



Baroness Brinton  
House of Lords

7 December 2021

Dear Sal,

**POLICE, CRIME, SENTENCING AND COURTS BILL: SERIOUS VIOLENCE DUTY -  
COMMITTEE STAGE**

I am writing to follow up the Committee debate on 25<sup>th</sup> October about the information sharing provisions in Chapter 1 of Part 2 of the Bill which provides for the serious violence duty. In the light of that debate, I thought it would be helpful to set out in further detail the purpose and intended effect of these provisions.

Turning first to the specifics of the question as to why the Government believes that these provisions are necessary. There is general agreement that tackling serious violence is not only an issue for the police but requires a multi-agency approach involving a range of partners and agencies with a focus on prevention and early intervention. Action should be guided by evidence of the problems and what works in tackling the root causes of violence. In combining relevant data sets, specified authorities, local policing bodies, educational, prison and youth custody authorities within an area will be able to create a shared evidence base, upon which they can develop an effective and targeted strategic response with bespoke local solutions.

As I noted during the debate, these provisions will not replace existing data sharing powers, and, therefore, agreements or protocols which are already established, including those under the Crime and Disorder Act 1998, will continue to apply. In relation to clause 15, we are simply ensuring that all specified authorities, local policing bodies, education, prison and youth custody authorities are legally permitted to exchange relevant information with each other for the purpose of meeting the requirements of the Serious Violence Duty. We expect all authorities subject to the Duty to have agreements in place, which set out clearly the processes and the principles for sharing information and data.

Much of the Committee stage debate focused on whether these provisions would require frontline professionals to supply confidential information to the police. I would like to be clear once again that the Duty will hold the specified authorities and bodies to account, not individuals such as teachers, nurses, social workers or other frontline professionals. In relation to the points made by Lord Paddick, I would like to reiterate that the information

sharing provisions do not place any mandatory requirements directly on individual professionals to disclose information they hold under the Duty, be that confidential information or otherwise.

Turning to Baroness Meacher's specific query as to why the Government believes that clause 16 of the Bill is necessary, this clause would place a statutory requirement on certain authorities to provide information to a local policing body. This refers to Police and Crime Commissioners (PCCs), and in London to the Mayor's Office for Policing and Crime and the Common Council of the City of London in its capacity as a police authority. This is to enable them to fulfill their role in assisting authorities and monitoring their efforts to prevent and reduce serious violence. We do not expect that that it will be necessary for individual personal data to be routinely disclosed under this power as there are already existing mechanisms in place to permit this where necessary. In any case, the Bill specifies that authorities will need to comply with relevant data protection legislation (the Data Protection Act 2018 and regulations made under that Act, and the UK General Data Protection Regulation (GDPR) and regulations implementing the GDPR and the Law Enforcement Directive), and with specified prohibitions in the Investigatory Powers Act 2016 when sharing data under the Serious Violence Duty powers. For personal data, this means that data may only be shared where it can lawfully be shared under the data protection legislation.

In relation to duties of confidence, it is relevant to note that confidential information can already be lawfully disclosed in the public interest where that information can be used to prevent, detect, or prosecute, a serious crime. However, such decisions about whether disclosures of confidential data are justified must always be made on a case-by-case basis, in line with data protection legislation. The Serious Violence Duty provisions will continue to require case by case application of the data protection legislation. Therefore, disclosures of information and data between a local policing body and specified authorities, educational, prison or youth custody authorities will not be required if they would contravene data protection legislation or prohibitions in specified parts of the Investigatory Powers Act 2016. Further, in response to Baroness Chakrabarti's question regarding who decides whether confidential information ought to be shared for this purpose, I can confirm that the person to whom the request for information is made must decide whether they can disclose that information in compliance with the data protection legislation. If a decision against disclosure is taken, and that decision is contested, the Secretary of State may direct that the information be disclosed by the authority. This power would not enable the Secretary of State to directly compel an individual doctor, teacher or social worker to disclose personal information. Should the information not be disclosed following such a direction being given, the Secretary of State may apply for a mandatory order to enforce the direction, and the court would ultimately decide.

Finally, Lord Rosser asked specific questions concerning the drafting of the legislation. The provision under clauses 9, 15 and 16 which provides that a disclosure is not authorised or required in contravention of the data protection states that, in determining whether a disclosure would contravene the data protection legislation "the power conferred by this section is to be taken into account". This wording is included in order to allow the power or duty to disclose to be taken into account when determining the impact of the data protection legislation. This is to preserve the effect of the data protection legislation by dealing with the logical difficulties that can arise where an information sharing gateway, such as these provisions, prevents disclosure in breach of the data protection legislation, but the data protection legislation allows a disclosure which is required or permitted by an enactment. Meaning for example, that these provisions can be relied upon in determining the legal basis for processing personal data under article 6 of the UK-GDPR. In respect of "other restrictions on the disclosure of information" which would not be breached by

disclosures made under these clauses, such restrictions may take the form of additional statutory restrictions which may otherwise prevent the information from being disclosed.

As I mentioned during the debate, I do recognise that there are particular sensitivities around the sharing of patient data and therefore the Government has tabled amendments at Report to clauses 9, 15 and 16 to address these concerns. This will have the effect that the disclosure of patient information or the disclosure of personal information by a health or social care authority will not be permitted under the Duty. We also propose to limit the information that may be requested by a local policing body (PCC or equivalent) to information held by the person to whom the request is made.

I look forward to discussing these important issues with you all further as the Bill progresses.

I am copying this letter to Lord Rosser, Lord Falconer, Lord Paddick, Baroness Meacher, Baroness Chakrabarti, Lord Moylan, Lord Carlile of Berriew, Baroness Jones of Moulsecoomb, Baroness Fox of Buckley, Lord Hope of Craighead, Lord Kakkar, Baroness Hamwee and Lord Patel. I am also placing a copy in the library of the House.

A handwritten signature in black ink, appearing to read 'Susan', written in a cursive style.

**Baroness Williams of Trafford**  
**Minister of State for Delivery**