



Home Office

Rt Hon Caroline Nokes MP
Minister of State for Immigration
Home Office
2 Marsham Street
SW1P 4DF



Department
of Health &
Social Care

Lord O'Shaughnessy
Parliamentary Under Secretary of State for Health (Lords)
Department for Health and Social Care
39 Victoria Street
London SW1H 0EU

Dr Sarah Wollaston MP
Chair, Health and Social Care Committee
House of Commons
London SW1A 0AA

28 June 2018

Memorandum of Understanding between NHS Digital, Department of Health and Social Care and the Home Office

We would like to take this opportunity to update you and the Health and Social Care Committee on progress on the revised data sharing agreement between NHS Digital and the Home Office, set out in the Memorandum of Understanding (MoU) to which the Department of Health and Social Care is also a signatory.

Revising the Memorandum of Understanding

The Minister of State for the Department for Digital, Culture, Media and Sport, Margot James, announced in the Commons on Wednesday 9 May that the Government would be amending the data sharing arrangements between the Home Office and NHS Digital that facilitated the tracing of individuals for the purpose of immigration control. This restriction took place with immediate effect and we want to reassure you that the MoU is being revised to set out the new arrangements. We are also taking the opportunity to make sure the revised MoU complies with the General Data Protection Regulations and the Data Protection Act 2018. We are aiming to have a copy with the Committee in early July.

Transitional arrangements

Home Office operational teams are not sending any requests to NHS Digital until the revised MOU is finalised, apart from where there is a clear risk to public safety, or to an individual themselves due to safeguarding/welfare concerns. Although there are likely to be very few, if any, such cases in this interim period, it is strongly in the public interest that there is a process for them to be considered if such a case should occur. For any interim request during the transitional period, the justification for any such case will be reviewed by a manager in the Home Office before it is submitted to ensure that there is a clear, demonstrable risk to public safety or risk to the individual themselves. As with all requests, NHS Digital will continue to review each request and may, in their discretion, refuse the request.

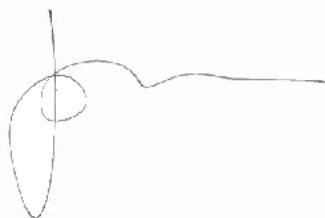
Responding to the HSCC inquiry report

We are working on a formal response to your inquiry. However, with the significant change in policy, we would like to provide this response shortly after the MoU has been revised to offer a complete explanation of the new arrangements.

We hope our letter helps to reassure you and the Committee of our ongoing commitment to keeping information sharing under constant review and ensuring that data sharing always has strong safeguards in place. We look forward to sharing the revised MoU and response to the inquiry with you shortly.



RT HON CAROLINE NOAKES MP
Minister of State for Immigration



LORD O'SHAUGHNESSY
Parliamentary Under Secretary of State
for Health (Lords)



Health and Social Care Committee

House of Commons London SW1A 0AA
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From Dr Sarah Wollaston MP, Chair

Rt Hon Caroline Nokes MP
Minister of State for Immigration
Home Office
2 Marsham Street
SW1P 4DF

Lord O'Shaughnessy
Parliamentary Under Secretary of State for Health (Lords)
Department of Health and Social Care
39 Victoria Street
London SW1H 0EU

3 July 2018

Dear Caroline and James,

Thank you for your letter of 28 June on the Memorandum of Understanding between NHS Digital, Department of Health and Social Care and the Home Office. I am pleased to see what steps are being taken following the announcement by the Minister of State for the Department for Digital, Culture, Media and Sport on 9 May, and I look forward to receiving the Government's response to the Committee's report in due course.

I have noted the [Memorandum of understanding revision plan](#) which has been published by NHS Digital, setting out how they intend to proceed with the revision of the MoU. I thought you would want to know that I am today writing to Sarah Wilkinson, the Chief Executive of NHS Digital, to ask her to make a small, but important, change to the revision plan, in line with the Committee's report.

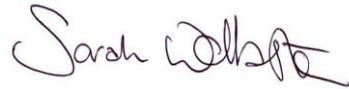
I am sure that you will have noted the Committee's conclusions about the adequacy of the consultation which has taken place on the practice of data-sharing set out in the MoU (paras 27 to 30), and its recommendation that consideration of the public interest test, and of whether the arrangements set out in the memorandum of understanding should be resumed, should only be undertaken "after proper consultation with all interested parties on the specific practice of data-sharing for the purposes of immigration tracing, and with the full involvement of experts in medical ethics" (para 45).

NHS Digital's revision plan envisages engagement with the Committee (point 3) before communication with partners (point 4). In order to ensure that the revised MoU has been subject to, and has taken account of, appropriate consultation, I am requesting instead that NHS Digital engage with the Committee only after communicating with partners.

We would of course be delighted to receive a copy of the draft MoU before, or at the same time as, it is communicated to partners, but it will be important for that consultation process with partners to take place before we are asked to express a view on the MoU ourselves.

I enclose a copy of my letter to Sarah Wilkinson.

Yours sincerely,

A handwritten signature in black ink that reads "Sarah Wollaston". The signature is written in a cursive, flowing style.

Dr Sarah Wollaston MP
Chair of the Committee



Health and Social Care Committee

House of Commons London SW1A 0AA

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From Dr Sarah Wollaston MP, Chair

Sarah Wilkinson
CEO, NHS Digital

Letter by email to nhsd.ceo@nhs.net

3 July 2018

Dear Sarah

I write further to the letter from the Minister of State for Immigration and the Parliamentary Under Secretary of State for Health (Lords), dated 28 June, which followed the announcement by the Minister of State for the Department for Digital, Culture, Media and Sport on 9 May concerning the memorandum of understanding on data-sharing between NHS Digital and the Home Office.

I have noted the [Memorandum of understanding revision plan](#) which has been published by NHS Digital, setting out how you intend to proceed with the revision of the MoU. I am writing to ask you to make a small, but important, change to the revision plan, in line with the Committee's report.

I am sure that you will recall the Committee's conclusions about the adequacy of the consultation which has taken place on the practice of data-sharing set out in the MoU (paras 27 to 30), and its recommendation that consideration of the public interest test, and of whether the arrangements set out in the memorandum of understanding should be resumed, should only be undertaken "after proper consultation with all interested parties on the specific practice of data-sharing for the purposes of immigration tracing, and with the full involvement of experts in medical ethics" (para 45).

Your revision plan envisages engagement with the Committee (point 3) before communication with partners (point 4). In order to ensure that the revised MoU has been subject to, and has taken account of, appropriate consultation, **I am requesting instead that NHS Digital engage with the Committee only after communicating with partners.**

We would of course be delighted to receive a copy of the draft MoU before, or at the same time as, it is communicated to partners, but it will be important for that consultation process with partners to take place before we are asked to express a view on the MoU ourselves.

I wish you well with your continued discussions with Ministers on the revised MoU, and look forward to seeing the results.

Yours sincerely,

Dr Sarah Wollaston MP
Chair of the Committee