



# Overview of the Expected Impact of Changes to the Data Protection and Digital Information Bill following Committee Stage

## Introduction

1. This paper provides an overview of the economic impact of the amendments made at the committee stage of the Data Protection and Digital Information Bill (“DPDI Bill”).
2. The existing Impact Assessment <sup>1</sup> provides an outline of the existing regulatory framework, market failures, proposed policy options and the cost benefit analysis of the package of reforms
3. In March 2023, we estimated the Net Present Social Value of the package of reforms in the Bill to be between £1.2 billion and £9.1 billion over 10 years following implementation and in 2019 prices, with a 2020 base year. Our best estimate is approximately £4.7 billion over this period. We estimated that £2.2 billion of this will be attributable to UK businesses and £2.5 billion to the public sector.

## Overview of changes

4. At committee stage in May 2023, a number of amendments were proposed, reflecting stakeholder feedback of the Bill and further policy development. These are set out in the [amendment papers](#) for the bill.
5. The majority of amendments made at committee stage do not have any additional economic or wider impacts to UK businesses, the public sector or data subjects.
6. For substantial technical and policy amendments that have impact above what is already included in the existing Impact Assessment, we have included an outline of the rationale, purpose and impact of these below.

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<sup>1</sup> [Data Protection and Digital Information Bill Impact Assessment](#), March 2023, DCMS



7. A fully updated Impact Assessment including all amendments made throughout the passage of the Bill will be reviewed by the RPC and published at enactment in line with government analytical guidelines. This is expected to be around spring 2024.

## **Amendments with additional impacts**

1. Elected Representatives and Special Category Data
2. Welsh and Scottish safeguards for Digital Verification Services
3. A Delegated Power to pass secondary legislation enabling the technical implementation of new international alert sharing agreements
4. Extending approved code of conduct provisions under Article 40 UK GDPR to the PEC Regulation

### **1. Elected Representatives and Special Category Data**

#### Rationale

8. Paragraph 23 of Schedule 1 of the Data Protection Act 2018 allows elected representatives to process special category data of constituents without explicit consent where this is necessary to take action on their behalf. This allows them to take forward and deal with constituency casework (e.g. raising matters with relevant government departments or other public bodies) without seeking explicit consent of data subjects at every step of the process. Paragraph 23(4) provides that outgoing MPs (or their equivalent in the devolved Parliament/Assembly) are only to be treated as elected representatives for four days following a general election.
9. This means that outgoing representatives have four days to finish their constituency casework. They then cease to be a data controller and can no longer rely on this exemption to conclude outstanding constituency matters. Elected representatives have voiced concerns that this timescale is not realistic or sufficient for outgoing representatives to finish their matters, including casework. The current system creates barriers that have additional external impacts on representatives and constituents. For example, it usually takes an outgoing MP up to a month to handover casework to an incoming MP. There may be occasions where consent needs to be sought from constituents to hand over matters to a new MP, and this can take some time.

#### Requirements

10. Amendments were tabled to amend Schedule 1 of the Data Protection Act 2018 so that the 4 day threshold in which outgoing elected representatives have to process special category data on behalf of their constituents without explicit consent, is changed to 30 days, to overcome these operational barriers.



## Expected Impacts

11. Whilst we estimate no direct economic impact on businesses of changing the time frame from 4 days to 30 days, there could potentially be wider indirect impacts to elected representatives and constituents.
12. Constituents may benefit from the additional time given for their casework to be completed, resolving their concerns or issues, instead of the case being delayed when transferred to a new elected representative. Constituents will also spend less time answering consent requests from the outgoing MP during these 30 days. Benefits for elected representatives also include a clearer and less burdensome handover process and less time spent waiting for explicit consent when handing over casework. This streamlining of the process could lead to efficiency gains within the office of the elected representative and allow for time to be spent elsewhere.

## 2. Welsh and Scottish safeguards for Digital Verification Services

### Rationale

13. The DPDI Bill establishes a framework for the provision of digital verification services (DVS) in the UK to secure the reliability of those services and to enable digital identities and attributes to be used with the same confidence as paper documents.
14. A legal information sharing gateway is created in the Bill to enable public authorities to disclose personal information to trusted organisations for identity and eligibility verification purposes.
15. Clause 57 of the DPDI Bill applies to information disclosed by HMRC for the provision of DVS. It sets out that information disclosed by HMRC for the provision of DVS must not be shared further without the consent of the Commissioners for HMRC, and that if a third party receives the information disclosed by HMRC to the DVS provider directly or by other means, the third party must not disclose the information without consent of the Commissioners for HMRC. Regarding criminal offences, the clause sets out that the offence of wrongful disclosure under section 19 of the Commissioners for Revenue and Customs Act 2005 applies where information is disclosed in contravention of this section.
16. We have amended the DPDI Bill to include a similar provision in respect of information shared by Revenue Scotland (RS) and the Welsh Revenue Authority (WRA). These amendments make it a criminal offence for third parties to further disclose data they have received by RS or WRA without the respective consent of RS/WRA.



## Requirements

17. Amendments were tabled to replicate the prohibitions and safeguards put in place by clause 57 (relating to the sharing of HMRC information) in relation to the sharing of RS and WRA information when it comes to the permissive power to share information for DVS, creating a criminal offence for breaching these provisions.
18. Equivalent provision is not required for Northern Irish tax data, as HMRC is responsible for the collection of devolved taxes in Northern Ireland.

## Expected impact

19. These provisions will ensure confidence and trust in the Welsh and Scottish tax systems is maintained, creating similar safeguards in relation to the information shared by all three tax authorities in this context.
20. Currently, WRA/RS only collect stamp duty and landfill tax. Therefore, the data currently collected by WRA/RS is unlikely to provide evidence to verify identity. It is highly unlikely that identity service providers would use the legal information sharing gateway to access this data, and therefore expected impacts are not significant.
21. Including these provisions future proofs our legislation in the case that the data devolved tax authorities collect changes. The amendment brings WRA/RS data safeguards to the equivalent level as HMRC data, in respect of this gateway. As it is unlikely that WRA/RS will use this information sharing power, the impact on businesses and the economy is currently negligible.
22. If the tax data they collect does widen in the future, it is unlikely to include data that would be used to verify identity or attributes. Partially devolved income and council taxes (examples of tax data that may support identity verification) are collected by other devolved authority organisations and would not be collected by WRA/RS. Again, this supports our reasoning that potential impact is negligible.
23. As part of the amendment impact analysis, a Justice Impact Test was conducted. It found the number of prosecutions expected are extremely low due to the criminal sanction being an effective deterrent.

## 3. International Alert Sharing Agreements

### Rationale

24. Clause 99 creates a delegated power to make regulations to implement international agreements relating to the sharing of information for law enforcement purposes. This will provide powers to implement operational and technical aspects of such international agreements via secondary legislation (negative procedure) once the agreements have been negotiated.



25. Whilst international relations and the negotiation of the treaties themselves would be considered reserved, as law enforcement is a devolved matter to various extents, the implementation of international agreements relating to it are also considered devolved.
26. Amendments were tabled to enable Welsh and Scottish Ministers to also make regulations to implement international law enforcement agreements in respect of matters that are devolved to Wales and Scotland.

## Requirements

27. As a result of this amendment, Welsh and Scottish Ministers will have the power to pass regulations to implement international law enforcement agreements in respect of matters that are devolved to Wales and Scotland. The Secretary of State will also have the power to pass regulations on devolved matters.

## Expected Impacts

28. It is noted that there may be potential impacts, these will be dependent on the exact secondary legislation carried out and analysis will be provided at that stage. Any international agreements established and subsequent secondary legislation resulting from these will be assessed accordingly for economic impact at such juncture.

## Overall Note

29. A review has been carried out of the previous Economic Impact Assessment that was conducted for this measure. This specifically focused on the International Law Enforcement Alerts Platform (I-LEAP) programme. This is a specific programme of work that is seeking to establish international agreements for the sharing of law enforcement alerts. However, this measure provides a regulation-making power for the implementation of international law enforcement information-sharing agreements. The scope of this assessment should therefore cover these regulation making powers. The enactment economic impact assessment for the Bill as a whole, when updated, will reflect this position.

## **4. Extending approved code of conduct provisions under Article 40 UK GDPR to the PEC Regulation**

### Rationale

30. The PEC Regulations place specific requirements on organisations in relation to use of personal data in electronic communications. They include rules on the use of emails, texts and phone calls for direct marketing purposes and the use of cookies and similar technologies.
31. Feedback from stakeholders has indicated that there is sometimes a need for guidance on complying with the legislation that is more bespoke than ICO's general regulatory guidance. Currently this creates barriers and costs for businesses within



certain industries. For example, they may have to seek out more detailed guidance or ask for legal support when processing personal data for electronic communications.

## Requirements

32. Amendments were tabled to allow representative bodies to design codes of conduct on complying with the PEC Regulations that reflect their specific processing operations to overcome these barriers. This will be particularly beneficial to representative bodies who are developing codes for processing activities that are subject to the requirements of both the UK GDPR and the PEC Regulations.
33. This amendment will also make changes to Article 41 of the UK GDPR to clarify that bodies accredited to monitor compliance with codes of conduct under the UK GDPR are only required to notify the Information Commissioner if they suspend or exclude a person from a code. This will ensure consistency with other codes under the PEC Regulations.

## Expected Impacts

34. The new clause envisages that representative bodies will draw up voluntary codes of conduct and then seek formal approval of them by the Information Commissioner. The Information Commissioner will only approve a code if it contains a mechanism for the representative body to monitor their members' compliance with the code.
35. The Information Commissioner will accredit a representative body for this purpose if it is satisfied it has the necessary knowledge and skills. To support these bodies to become accredited, the Information Commissioner will be required to publish guidance on the accreditation criteria.
36. The impact of this amendment will depend on which industry codes of conducts will be created and when. However, it is expected to reduce costs for businesses in these industries as they will have easier access to more detailed guidance, meaning they are more likely to be compliant and not have to pay third parties for advice or services.
37. More generally, a main benefit for businesses of adhering to an approved code is it will assist them in demonstrating to customers and the regulator how they comply with relevant legislation. This increase in trust between data subjects and businesses could lead to an increase in data sharing and access for firms.
38. We also expect this amendment to have an impact on the ICO. It is not yet clear what the impacts will be and, as such, this will be revisited in due course. The ICO has previously provided estimates of the impacts of the Bill to their operations and costs. An updated version of this analysis will be provided in the Enactment Impact Assessment next year.