



Business and Trade Committee

House of Commons, London SW1A 0AA

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Josh Simons MP
Parliamentary Secretary
Cabinet Office
70 Whitehall
SW1A 2AS
[By email]

18 November 2025

Dear Josh,

Legislative Reform (Disclosure of Adult Social Care Data) Order 2025

I write in response to a letter sent to this Committee by your predecessor, Georgia Gould MP, dated 27 August. That letter explained that an administrative error had resulted in the Legislative Reform (Disclosure of Adult Social Care Data) Order 2025 being made before the House of Commons had approved it. This was in contravention of the legal requirements imposed by the Legislative and Regulatory Reform Act 2006. The letter contained an apology for the error.

The Committee accepts this apology and acknowledges how your officials have worked with the House Authorities to rectify this situation. However, I am concerned to ensure that the Cabinet Office appreciates that whilst the error may have been administrative, the consequences of such errors can be significant. In this case, having made the instrument in breach of the relevant legislative requirements on 22 July 2025, the Government decided to treat that instrument as not existing, in order to allow the Government to subsequently return to Parliament and obtain the approval of the House of Commons on 3 September 2025. However, the previous instrument, while unlawfully made, was made nonetheless. This essentially means that two versions of the same instrument remain on the statute book.

The letter sent to this Committee asserts that the first instrument made in July cannot be considered valid law, and we agree that the instrument was plainly made beyond the powers in the 2006 Act. However, the letter does not reflect the nature of the legal complexities in this matter, not least that an unlawful act can nonetheless have legal effects, and that it cannot be described as void independently of, or prior to, the intervention of the court – this is a matter of high authority having been recently affirmed by the Supreme Court.¹ The Committee would have expected the Minister's letter to at least acknowledge the unorthodox nature of the Government's solution in this case and provide fuller reasoning to support its position. The Committee has an important role in scrutinising, on behalf of the House of Commons, orders made under the broad powers contained in the 2006 Act. It is therefore vital that the Committee is provided with the information it needs to hold the Government to account, in ensuring that legislation meets the high standards the public rightly expect.

¹R (*Majera*) of v *Secretary of State for the Home Department* [2021] UKSC 46 at [29]



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The Committee accepts that ultimately it is a matter for the Government whether it is prepared to bear the legal risks associated with its decisions, and trusts that in this case the National Fraud Initiative did not undertake any data matching in reliance on the instrument made in July 2025. Accordingly, we understand that there should be no prosecutions for fraud based on data matched under that original instrument, and the important work of the NFI should be able to continue in a lawful manner based on the new instrument made in September 2025.

The letter to the Committee explained that the Cabinet Office was working to ensure that an error such as this does not happen again, and the Committee welcomes this. Whilst we put on record our concerns about the approach taken by the Government to resolving this matter, the Committee appreciates the engagement undertaken by your officials and looks forward to continuing this constructive relationship.

I am copying this letter to the Speaker of the House of Commons, and to the Chair of the House of Lords Delegated Powers and Regulatory Reform Committee.

Yours sincerely,

Chair of the Business and Trade Committee