Data Sharing Approval Panel (DSAP)

Terms of reference

December 2018
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Introduction

The Department’s Data Sharing teams are the custodians of the:

- National Pupil Database (NPD)
- Individualised Learner Record (ILR)
- Schools Workforce (SWF) data
- Children in Need data (CIN)
- Children Looked After (CLA)
- other datasets held by the Department for Education (DfE)

A significant part of their role is to process information for a range of purposes, including research. This includes personal data of:

- learners
- children
- the school workforce

The role of the Data Sharing teams is to make sure that:

- the Department continues to meet information governance standards in processing information
- all processing of information is legal, ethical, proportionate and secure and in line with Departmental and Her Majesty’s Government (HMG) standards
The Data Sharing Approval Panel (DSAP)

The Data Sharing Approval Panel (DSAP), which replaced the Data Management Advisory Panel (DMAP) in May 2018, is a Departmental group consisting of members of staff from across the Department. DSAP will support the Data Sharing teams in fulfilling their duties by reviewing and deciding whether to approve applications for access to personal identifiable data.

Purpose and Role of the DSAP

DSAP will consider applications made to the NPD, ILR, SWF and other datasets for extracts of data:

- containing any personal identifiable data or data which carries risk of persons being identified
- where linkages with other datasets could enable identification and to advise on any additional safeguards required

Whilst performing this function DSAP will:

- provide assurance to the Secretary of State that the confidentiality of individual data is safeguarded in line with the General Data Protection Regulation and the Data Protection Act 2018, and other relevant legislation – for example, Section 1 of the Computer Misuse Act 1990 and the Education (Individual Pupil Information) (Prescribed Persons) (England) Regulations 2009
- make sure that requests are technically sound, comply with the regulations which govern the release of personal level data, are practical and appropriate to the needs of the project or research, and are ethical in nature
- consider whether the use of identifying or identifiable and highly sensitive data is necessary, or whether less sensitive data might suffice
- confirm the information security procedures (for example, information handling and retention) demanded of the requesting organisations are appropriate and proportionate to the information being provided and have been accepted by the data requester
- ensure any associated risks of disclosure are understood and managed

DSAP decisions

DSAP decisions require the agreement of:

- at least three internal members
- a majority of non-DfE members (if present)
• a majority of all members in attendance

If there is any unresolvable disagreement between internal and non-DfE members, then this will be escalated to the department’s Chief Data Officer.

The potential decisions DSAP can take are:

1. Application approved
2. Application approved subject to agreed actions
3. Further information required
4. Rejected with reasons—applicants can re-submit the application at a later stage with a revised application which will then be freshly considered on its own merits

**Accountability and Governance**

DSAP has primary responsibility for decisions made in relation to all individual data the department extracts, holds, processes and shares externally. An escalation route to the Secretary of State exists where the DSAP believes a request is particularly sensitive and cannot be resolved through the appeals process.

The department's Data Sharing teams:

• are accountable to DSAP for actions and decisions
• act as a triage function, deciding upon those requests that require escalation to DSAP

Requests for access to personally identifiable data will always require escalation to DSAP.

The purpose and role of the Data Sharing teams Approvals process is included in [Annex A: purpose and role of the data sharing approval process](#).
Appeals Process

DSAP will consider any appeals against decisions made by the panel.

Separately, DSAP may request additional information from applicants to progress their applications.

To make an appeal please contact NPD.Requests@education.gov.uk who will be able to co-ordinate any appeal as required. These appeals will be heard by the department’s Data Sharing and Publication Board and Chief Data Officer if necessary.
Membership

The Data Sharing Approval Panel consists of DfE and non-DfE members.

DfE membership

The panel is made up of the following DfE staff members.

Deputy Director, Head of Data Modernisation Division

The chair and a core member of the panel. They will inform, debate and facilitate requests brought to DSAP.

Deputy Director, Head of Infrastructure and Funding Directorate Analysis Division

A core member of the panel. They will inform, debate and facilitate requests brought to DSAP.

Deputy Director, Head of Higher Education Analysis

A core member of the panel. They will inform, debate and facilitate requests brought to DSAP.

Deputy Director, Head of Data Insights and Statistics Division and Head of Profession for Statistics

A core member of the panel. They will inform, debate and facilitate requests brought to DSAP.

Deputy Director, Data Science Service for the Education and Skills Funding Agency

A core member of the panel. They will inform, debate and facilitate requests brought to DSAP.
**Legal advisor (DfE)**
A core member of the panel. They will inform, debate and facilitate requests brought to DSAP.

**Data Protection Officer**
A core member of the panel. They will inform, debate and facilitate requests brought to DSAP.

**Information Management Advisor, Education and Skills Funding Agency**
A core member of the panel. They will inform, debate and facilitate requests brought to DSAP.

**Team Leader, NPD and Data Sharing team**
A core member of the panel. They will:

- inform, debate and facilitate requests brought to DSAP
- present cases for consideration and provide additional background to DSAP members

**Team Leader, Data Governance & Assurance in the Education and Skills Funding Agency**
A core member of the panel. They will:

- inform, debate and facilitate requests brought to DSAP
- present cases for consideration and provide additional background to DSAP members

**Head of Further education and post-16 statistics**
A core member of the panel. They will:

- provide challenge on requests brought to DSAP
• present cases for consideration and provide additional background to DSAP members

Head of the Higher Education Statistics Unit

A core member of the panel. They will:

• provide challenge on requests brought to DSAP
• present cases for consideration and provide additional background to DSAP members

Department Security Unit (DSU) advisor (DfE)

They will provide advice as requested.

NPD and Data Sharing team member

They will act as secretariat.

Other NPD, ILR, SWF or other Data Sharing team members

As required they will present cases for consideration and provide additional background to DSAP members. Additional DfE staff with particular professional or technical knowledge may also be invited as required.

Non-DfE members

We appoint up to 3 non-DfE ('external') members.

They’ve been invited based on their extensive experience with data and the sharing of sensitive data. The current external members are:

• Simon Briscoe
• Jack Hardinges

We’re in the process of seeking more external members and their names will be added when agreed.

Non-DfE members of DSAP contribute at monthly DSAP meetings by offering advice on:
• specific decisions, including:
  • making recommendations as to whether a particular data share or data sharing agreement is suitable
  • challenging us to make sure that we’re fair and follows due process
  • encouraging us to promote responsible re-use of data and release it in a more secure way

• the policies and direction of our data sharing modernisation work, including:
  • helping us make iterative improvements to the process and information asked from requesters
  • offering advice and input on how to improve our data sharing polices, strategy and direction
  • inputting into the frameworks and processes by which DSAP makes decisions when non-DfE members aren’t present

We’ll endeavour to ensure that Non-DfE members will be present to provide additional scrutiny if the decision to share data falls into one of the below categories.

• Data sharing with commercial organisations or for commercial purposes
• The first time new DfE data sets are shared
• Data shared with other public sector bodies for purposes other than solely for education
• Data sharing that involves linking education data to other sensitive data, like medical data
• Any other situations where our Data Sharing team believe that DSAP might benefit from external member input

Non-DfE members will attend either:

• via telekit
• in person at a DfE site

They’ll be sent an agenda and papers at least 2 working days before each meeting.

DSAP makes decisions about specific data shares with specific organisations. If there is a conflict of interest in any of these data shares, then the non-DfE members must declare these and not provide any input into those decisions.

The role is voluntary. Non-DfE members can withdraw at any time for any reason.
Meetings

DSAP will usually meet on a weekly basis with one meeting each month being an extended forum with non-DfE members in attendance.

Out of meeting actions and approvals

There are 3 scenarios whereby requests for access to personal level data may be considered by the panel outside of the usual panel meeting where:

- there is insufficient business to justify a full meeting the secretariat may seek decisions by the panel via email correspondence - it’s expected panel members will provide a response within 3 working days.
- the outcome of the DSAP meeting is that further clarification or information is required in order for the application to be approved, the panel members can agree that, where this is provided by the applicant and in line with the panel request, that officials in the Data Sharing teams and/or the Chair can review and confirm approval ahead of the next meeting - where required, it’s expected that a response be provided by the panel within 3 working days
- there is an urgent request for data that cannot wait until the next DSAP meeting to be discussed the secretariat can seek decisions by the panel via email correspondence - it’s expected that a response be provided within 3 working days of the additional information being provided by the applicant

Any such consideration and subsequent actions will be reported to DSAP at the next meeting.
General conduct of the Data Sharing Approval Panel

In conducting its business, members of DSAP will be expected to adhere to a simple code of conduct:

- the panel may receive information of a confidential nature, for example commercially sensitive information relating to the development of new products or service, or other information not within the public domain - members of the panel will be required to keep such matters confidential
- members of the panel will review papers prior to meetings to ensure they are fully prepared to consider requests for access to data
- the Secretariat will keep records of the Panel’s considerations and recommendations, although the exact form of these records will be determined by the panel and its Secretariat
- members of DSAP must declare any potential conflicts of interest which might affect matters being considered, or their objectivity as a member of the panel, as soon as that potential conflict becomes apparent
Secretariat

The Secretariat will be responsible for:

- arranging the weekly meetings
- deciding whether there is sufficient business to justify a full meeting or whether to seek decisions via email correspondence
- preparing the agenda where a full meeting is to take place
- preparing and issuing a summary of all data requests to be considered by the panel, including a recommended course of action
- providing the panel with a summary of data requests received and processed by the department’s Data Sharing teams and DSAP since the last meeting
- maintaining a record of all decisions taken by the panel
Changes to these Terms of Reference

These terms of reference will be reviewed by DSAP at least annually following consultation with appropriate stakeholders such as the department’s Data Sharing teams.
Annex A: Purpose and role of the data sharing approval process

The secretariat approvals process will act as a triage function, deciding upon those requests that require escalation to DSAP.

Regardless of whether a request is destined for approval at DSAP, the relevant Data Sharing team member responsible for processing of the request will undertake the following activities:

- establish the credentials of the applicants and the institution or organisation for which they work
- determine the names and job titles of all individuals who will be accessing the released data
- discover all the intended uses for the data, and that these are consistent with those of the department and the reasons for which the data can be lawfully disclosed
- establish with the applicant the minimum amount of information required to satisfy those purposes
- work with users to understand the nature of their requirements and establish whether there are conflicting needs
- establish that the need for individual level data cannot be met by alternative means
- describe the disclosiveness of the micro-data requested (in terms of sensitivity or identifiability) and any conditions under which the information may become identifiable
- establish the recipient's physical and electronic security standards meet or exceed those required of recipients by the department for the data requested
- for highly sensitive and identifiable data releases, agree the finite period of time for which the access will be permitted, and the processes by which the data will be securely deleted
- ensure that the requestor has completed the application pack and associated documentation such that it can be considered by the approvals panel or presented to DSAP if necessary
- ensure that requests are technically sound, comply with the regulations which govern the release of pupil data (including establishing the data protection act conditions for processing), are practical and appropriate to the needs, and are for ethical reasons inform applicants of the progress of their applications including decisions made by DSAP
- where applications are rejected it will provide the reasons for its rejection, and explain what steps would need to be taken for a resubmitted bid to be considered
• where applications are approved it will keep applicants informed of progress towards meeting their request

As part of this process, the department’s Data Sharing teams will consult as needed with legal, privacy and security experts within the department.