



Department for
Digital, Culture,
Media & Sport

The Baroness Lloyd of Effra
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Department for Digital, Culture, Media and Sport
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Dear Colleagues,

Thank you for your engagement with the Cyber Security and Resilience (Network and Information Systems) Bill during the first of its Committee Stage sessions in the House of Lords.

I agreed to write on questions that were raised by Noble Lords, and responses are outlined below:

1. Why does responsibility for the proposed vendor risk management power not sit with GCHQ, as opposed to DCMS? How are GCHQ's powers operationalised with respect to vendor risk power decisions?

The vendor security powers proposed for the Cyber Security and Resilience Bill are statutory powers. They would enable the Government to manage and mitigate national security risks arising from goods, services and facilities procured in connection with network and information systems.

Decisions on vendor security can have significant legal, economic and national security implications, and it is therefore appropriate that statutory powers are exercised by the Secretary of State. This ensures decisions are taken by a Minister, accountable to Parliament, who can balance national security considerations drawing on expert cyber and national security advice from GCHQ as well as other government departments.

With regard to the GCHQ Equities Process, this is the mechanism operated by GCHQ on behalf of the Government for determining how technical vulnerabilities identified in technology should be handled in the interests of the United Kingdom. The primary purpose of the process is to balance the security benefits of disclosure against retention.

I understand the concerns raised regarding recent machinery of government changes, let me reassure that all the expertise and relationships are retained.

I will of course continue to engage peers on the new proposals as I committed in Committee on 1st September.

2. How does the cost recovery regime operate, and how does it differ from the fines regime?

To expand on the explanation I gave on 1st September, the new charging regime will ensure regulators are empowered to recover the full costs associated with their NIS duties, either through periodic fees or direct invoicing, so that they are better resourced to carry out their responsibilities.

To levy such charges, regulators will be required to set up charging schemes, which will set out how the charges are calculated. They must be consulted on, ensuring an additional level of scrutiny and transparency with those affected by it, and regulators must then issue an end-of-cycle statement setting out how those charges were used.

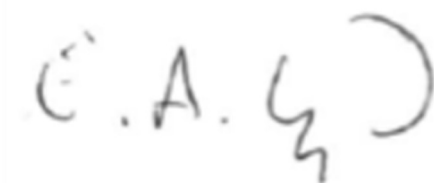
Regulators will also retain their existing powers to charge some direct costs for specific functions (for example, the cost of one individual inspection) outside of these charging schemes. This could be, for example, to cover incidental or unplanned costs, if appropriate. To ensure it is proportionate, these costs cannot be recovered when they have already been covered under the charging scheme.

This will result in a more consistent, transparent, and accountable cost regime, and remains discretionary.

The fines will operate differently to charges, as they serve a different purpose. While charges are meant to enable regulators to fully discharge their duties, fines serve a deterrent purpose, encouraging compliance and empowering regulators to enforce the regulations where necessary and appropriate. Fine proceeds will not remain with regulators; across all sectors, they will go to the Consolidated Fund, to ensure there is no incentive to enforce the regulations for monetary gain. This is in line with the government's Managing Public Money policy.

I hope these answers provide the clarification that you are seeking.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'E. A. Lloyd', with a large, stylized flourish at the end.

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