



Department for  
Digital, Culture,  
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[www.gov.uk/dcms](http://www.gov.uk/dcms)

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Lord Stevenson of Balmacara  
House of Lords  
LONDON SW1A 0PH

Dear Wilf

I would like to renew my thanks to you and Baroness Ludford for drawing the House's attention to the importance of continued personal data flows between the UK and EU post-Exit, and to return to a number of points which time did not permit me to address on day two of the EU (Withdrawal Agreement) Bill's Lords Committee Stage.

You raised the point of modifications to UK GDPR after the UK exits the EU. As you are aware, we are strongly committed to high data protection standards and protecting the personal data of all citizens, as demonstrated by the passage of our new Data Protection Act 2018. The UK has the same high data protection standards as the EU, and will continue to be a world leader in this field.

The Data Protection Act 2018 updated the UK's rules in accordance with the EU's GDPR and transposed the Law Enforcement Directive. We are confident that we will strike a positive relationship on data, recognising that doing so is in the interests of both sides, and that our data protection standards are equal to the EU's.

It should be noted that an adequacy assessment considers whether a third country's level of protection for personal data is "essentially equivalent" to the EU's; it is not a test of whether a country's laws are exactly the same.

Regarding questions about the UK's future relationship with the European Data Protection Board (EDPB), the Political Declaration states that the UK and the EU should make appropriate arrangements for cooperation between the UK's Information Commissioner's Office (ICO) and EU data protection authorities. Given the closeness of the EU and the UK relationship on data protection, and where appropriate, it is sensible that our regulators continue to cooperate.

The UK will, however, have its own independent data protection framework. The Information Commissioner's Office (ICO) will remain the independent supervisory body regarding the UK's data protection legislation.

On the issue of exempting immigration data, there is a lot of misunderstanding about how this provision works. In particular, it is not a blanket exemption, but must be assessed on a case-by-case basis, and only used where necessary and proportionate. It can only be used when compliance with particular obligations or rights would be likely to prejudice the maintenance of effective immigration control. That prejudice test must be satisfied before any rights may be restricted.



You and Baroness Ludford both raised concerns regarding the Investigatory Powers Act, namely that it will negatively impact our ability to get adequacy decisions, I would highlight that the Investigatory Powers Act and our wider legal framework provide unprecedented privacy, redress and oversight arrangements, which strengthen previous safeguards governing investigatory powers. These safeguards include:

- a double lock, whereby a decision by the Secretary of State to authorise use of the most intrusive powers is also subject to mandatory review and approval by an independent Judicial Commissioner before it can have a legal effect.
- a powerful Investigatory Powers Commissioner, which has a statutory power to conduct ad hoc inspections of agencies. This role is currently held by Sir Brian Leveson.
- the Investigatory Powers Tribunal, where individuals who believe themselves to have been subject to unlawful surveillance have a right to redress by bringing a case before this integral Court.
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I would also like to use this correspondence to reassure you that this Government is committed to delivering Online Harms legislation to establish a new duty of care on online platforms to improve internet safety for all, overseen by an independent regulator. The regulator will ensure that companies have appropriate systems and processes in place to protect users from harm, especially children and the most vulnerable users.

I fully recognise the importance of this legislation. We are developing legislative proposals at pace and will bring forward a Bill as soon as possible. We have progressed policy work, following the helpful responses to the White Paper consultation. We will publish our findings shortly, which will indicate the direction of travel on this work.

I am copying this letter to Baroness Ludford and am placing a copy in the House Library. If you would like to discuss these, or any further points, in more detail, please do not hesitate to get in touch.

With best wishes  
Diana Barran

Baroness Barran  
**Parliamentary Under Secretary of State for Civil Society**