Dear David,

Thank you for your letter of 12 December to the Home Secretary on behalf of a number of your constituents who wrote to you to express concern about proposals for legislation on communications data, and in particular about the degree of consultation there will be in re-drafting the Bill. I am replying as the Security Minister.

A Draft Communications Data Bill, containing measures to maintain the ability of the law enforcement and intelligence agencies to access communications data, was published on 14 June 2012. Communications data is the context not the content of a communication: who was communicating; when; from where; and with whom. It includes the time and duration of a communication, the number or email address of the originator and recipient, and sometimes the location of the device from which the communication was made. It does not include the 'what' – i.e. the content of any communication - the text of an email or a conversation on a telephone.

The Draft Bill has undergone pre-legislative scrutiny since that point by a Joint Committee of both Houses. The Intelligence and Security Committee (ISC) has also conducted its own, independent, inquiry into the Draft Bill, as this is an area that impacts on the work of the intelligence agencies.

The Joint Committee reported on 11 December 2012. The ISC issued a summary of their report and conclusions at the same time. The Draft Bill and Joint Committee’s report are available on the Parliament website at: www.parliament.uk.
In their findings both Committees have recognised the need for new legislation.
The ISC said: “The Agencies require access to CD – in certain tightly controlled circumstances and with appropriate authorisation – in the interests of national security. We recognise that changing technology means that the Agencies are unable to access all the CD they need, that the problem is getting worse, and that action is needed now. We accept that legislation to update the current arrangements governing retention of CD offers the most appropriate way forward”.

The Joint Committee said: “The law enforcement agencies should be given the tools they need. Reasonable access to some communications data is undoubtedly one of those tools. Our overall conclusion is that there is a case for legislation which will provide the law enforcement authorities with some further access to communications data”.

The Joint Committee made a number of recommendations and expressed concerns about some elements of the drafting. The Home Office has considered these recommendations carefully and accepts the substance of them all. In light of this the Bill is currently being re-drafted and the Home Office plans to engage extensively with interested parties on our proposals in the coming weeks. A revised Bill will be introduced into Parliament in due course.

In the meantime if your constituents have any detailed comments that they would like to share with the Home Office on the legislation, they may wish to contact the communications data team on draftcommsdatabill@homeoffice.x.gov.uk.

I hope that this clarifies the Government's position.

Yours ever,

James Brokenshire