



Department for  
Science, Innovation  
& Technology

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Stephanie Peacock MP  
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Dear Stephanie,

Thank you for your consideration of the Data Protection and Digital Information (No.2) Bill during its Committee Stage.

### Clause 83

On Tuesday 23 May, you asked for illustrative examples of the types of exceptions that the Government had in mind when formulating Clause 83 of the Bill. A future Government may want to encourage democratic engagement in the run up to an election by temporarily “switching off” some of the direct marketing rules, such as the rule governing the sending of electronic mail for direct marketing purposes. Any new exception would be subject to appropriate safeguards, such as respecting the individual's right to opt out of direct marketing under the UK GDPR.

It is important that we give future governments flexibility to make changes to the direct marketing rules, if there is evidence the Privacy and Electronic Communication Regulations 2003 are impeding responsible forms of democratic engagement. It is our view that maximising political engagement and voter turnout is essential in a healthy democracy.

As we discussed, the Government does not intend to use these powers immediately. This Bill contains a range of other measures that will support elected representatives and political parties to engage transparently with the electorate. For completeness, I remind you that before laying any regulations under this clause, the Secretary of State would need to consult the Information Commissioner and other interested parties; and have specific regard to the effect that further exceptions could have on the privacy of individuals. Any regulation would require Parliamentary approval via the affirmative resolution procedure.

### Clause 99

Further to the above, you also shared a concern raised by MedConfidential relating to Clause 99 and Schedule 12 (information standards for health and adult social care), specifically concerning the insertion of a new section 251ZE and the Department for Health and Social Care, and NHS England's, power to set information standards in adult social care. I promised to write and provide further clarification.

At the start of this year, the Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 transferred the statutory functions of the Health and Social Care Information Centre, which operated as NHS Digital, to NHS England. The regulations were debated by both Houses of Parliament under the affirmative procedure. These changes had the effect of creating a single, central authority responsible for all elements



of digital technology, data and transformation for the NHS, which was a key recommendation of the review by Laura Wade-Gery into how we can improve the digital transformation of the NHS.

The functions which transferred to NHS England include those under section 254 of the Health and Social Care Act 2012 (the 2012 Act), which enables the Secretary of State to direct NHS England to establish and operate an information system - the scope of which extends to adult social care. However, the information must be information that the Secretary of State considers it necessary or expedient to have in relation to the exercise of the Secretary of State's functions in connection with the provision of health services or of adult social care in England; or the Secretary of State must otherwise consider the direction to be in the interests of the health service in England or of recipients or providers of adult social care in England.

As discussed during Committee, the Data Protection and Digital Information Bill covers a broad range of policy matters pertaining to data protection and digital information. The health and adult social care clause, whilst concerning data, remains a standalone measure and is not linked to the specific aims or policy objectives of the other measures in the Bill. It is instead linked to the information standards measures introduced in the Health and Social Care Act 2012, as amended by the Health and Care Act 2022. Section 250 of the 2012 Act enables the Secretary of State and NHS England to prepare and publish information standards for information concerning, or connected with, the provision of health or adult social care in England.

The Health and Care Act 2022 made various changes to this framework, notably to make it mandatory to comply with information standards, to extend the application of information standards to include private health and private adult social care providers, and to provide for monitoring and enforcement.

The purpose of Clause 99 and Schedule 12 is specifically to extend that framework to information technology (IT) and IT services used in connection with the provision of health and adult social care in relation to England (relevant IT services).

Accordingly, Schedule 12 makes it clear that information standards under section 250 include standards relating to relevant IT services and enables information standards to be applied to providers of such services.

Clause 99 of, and Schedule 12 to, the Bill neither alter this nor represent a significant policy shift in this regard and adult social care data functions thus have been, and continue to be, within the remit of the Department for Health and Social Care and NHS England under the 2012 Act as set out above.

With regard to the accreditation scheme (section 251ZE) more specifically, its purpose is to enable accreditation of IT products and services that meet certain criteria, for example by being compliant with, or going beyond, basic information standards. This will support more effective commissioning of compliant IT products and services by health and adult social care organisations – empowering them to make more informed choices about which IT products and services they want to use.

### Clauses 48 to 53

Finally, during the debate on Clauses 48 to 53 on Thursday 18 May, we discussed the process around the creation of the DVS trust framework. I would like to take this opportunity to clarify that, while Clause 47 of the Bill requires the Secretary of State to prepare and publish the UK digital identities and attributes trust framework, it does not require or give the Secretary of State powers to set the trust framework out in secondary legislation.

Clause 47 also places a duty on the Secretary of State to consult with the Information Commissioner and other relevant parties when preparing and annually reviewing the trust framework. This will ensure that the processes of preparing and reviewing the framework will be transparent, and ensures that the Department for Science, Innovation and Technology will continue to work openly and engage with the Information Commissioner and other stakeholders in every future review.

I will place a copy of this letter in the Libraries of both Houses, and I have copied this letter to the other Committee members.

With best wishes,

A handwritten signature in black ink that reads "John Whittingdale". The signature is written in a cursive style with a prominent flourish at the end of the name.

Rt Hon John Whittingdale OBE MP  
**Minister for Data and Digital Infrastructure**