



4 January 2018

My Lords,

## **DATA PROTECTION BILL - GOVERNMENT AMENDMENTS ON DE-IDENTIFIED DATA AND CROWN APPLICATION**

Ahead of the final day of Report stage on 10 January, we have tabled some further government amendments.

### De-identified data

In considering how best to secure the data they hold, one option available to data controllers is to make it harder for a third party acquiring the data (whether legally or illegally) to deduce which data relates to which individual. In some circumstances, they may be able to anonymise it: to make it impossible to make this kind of link. Equally, it may be possible for a third party with a sufficiently large database to identify some or all of the individuals captured by a data set. In cases where this is possible, the Bill says that the relevant personal data has been 'de-identified' rather than truly anonymised.

Clause 162 of the Bill creates a new criminal offence of circumventing this security measure by re-identifying data without the consent of the controller who de-identified it. A number of defences are provided, including a public interest defence. The Government has however received representations suggesting that clause 162 will nevertheless have a chilling effect on the activities of legitimate security researchers specialising in testing controllers' de-identification practices. For the avoidance of doubt, we have therefore decided to insert an additional defence targeted at these groups. We fully support those engaged in improving our cyber security.

### Application to Crown bodies

Finally, we have tabled some technical amendments to address a problem raised by Crown bodies. Article 28(3) of the GDPR and clause 57(5) of the Bill require a contract to be in place for any arrangements between a controller and a processor for processing of personal data. Where Crown bodies have processing arrangements between themselves this would require bodies to create a contractual relationship. This is problematic as the Crown cannot contract with itself so these amendments allow Crown bodies to enter into a memorandum of understanding in-lieu of contract.

I will place a copy of this letter in the House library.

Yours sincerely,

A handwritten signature in cursive script that reads "Ashton of Hyde". The signature is written in a light grey or blue ink on a white background.

**Lord Ashton of Hyde**