

medConfidential questions/probing amendments for Data Uses Bill (2024)

Clause 33

- 1) Probing Amendment: Block interaction with the other Government identity scheme to understand what interaction Government thinks there will be between the Identity Scheme in this Bill from DSIT and Gov.UK Login from DSIT which is an entirely separate programme under separate legislation**

Insert into Clause 33 (5) as new subclause (c):

(c) it was issued to a public body, or

Explanation: Exclude powers in this part from being used by Cabinet Office as part of Gov.UK Login

Clause 66-68 – questions and probing amendment:

- 2) Cl66 being the first clause in this area, and given the desire of this Government that Regulators and the Judiciary do only what Parliament intended, can the Government explicitly confirm that personal data that is pseudonymised in part, but in which other indirect identifiers are unaltered, will remain personal data after this clause is passed?
- 3) Can the Government also confirm that if an assessment is made that some data is not personal data, and that assessment is later shown to be incorrect, then the data will have been personal data at all times and should be treated as such by controllers, processors, and the (then) Information Commission?.

Insert into Clause 68 as subclause (4):

(4) notwithstanding anything elsewhere in this Act,

- a) personal data that is then pseudonymised in part, but in which other indirect identifiers remain unaltered, remains personal data under the 2018 Act;
- b) If data is claimed not to be personal data for the purpose of some processing, and is later determined by the Commissioner to be personal data, then it was personal data at all points in that processing and all penalties for unlawful processing of personal data shall be available..

Explanation: To make that personal data remains personal data when it remains personal data, even if some may claim it is not.

Clauses 67, 68, 85: **If patients express dissent, can their data be used anyway?**

- 4) Require the public interest to apply to all uses under the changes in this clause, not just public health uses

In clause 67 (4) (b), omit “of a study in the area of public health that can reasonably be described as scientific ”

Explanation: To ensure all uses under this clause are in the public interest, however they may be described.

- 5) Probing amendment: How is a patient’s / constituent’s / data subject’s lawful and moral right to dissent from medical research enshrined in this clause?

Insert into Clause 68 (3) (6) as subclause (c) and renumber accordingly:

(c) the data subject has been given the opportunity to express dissent or an objection, and has not so expressed, and

Explanation: To make clear that when the purpose limitations are changed, that does not reduce or weaken the obligations around dissent.

- 6) Probing amendment: Do data subjects have the right to object or not?

Insert into subclause (85) (2) (84A) (1) after “personal data”, “, where the data subject has been given the opportunity to express dissent or object”

Explanation: To make clear that when the purpose limitations are changed, a choice must be offered to data subjects.

- 7) Question: What happens in the case that this clause is breached?**

“85 (2) (84B) (1) (b): Processing of personal data for RAS purposes must be carried out in a manner which does not permit the identification of a living individual.”

This is a simple question for Ministers that we’d like in Hansard.

- 8) Probing amendment: Can dissents expressed be ignored?**

Insert into 85 (2) (84C) as:

“(6) The requirement is not satisfied unless applicable dissents by the data subject are respected.”

Explanation: To ensure existing patient dissents are respected and cannot be ignored.