

Data Protection Bill [Lords]: Information Orders

Sarah Wollaston Chair, Health and Social Care Committee, Chair, Liaison Committee (Commons)

I rise to speak to new clause 12, which was tabled in my name, that of my colleague, Dr Williams, and those of other Members of the Health and Social Care Committee of and Members from all parties.

I wish to speak about the importance of medical confidentiality, because it lies at the heart of the trust between clinicians and their patients, and we mess with that at our peril. If people do not have that trust, they are less likely to come forward and seek the care that they need. There were many unintended consequences as a result of the decision enshrined in a memorandum of understanding between the Home Office, the Department of Health and NHS Digital, which allowed the sharing of addresses at a much lower crime threshold than serious crime. That was permitted under the terms of the Health and Social Care Act 2012, but patients were always protected, in effect, because the terms of the NHS constitution, the guidance from the General Medical Council and a raft of guidance from across the NHS and voluntary agencies protected the sharing of data in practice.

This shift was therefore particularly worrying. There were many unintended consequences for the individuals concerned. The Health and Social Care Committee was also deeply concerned about the wider implications that this might represent a shift to data sharing much more widely across Government Departments. There was a risk, for example, that the Department for Work and Pensions might take an interest in patients' addresses to see whether people were co-habiting for the purpose of investigating benefit fraud. There was a really serious risk of that.

I am afraid that the letter that we received from the Department of Health and Social Care and the Home Office declining to withdraw from the memorandum of understanding made the risk quite explicit. I would just like to quote from the letter, because it is very important. I also seek further clarification from the Minister on this. The letter states that

"it is also important to consider the expectations of anybody using the NHS—a state provided national resource. We do not consider that a person using the NHS can have a reasonable expectation when using this taxpayer-funded service that their non-medical data, which lies at the lower end of the privacy spectrum, will not be shared securely between other officers within government in the exercise of their lawful powers in cases such as these."

I profoundly object to that statement. There was no such contract in the founding principles of the NHS. As I have said, it is vital that we preserve that fundamental principle of confidentiality, including for address data. I was delighted to hear the Minister's words at the Dispatch Box, but can she just confirm for me absolutely that that statement has now been superseded?

Margot James The Minister of State, Department for Culture, Media and Sport

Yes, I can confirm absolutely that the statement that my hon. Friend quoted from the letter of 23 February has been superseded by today's announcements.

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I thank the Minister for that reassurance. There is much more that I could say, but I know that there are very many other colleagues who wish to speak. With that reassurance, I am happy not to press my amendment to a vote.

I would like to make one further comment on protecting patients. At a time when confidence in data sharing is so important, especially around issues such as research, we all rely on the role of NHS Digital. Set up under the Health and Social Care Act 2012 as a non-departmental public body at arm's length from Government, NHS Digital has the specific duty robustly to stand up for the interests of patients and for the principles of confidentiality. As a Committee, we were deeply disappointed that, despite the clear concern set out from a range of bodies, including Public Health England, all the medical royal colleges, very many voluntary agencies, the National Data Guardian and others, the organisation seemed to have just the dimmest grasp of the principles of underpinning confidentiality. I wish to put it on the record that we expect the leadership of NHS Digital to take its responsibilities seriously, to understand the ethical underpinnings and to stand up for patients. With that, I will close my remarks. I thank the Minister for the time that she has taken to listen to our concerns and for her response.

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