



PRACTICABILITY OF ENFORCING DATA SUBJECT RIGHTS UNDER THE NIGERIAN DATA PROTECTION ACT 2023 AND THE GAID 2025

Data Protection Insight

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1. Introduction

In today's data-driven world, personal data has become a vital asset driving access to the essential needs of our daily lives. As organisations and several businesses increasingly collect and process vast amounts of personal data to carry out their operations, concerns over privacy and data misuse have intensified, thereby highlighting the urgent need for data protection legislation.¹ In Nigeria, this led to the enactment of the Nigerian Data Protection Act 2023 ("NDP Act" or "the Act"),² This establishes a statutory framework designed to ensure data privacy and regulate data governance. The Act also affirms the fundamental rights of data subjects.

Central to the Nigerian Data Protection Act 2023 is the establishment of the Nigerian Data Protection Commission ("NDPC" or "The Commission"), vested with broad regulatory powers to ensure compliance with the NDP Act. To enforce the rights of data subjects, on March 20, 2025, the NDPC issued the General Application and Implementation Directive ("GAID"), which outlines a detailed procedure for enforcing the rights of data subjects against data controllers and data processors.³

In light of the above, this article critically examines the concept of a data subject's rights and the enforcement frameworks established by the NDP Act and the GAID. It further evaluates the enforceability of data subjects' rights under the NDP Act and the GAID, as well as the challenges that arise from this.

2. Understanding the concept of Data Subject Rights

Under the provisions of Section 65 of the NDP Act, a data subject refers to an individual to whom personal data relates, and personal data is defined as any information relating to an individual who can be either directly or indirectly identified by a name, an identification number, a location data, an online identifier or by a physical, physiological genetic, psychological, cultural, social, or economic identifier.⁴

Part VI of the NDP Act and Articles 36-39 of the GAID broadly outline the rights of data subjects, and these rights include the following:

1 Iquo Essien, "The Rights of Data Subjects under the Nigerian Data Protection Act: Empowering individuals in a digital age" (The Firma Advisory, January 2024) <<https://thefirmaadvisory.com/new-blog/2024/1/29/the-rights-of-data-subjects-under-the-nigeria-data-protection-act-empowering-individuals-in-the-digital-age>> accessed June 10, 2025.

2 Nigeria Data Protection Act 2023.

3 Nigeria Data Protection Act 2023, Part VI and GAID 2025, Article 36-39.

4 The Nigeria Data Protection Act 2023, S.65

- a. ***The Right to Be Informed:*** Under Section 34 (1)(a) of the NDP Act, data subjects have a right to obtain information about the nature and purpose of their data that is being processed, the categories of their personal data concerned, the recipient or categories of recipient to whom their personal data have been or will be disclosed to. This right also includes the right to be informed of the criteria used in determining the duration of the storage of their personal data.⁵ This right further ensures transparency and enables individuals to stay informed, especially when data is used beyond its original purpose, giving them greater control over their information. The right to be informed can be actualized by data controllers through the implementation of privacy policies.⁶
- b. ***The Right to Restrict Processing:*** Individuals have the right to request that a data controller restrict the processing of their personal data.⁷ This right is typically exercised where the accuracy of the data is contested, the processing is unlawful, but the individual opposes erasure. Restriction ensures that, during the period of dispute or assessment, the data is retained but not actively used for unconsented purposes, thereby safeguarding the individual's interests.⁸
- c. ***The Right to Rectification:*** When a data subject discovers that a data controller holds incorrect or misleading personal information about them, they have a right to request corrections or updates.⁹
- d. ***The Right to Erasure or Deletion:*** Also known as the "*right to be forgotten*", this right allows data subjects to request the deletion of their personal data. This right is not absolute, and it is only exercisable¹⁰. In the following circumstances, as provided for in Section 34 (2) of the NDP Act 2023 are as follows:
 - Where the data is no longer necessary for the purpose it was collected.
 - Where the individual withdraws consent on which the processing is based.
 - Where the data controller has no other lawful basis to retain the personal data.¹¹
- e. ***The Right to Withdraw Consent:*** A data subject has a right to withdraw their consent, at any time, to the processing of their personal data, and the

⁵ The Nigeria Data Protection Act 2023, S.34

⁶ The Nigeria Data Protection Act 2023, S.34 (1)(a).

⁷ The Nigeria Data Protection Act 2023, Section 34 (1)(a)(v)

⁸ The Nigeria Data Protection Act 2023, S.34,

⁹ The Nigeria Data Protection Act 2023, Section 34 (1)(a)(v) and (b)

¹⁰ Deborah Dada, "Right of a Data Subject Under the Nigerian Data Protection Act 2023" (Mondaq, July 2023) <<https://www.mondaq.com/nigeria/privacy-protection/1346702/rights-of-a-data-subject-under-the-nigeria-data-protection-act-2023>> accessed June 10, 2025.

¹¹ The Nigeria Data Protection Act 2023, S 34(2).

- data controller is expected to ensure that it is easy for the data subject to withdraw their consent.¹²
- f. ***The Right to Object:*** A data subject has the right to object to the processing of personal data, and once the data subject objects, the data controller shall discontinue the processing of personal data, unless the controller demonstrates public interest or other legitimate grounds which override the right to object of the data subject.¹³
 - g. ***Right to not be subjected to Automated Decision-Making, Including Profiling:*** While understanding that automation is the new norm, data subjects retain the right to not be mandated to make important decisions with significant legal effects based solely on a machine-driven process, including profiling. If an organisation relies on automated decision-making processes, the data subject must be informed, and there must be an option that allows the data subject to access human intervention and express their views. This ensures that decisions are fair, transparent and not purely left to machines.¹⁴
 - h. ***The Right to Data Portability:*** The data subject shall have the right to receive their personal data, without undue delay, from a data controller. The personal data should be sent in a structured, commonly used, and machine-readable format. Furthermore, the data subject also has the right to request the direct transmission of their data from one data controller to another without hindrance.¹⁵
 - i. ***The Right to Lodge a Complaint:*** If a data subject is dissatisfied with any decision, action, or inaction by a data controller or processor, they may file a complaint with the Nigerian Data Protection Commission.



In addition, the Courts have equally affirmed the rights of data subjects, holding that data controllers need to improve on data security and protection within their organisation to avoid breach of the constitutional right to privacy.¹⁶

¹² The Nigeria Data Protection Act 2023, S.35

¹³ The Nigeria Data Protection Act 2023, S.36

¹⁴ The Nigeria Data Protection Act 2023, S.37

¹⁵ The Nigeria Data Protection Act 2023, S.38

¹⁶ For example, Suit No FHC/ABJ/CS/195/2024 - Chukwunweike Akosa Araka v. Ecart Internet Services Limited & Eat 'N' Go

3. Enforcement of Rights of Data Subjects under the NDP Act 2023

Under the NDP Act, data subjects have the right to enforce their data protection rights by lodging a complaint with the Commission. This right applies when a data subject believes their personal data has been breached or when they are dissatisfied with how a data controller or processor has handled their data.

To initiate this process, the data subject submits/lodges a complaint to the Commission.¹⁷ The Commission then carries out a preliminary review to determine whether the complaint is valid or if it is frivolous or vexatious. If the complaint is not deemed frivolous or vexatious, the Commission may then proceed with a formal investigation.¹⁸ During this process, the Commission has the authority to summon individuals for questioning, request sworn written statements, demand access to documents, and inspect electronically or mechanically stored records.¹⁹

To facilitate resolution, the Commission may represent either the complainant or the data controller/processor.²⁰ The Act also provides for the creation of a Complaint Response Unit, which is responsible for receiving and tracking all complaints, ensuring the process remains organised and transparent.²¹

Where a violation of a data subject's right is confirmed upon investigation, the Commission can issue a written compliance order, specifying which provisions of the Act have been breached and outlining the corrective actions required to be taken by the data controller or processor. These orders may include directives to cease and desist the unlawful data processing, fulfil legal obligations, compensate affected data subjects, or account for unlawfully gained profits.²² Financial penalties may also be imposed, with higher fines applicable to major data controllers or processors, up to N10 million or 2% of annual gross revenue, whichever is greater, while for data controllers or processors not of major importance (an organisation that processes the personal data of more than 200 data subjects in six months), they can be fined for N2,000,000 (Two Million Naira) or 2% of annual gross revenue.²³

17 The Nigeria Data Protection Act 2023, Section 46.

18 The Nigeria Data Protection Act 2023, Section 46(4)

19 The Nigeria Data Protection Act 2023, Section 46(5)

20 The Nigeria Data Protection Act 2023, Section 46(7)

21 The Nigeria Data Protection Act 2023, Section 46(8)

22 The Nigeria Data Protection Act 2023, Section 47(2)

23 The Nigeria Data Protection Act 2023, Section 48(4)

Once the investigation is complete and a decision is made, the Commission shall communicate the outcome in writing to all parties involved. If any party is dissatisfied with the Commission's decision, they have the right to seek judicial review within 30 days at the High Court or Federal High Court, depending on the facts and parties to the suit.²⁴ Additionally, data subjects who suffer harm due to a breach of their rights can directly initiate civil proceedings in a Court of competent jurisdiction to claim compensation.²⁵

4. Enforcement of Rights of Data Subjects under the GAID 2025

The General Application and Implementation Directive (GAID) 2025, issued by the Nigerian Data Protection Commission, provides detailed guidance on the implementation of the Nigerian Data Protection Act 2023 (NDP Act).²⁶ Article 39 of the GAID outlines clear procedures for a data subject to exercise their right to lodge a complaint when their right to data privacy has been infringed upon.

To aid data subjects in exercising this right, the Commission is required to establish an electronic platform for receiving complaints. Upon submission of a complaint, the Commission must acknowledge receipt within seven (7) days, thereby formally initiating the enforcement process.²⁷

Once a complaint is received, the Commission undertakes a preliminary evaluation. This assessment considers whether the NDP Act applies to the complaint, the urgency of the matter and any need for immediate relief, the potential impact of the allegations on the complainant and any affected third parties, as well as any temporary remedies that might be necessary pending a full investigation.²⁸

Following this preliminary evaluation, the Commission may decide not to open a case file if the complaint does not warrant further action.²⁹ However, if the complaint is deemed valid, a case file is opened, and the Commission serves a notice of investigation on the data controller or processor referred to as the Respondent. The Respondent is required to submit a formal reply within 21 days of receiving the notice.³⁰

24 The Nigeria Data Protection Act 2023, Section 50

25 The Nigerian Data Protection Act 2023, Section 51

26 The GAID 2025

27 The GAID 2025, Article 39(1)

28 The GAID 2025, Article 39(4)

29 The GAID 2025, Article 39(5)

30 The GAID 2025, Article 39(8)

Where necessary, the Commission may invite the Respondent to a Pre-Action Conference to examine the facts and evidence gathered during the investigation. At this stage, the Respondent may be directed to attend with legally compellable or competent witnesses who can provide relevant testimony to aid in the determination of the case.³¹

If the Commission ultimately determines that a violation of the data subject's rights has occurred, it has the authority to direct remedial actions to be taken by the Respondent. The Commission must then communicate its decision to the complainant within seven (7) days³². This comprehensive process under the Directive ensures that the enforcement of data privacy rights in Nigeria is both transparent and accessible.

5. Data Subject's Standard Notice to Address Grievance

In addition to the legal procedure for the enforcement of data subject's rights, the GAID provides for the Data Subject's Standard Notice to Address Grievance ("SNAG"), which is a standardized template that enables data subjects to formally notify the data controller or data processor who has allegedly breached their data privacy rights.

It is designed to facilitate internal remediation in an organization in breach of the which data subject's privacy. It is not a mandatory prerequisite for filing a complaint with the Commission, nor is it a prerequisite for initiating legal action. SNAG may be issued directly by the data subject, a representative acting on their authority, or a civil society organization acting in the public interest.³³

6. Challenges Hindering Enforcement of Data Subject Rights in Nigeria

While the Nigerian Data Protection Act 2023 and the General Application and Implementation Directive 2025 provide a structured framework for enforcing data subject rights, there is no doubt that several practical challenges hinder their effective implementation.

³¹ The GAID 2025, Article 39(9)

³² The Nigerian Data Protection Act 2023, Article 39(10).

³³ The GAID 2025, Article 40

One major challenge is the lack of public awareness of data subject rights. Many Nigerians remain unaware of their data protection rights or the mechanisms available to enforce them. Without sufficient education and sensitisation in this regard, the legal provisions, however robust, remain underutilised, creating more room for volatility.³⁴

Lack of sufficient institutional capacity also presents a significant challenge. The Nigerian Data Protection Commission, although empowered with investigatory and enforcement powers, may face limitations in terms of resources, staffing, and technical infrastructure. This can affect the speed and quality of investigations, follow-up actions, and the management of complaints. For instance, the requirement to acknowledge complaints within seven days or resolve issues promptly may be challenging to uphold consistently, especially if complaint volumes increase and technological infrastructure is unevenly deployed.

While the NDP Act and GAID provide data subjects the right to seek compensation through the courts, the limited judicial precedent in data protection matters and the often lengthy and lackluster judicial processes in Nigeria may discourage data subjects from pursuing this route.

7. Recommendations and Conclusion

The Nigerian Data Protection Act 2023 and the General Application and Implementation Directive 2025 provide a structured framework that strengthens a data subject's rights through provisions that include avenues such as the Right to lodge a complaint when their rights have been infringed upon.

To enhance the implementation of the Nigerian Data Protection Act 2023 and the General Application and Implementation Directive 2025, a stronger culture of compliance is critical. Data controllers and processors should be encouraged, and when necessary, compelled to adopt proactive data governance measures, including the appointment of Data Protection Officers, regular compliance reporting, and other protective measures to promote compliance across the board.

Low awareness amongst data subjects is also a key concern in Nigeria. The NDPC, as an evolving organisation, still faces enforcement and resource restraints, as

³⁴ A.I. Uwadinma, "Data Privacy And Consumer Protection In Nigeria's Digital Economy: A Legal Examination Of The Nigeria Data Protection Act, 2023" <<https://journals.aun.edu.ng/index.php/aunijl/article/download/57/87>> accessed November 14, 2025.

well as difficulties in monitoring compliance across various sectors. It is proposed that the NDPC and other relevant stakeholders run widely sustained campaigns to educate organisations of their obligations and citizens about their data rights and remedies.

Alternative dispute resolution mechanisms (ADR) should also be promoted as a quicker and more accessible means of resolving data privacy complaints, and a simplification of the complaint process will also significantly encourage people to seek redress.

Adopting structured enforcement procedures helps not only to ensure accountability but also to give the data subject reassurance that they indeed have control over their data privacy, thereby fostering the pillars of Confidentiality, integrity and fairness.

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