



Department
of Health



Department
for Business
Innovation & Skills

George Freeman MP
Minister for Life Sciences

Heidi Alexander MP
House of Commons
London
SW1A 0AA

27 October 2015

Dear Heidi,

ACCESS TO MEDICAL TREATMENTS (INNOVATION) BILL 2015-16

I am writing in response to the questions which were raised during the debate on the Second Reading of Chris Heaton-Harris MP's Private Members Bill, the Access to Medical Treatments (Innovation) Bill, which took place on Friday 16th October.

A number of important points arose during this debate, and I committed to writing to you regarding the questions as to whether Section 254 of the Health and Social Care Act 2012 confers a power on the Secretary of State to create a database, and on how much of the litigation cost relates to complaints about innovative treatments. I am copying this letter to the Honourable Member for Totnes, who raised similar concerns to you during the debate.

Creation of a database of innovation – does that power not exist under Section 254 of the Health and Social Care Act 2012?

Under section 254 of the Health and Social Care Act the Secretary of State has the power to direct the Health and Social Care Information Centre ("the HSCIC") to establish and operate a system for the collection or analysis of information of a description specified in the direction.

However, this is a general power and more specific provision is made in the 2012 Act where the HSCIC is given functions in relation to the operation of other databases (see, for example, section 268). I understand that when the Bill was being developed, Mr Heaton-Harris considered it therefore appropriate to take an express power in this Bill to confer the function on the HSCIC of operating a database in relation to innovative medical treatments. This ensures that the functions conferred on the HSCIC will be tailored to fit the policy relating to the innovation database, such as relating to disclosure, and is also in keeping with the express powers relating to other similar functions of the HSCIC under the 2012 Act.

How much of the litigation cost is related to cases of innovative treatments?

I committed to writing on this as I did not have the figure to hand at Second Reading. Unfortunately, as I indicated in the House, I am unable to confirm these costs as it is impossible to separately identify them.

The NHS Litigation Authority compiles this information but they divide litigation costs according to clinical area and not according to whether a treatment is innovative or not. My point at Second Reading was that some doctors report that they are choosing not to innovate due to an increasingly litigious culture in general. My apologies that I was unable to deliver on this commitment, and hope that you will understand that this will not be possible.

I hope that this letter has helped clarify these matters during the debate. As this Bill progresses, I look forward to continued discussions. I am copying this letter to all MPs present during the Second Reading debate. I will be placing a copy of this letter in the Libraries of both Houses.

Yours sincerely,

A handwritten signature in cursive script that reads "George Freeman." Below the signature is a horizontal line.

GEORGE FREEMAN

cc: Sarah Wollaston MP