 205(1A) inserted by S.I. 2019/419 Sch. 2 para. 85(4)
- s. 205(2)(za) inserted by S.I. 2019/419 Sch. 2 para. 85(5)(a)
- s. 205(4)(5) inserted by S.I. 2019/419 Sch. 2 para. 85(7)
- s. 207(1A) inserted by S.I. 2019/419 Sch. 2 para. 87(3)
- s. 213(4) inserted by S.I. 2019/419 Sch. 2 para. 90(3)
- Sch. 2 para. 27(4) inserted by S.I. 2019/419 Sch. 2 para. 92(23)(d)
- Sch. 2 para. 28(4) inserted by S.I. 2019/419 Sch. 2 para. 92(24)(d)
- Sch. 20 para. 18(8) inserted by S.I. 2019/419 Sch. 2 para. 101(4)(b)
- Sch. 21 inserted by S.I. 2019/419 Sch. 2 para. 102 (This amending provision is itself amended immediately before exit day by S.I. 2019/485, reg. 2)