



Department  
of Health &  
Social Care

*From the Lord Bethell  
Parliamentary Under Secretary of State for Innovation (Lords)*

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The Rt Hon. Harriet Harman QC MP  
Chair, Joint Committee on Human Rights

By Email: [JCHR@parliament.uk](mailto:JCHR@parliament.uk)

16 July 2020

Dear Harriet,

### **Human Rights and the Government's Response to COVID-19: Digital Contact Tracing**

We welcome the recent inquiry undertaken by the Joint Committee on Human Rights into the government's response to Coronavirus (COVID-19), with particular emphasis on government proposals for digital contact tracing, and welcome the subsequent report, published on 7 May.

I would like to take this opportunity to acknowledge the Committee's inquiry and report on this matter and to also respond to your related letters of 29 May and 24 June.

Nearly every country in the world has been affected by, and experienced challenges in managing, Coronavirus since it first emerged at the end of 2019. Lockdown measures were introduced in England on 26 March, to control the spread of the virus. The Government's COVID-19 Recovery Strategy, first published on 11 May, sets out our plans for rebuilding the UK for a world with Coronavirus, enabling us to return life to as close to normal as possible, as fast and as fairly as possible, in a way that is safe and continues to protect the NHS. As part of this wider recovery strategy, we launched the NHS Test and Trace service on 28 May, which brings together testing, contact tracing and outbreak management into an end-to-end service.

The NHS Test and Trace service will play an increasingly important part in our wider recovery strategy as we move out of lockdown. The more rapidly and accurately we can identify people who may have been exposed to the virus and, if necessary, ask them to self-isolate, the more effectively we can break the chains of COVID-19 transmission. The fundamental component of the Test and Trace service – and any test and trace system – is the system we introduced on 28 May, which involves dedicated contact tracing staff and public health experts, supported by online technology, working with people who have tested positive for Coronavirus to enable them to share information about their recent contacts and then contacting those individuals and explaining the need for them to self-isolate to help

stop the spread of the virus. The NHS COVID-19 app will complement, and be part of, the NHS Test and Trace service.

The NHS has worked constructively with Apple, Google, and many other organisations to develop and test the NHS COVID-19 App, as well as partners in countries including Ireland, Switzerland, New Zealand and Germany. The NHS is extremely grateful for their support and we look forward to continuing to learn from, and support, our colleagues across the world.

We rigorously tested the NHS COVID-19 App before making any commitment to launch nationally. This enabled us to identify issues and adjust our approach. Comprehensive testing was undertaken on the Isle of Wight and in a series of field tests, which uncovered some issues with both our app and the Google/Apple framework.

As you will be aware, on 18 June, the Government announced the next phase of development of the app, which will bring together the work done so far on the NHS COVID-19 app and the Google/Apple framework. The app will be based on a decentralised approach and uses the “Exposure Notification API (application programming interface)”, a framework provided by Google/Apple.

We will continue to evaluate, update and improve the app – as the app itself, the broader NHS Test and Trace service, and the Apple/Google API evolve. This is a new technology and across the globe, the whole tech industry, including Apple and Google, are all learning how to perform contact tracing between phones. We will continue to learn and share our work with others globally to update, adapt and improve our approach.

Your letter of 29 May raised concerns about data protection under the current legal framework for data gathered under the NHS Test and Trace service. While we are grateful for this consideration, our position remains unchanged – we do not consider that new legislation is necessary to deliver an effective contact tracing app. We are confident that existing legislation and our commitment to transparency, security and privacy provide sufficient protection and clarity to the public.

Your further letter of 24 June identified important questions about privacy, security, accessibility and equality. We completed a Data Protection Impact Assessment and Privacy Notice for the first version of the app setting out what and how data will be collected, processed and used. We will do this for the new version. We will also undertake an Equality and Health Inequalities Impact Assessment to give due regard to the potential impact on people with protected characteristics or health inequalities and identify how to mitigate any negative impacts.

The NHS Test and Trace service does not currently rely on mandation. Instead, we are relying on people to show personal responsibility in following advice and instructions from the service. The Test and Trace service asks people who have tested positive for Coronavirus for their full name and date of birth to confirm their identity; their postcode to offer support whilst self-isolating; if they are experiencing any symptoms; if they are in a

clinically vulnerable category; about people they have had close recent contact with; and, if anyone they have been in contact with is under 18 or lives outside England.

Data collected by the NHS Test and Trace service is held on secure computer systems in the UK and can only be seen by people who need it to carry out contact tracing. This includes Public Health England (PHE) staff working on NHS Test and Trace, and contact tracers employed by NHS Professionals, Serco UK and SITEL Group, who are acting as agents for PHE. Tracing staff can only see the information of the named contacts they have been instructed to call. All of these staff have been trained to protect the confidentiality of people with COVID-19 and their contacts. No organisation will publish any information that could identify any person with COVID-19 or their contacts.

Public Health England, which oversees the contact tracing service, is permitted to process confidential patient information without patient consent in the context of responding to a communicable disease and managing a public health emergency. It can do so under Regulation 3 of the Health Service (Control of Patient Information) Regulations 2002.

In developing, testing, implementing and improving the NHS Test and Trace service we are ensuring that we give due regard to the needs of people with protected characteristics. For example, specialised translation services will be offered across a range of 68 drive-through testing sites, to support people who do not speak English as their first language such as Urdu, Punjabi, Bangali, Gujarati, Mandarin, Polish, and British Sign Language for people with hearing difficulties.

I'm sure you will appreciate that we are still in the process of developing the app and its role within the NHS Test and Trace service. As such, I hope you will be reassured that we will respond formally to your report and recommendations of 7 May later in the parliamentary session and will be setting out more details on the next phase of the development of the app in due course.

Baroness Dido Harding, Executive Chair of NHS Test and Trace, would be very happy to meet with you to discuss these matters further, if you would find this helpful.

Kind Regards,

A handwritten signature in black ink that reads "Bethell". The signature is written in a cursive, slightly slanted style.

**LORD BETHELL**