coordinator@medconfidential.org

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Dear Michael,

## 1) Statistics on police access to COVID-19 data held by PHE

With regard to the decision by DHSC, against medical advice, to give police access to data held by Public Health England on those who have tested positive for COVID-19 or who should self-isolate, for as long as PHE releases data to police or other law enforcement agencies, can you please confirm:

a) Where the statistics on volumes of releases / data accesses will be published? Also, whether these will be weekly or daily figures?

   i) Whether any weekly publication will be broken down by the same geographies as used in weekly COVID-19 figures?

   ii) Whether PHE is able to determine any information on the individual ethnicity[1] or local deprivation (using the standard Index of Multiple Deprivation) of those whose data was supplied to police or law enforcement?

b) What information stored in PDS to which PHE has access or shares onwards – and with whom, if it is shared – regarding:

   i) Immigration status?[2]

   ii) Sensitive records?[3] (aka 'S flags')

c) Whether PHE will publish a breakdown of the number of requests:

   i) By police force?

   ii) Broken down against deciles / quintiles of deprivation?

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[1] https://datadictionary.nhs.uk/data_elements/pds_ethnic_category_code.html

[2] "data is also held on people's immigration status to help care providers determine whether they are liable to be charged for some NHS services" https://digital.nhs.uk/services/demographics/personal-demographics-service-fair-processing

[3] https://digital.nhs.uk/services/demographics/restricting-access-to-a-patients-demographic-record

## 2) Need for police access to COVID-19 data held by PHE

We note the evidence[4] given to the Home Affairs Select Committee on 21st October by the COVID policing lead for the National Police Chiefs Council, where he responded to the "mixed messaging" resulting from PHE's actions.

The operational need, as explained by the police to Parliament, is far narrower than the recent changes to the Gov.UK privacy policy for Test and Trace[5] would permit – and indeed such changes may not have raised the concerns they did,[6] had they been more tightly prescribed and clearly communicated.

If someone reports a person to the police who the reporter believes should be self-isolating, the police must legitimately know whether the person reported actually *should* be self-isolating before any step is taken. If this was all that the privacy notice permitted, that would be reasonable. The text as written, however, is far broader.

We further question whether the police making that determination is an appropriate use of either health or police powers. A clearer approach, more conducive to public trust, would be for the police to pass any credible reports on to local public health officials, for those officials to make an assessment. Where it is believed or determined there is a need for action, it is then the public health officials who decide who does what – which may include making a referral back to the police, under their existing official powers to do so.

In both principle and practice, and for the preservation of public trust, this would mean that enforcement of self-isolation (and related measures) was demonstrably Public Health led rather than Policing led.

There was no reason for DHSC, Test and Trace and PHE to create the public concerns they clearly have done; unfortunately, that is not an uncommon theme.

[4] https://parliamentlive.tv/event/index/497b8488-03d4-4f01-a122-6745ac524686?in=11:01:49
[5] https://www.gov.uk/government/publications/coronavirus-covid-19-testing-privacy-information/testing-for-coronavirus-privacy-information--2
[6] https://www.bbc.co.uk/news/uk-54586897

### 3) PHE's report on the health consequences of health data access for immigration enforcement purposes

Can you please confirm that PHE's report into the effects on health of requests for data by immigration and law enforcement agencies – due to be completed by January 2019[7] – has still not been published?

If not, will PHE be taking the response, actions, and fundamental criticism[8] to topics in this letter into account when measuring the public health impacts resulting from law enforcement access to NHS data? Will that consideration cover both demographic personal data, or the types of wider special category health data the gov.UK privacy policy allows PHE to share?

Finally, we note that while NHS Digital may have previously taken a different position on sharing data with the police, in this case they refused – and so PHE obliged.

Yours sincerely,

Phil Booth, medConfidential

Sam Smith, medConfidential

Cc SofS/Spads
NDG
CEO NHSD
Diane Abbott MP

[7] Q23/Q24, plus clarification in the footnote: http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/health-and-social-care-committee/memorandum-of-understanding-on-datasharing-between-nhs-digital-and-the-home-office/oral/77354.pdf

[8] https://www.ft.com/content/d508d917-065c-448e-8232-416510592dd1