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To: Chi Onwurah MP
CC: Viscount Colville of Culross

17 April 2025

Data (Use and Access) Bill: Scientific Research

Dear Chi,

Thank you for taking the time to meet with me on 1 April to discuss the Data (Use and Access) Bill. As promised, I am writing to provide some more detail on the issues being raised around the scientific research provisions and to explain the Government's position.

The Government shares your belief in the importance of ensuring that the data protection provisions for research are not misused. Ensuring consistency and clarity for the research sector has been a key driver in shaping these reforms. The research provisions in the Bill will make the requirements more straightforward for researchers, ensuring the UK remains a world-leading place for trusted research.

During Lords' passage of the Bill, Peers argued that the definition in Clause 67 expands the scope of scientific research, potentially allowing bad actors to misuse this term and wrongly benefit from certain data protection provisions. Those concerned about misuse of the definition have proposed ways in which it could be narrowed, most notably Viscount Colville, first through his amendment adding a public interest test, and secondly through the drafting shared with you around including phrasing from the OECD's Frascati Manual.

I hope to provide you with reassurance that the existing framework provides sufficient protection, and that adding further conditions to the definition is unnecessary. I will also highlight some of the risks that these additions could pose to the UK's research sector.

Protections in the Bill and existing framework

To begin with, I would argue that the definition of scientific research has not been broadened. Clause 67 adapts text from the relevant UK GDPR recitals and ICO guidance. It introduces a "reasonableness test" to determine whether research can be described as scientific research, and this will help reduce misuse of the term. The concept of a reasonableness test is known to UK courts and does not mean the

subjective opinion of an average uninformed person. Instead, it refers to an objective, fair observer with good judgment and knowledge of the relevant facts.

Moreover, the wider data protection framework and the Bill provide additional safeguards to tackle potential misuse. All controllers, including researchers, must assess whether their processing is fair and ascertain that it has a lawful basis. The Bill clarifies in Clause 71 that a valid lawful basis is still required for data reuse, putting an end to previous confusion on this matter.

Clause 86 of the Bill includes additional safeguards specific to research, such as prohibiting processing aimed at taking decisions about the data subjects, or that would cause substantial damage or distress. In case this framework proves insufficient to tackle misuse, the clause also contains a power to add to the safeguards, further narrowing access to the research provisions. I can assure you the Government would not hesitate to use this power if it became necessary to tackle misuse.

Concerns around suggested amendments

Given the safeguards currently built into the data protection framework, I have concerns that the proposals to further narrow the definition of scientific research could harm genuine researchers by, at best, imposing disproportionate burdens that cost researchers time and money; and, at worst, stifling or preventing certain research areas.

The proposed public interest has been described by the Royal Society as an ‘undue bureaucratic burden’. Requiring research to meet an upfront public interest test could also have a chilling effect on basic or curiosity-driven research, where the practical impact of results is uncertain at the outset. Some of the most transformative discoveries, from the electron to X-rays, have resulted from such ‘blue skies’ research, and we would not wish to hinder the innovative discoveries of the future.

Similarly, we are concerned about being too prescriptive on the face of legislation through directly importing the Frascati criteria. Requiring research to be ‘novel’ and ‘creative’, for example, may inhibit important work aimed at testing or reproducing existing findings. Importing more detailed Frascati requirements for record-keeping and budgeting would also generate uncertainty about how such tests are to be met and assessed. This uncertainty also risks excluding or discouraging genuine scientific researchers from using the research provisions.

The Frascati Manual is internationally recognised and, even though it was designed to help with collecting statistics for research & development and not to legally define scientific research, it is helpful as an aid. The ICO have found it useful to reference the manual in their guidance for interpreting the meaning of both scientific and historical research.

However, guidance allows for more nuance and is adaptable. Enshrining phrases from the manual into legislation would create a new legal standard for researchers that they have not previously had to meet as well as tying the law to an external publication which could change. This risks unintended consequences, as outlined above, for legitimate research and could disadvantage UK researchers compared to their global counterparts.

In light of the above, the Government's position is to oppose the addition of conditions to the definition of scientific research. We will continue to observe how the research provisions in the data protection framework are being used and, alongside the ICO, be prepared to take further action if there is evidence of misuse.

I look forward to discussing this further and working with you to ensure that our data protection framework works for everyone, while ensuring the UK's research sector remains an international exemplar. If you would like to arrange a further meeting, please do get in touch with my private office at ps.bryant@dcms.gov.uk.

Yours sincerely,

A handwritten signature in black ink, reading "Chris Bryant". The signature is written in a cursive, flowing style with a large initial "C".

Rt Hon Chris Bryant MP

Minister of State for Data Protection and Telecoms