

Data Protection and Digital Information Bill

What will it mean for children?

Second reading briefing

Background

The [Data Protection and Digital Information Bill](#) was introduced to Parliament in July 2022 following a detailed and extensive consultation on proposed changes to the UK's data protection regime. **The Bill will receive its second reading on 5 September.**

We are pleased the government has listened to and responded to our [concerns](#) and those of others on aspects of the proposals that would significantly undermine data protection rights.¹

While we welcome parts of the Bill, particularly clarification of the rules for businesses and a move to make it easier for users to manage their consent preferences through the development of new tools, we are concerned that the government has not formally recognised the extraordinary advances in child protection brought about by the Age Appropriate Design Code² (the UK's regulatory code for child data protection under the Data Protection Act 2018) and note several issues that will threaten the UK's reputation as the world leader in children's data protection.

We call on MPs from all parties to ensure the Age Appropriate Design Code is both named and protected in the Bill.

Changes to UK GDPR

The Bill is designed to promote innovation, remove barriers for businesses and boost trade, rather than provide solutions that would fortify existing data rights under GDPR. Of greatest concern is the **cumulative** effect of the many apparently minor changes to the current data protection regime. In isolation, each may appear insignificant, but in combination they could chip away at children's hard-won protections. It is vital that there is a clear statement on the face of the Bill to uphold the Age Appropriate Design Code, and that other modifications to the data protection regime do not undermine the protections it gives to children.

In particular, we are concerned about the following issues:

- **Assessments of high-risk data processing** (clause 17): Reducing obligations on companies to notify the regulator of high-risk data processing activities will limit regulatory oversight, putting children's personal data at risk
- **Scientific research** (clause 2): Relaxing the legal bases on which personal data can be processed for scientific research, including privately funded research carried out by commercial entities, will risk children's data being exploited for commercial purposes

¹ ['Why the UK's new data regime proposals could mean a setback for children's rights'](#), 5Rights Foundation, November 2021

² [Age Appropriate Design: a code of practice for online service](#), Information Commissioner's Office, September 2020

- **ICO reform** (clause 27): The new mandate for the regulator to have regard for innovation and economic growth will impede the enforcement of children's privacy rights
- **Powers of the Secretary of State:** The regulator's independence from the executive is at risk of being compromised by far-reaching powers of the Secretary of State.

Protecting the Age Appropriate Design Code

The Information Commissioner has indicated that there will be revisions to the Age Appropriate Design Code to reflect the new provisions in the Bill. The Code is the gold standard in child data protection, requiring companies to give children a high bar of privacy by default. Since it passed into law in September 2020, companies have made significant changes that have transformed the experiences of children online. Its success has led to similar proposals in Ireland, The Netherlands, Europe and California.

Changes to our data protection regime should not prioritise business interests over children's privacy rights. **It is critical that the protections for children enshrined in the Age Appropriate Design Code are not weakened by this Bill.**

Furthermore, protecting the Code will not only protect children, it will reduce the burden on companies created by regulatory upheaval and help to [guarantee EU adequacy](#).

5Rights' ask to Members of Parliament

We call on all MPs to defend our world-leading protections for children and encourage you to ask the Minister at second reading:

Can you give assurances that children's privacy rights will not be sacrificed at the altar of innovation or trade?

Will our globally revered Age Appropriate Design Code, which gives children's data the highest levels of protection, be defended in this Bill?

5Rights Foundation continues to work towards delivering the digital world that young people deserve. We thank you for your support.

For further briefing, please contact arietta@5rightsfoundation.com

About 5Rights Foundation

5Rights develops new policy, creates innovative frameworks, develops technical standards, publishes research, challenges received narratives and ensures that children's rights and needs are recognised and prioritised in the digital world. While 5Rights works exclusively on behalf of and with children and young people under 18, our solutions and strategies are relevant to many other communities.

Our focus is on implementable change and our work is cited and used widely around the world. We work with governments, inter-governmental institutions, professional associations, academics, businesses, and children, so that digital products and services can impact positively on the lived experiences of young people.