1. Introduction

As custodians of personal child, pupil, learner and workforce datasets\(^1\) it is vital that the department’s data sharing teams continue to meet information governance standards in processing information and that all processing of information is legal, ethical, proportionate, secure and in line with Departmental and Her Majesty’s Government (HMG) standards. It is also it is important to maximise the public benefit of this data through third party research.

2. Purpose of the Panel

The Data Sharing Approval Panel (DSAP) provides the necessary governance and scrutinises every application for personal child, pupil, learner and workforce data to external organisations including to third party researchers. DSAP helps to shape overall data sharing strategy and supports the department’s data sharing teams and information asset owners in fulfilling their duties.

DSAP acts on delegated authority from the DfE Data Governance Board (responsible for data governance, data policies, data standards, data storage). The Data Governance Board acts on delegated authority from the Digital, Data and Technology Committee (responsible for the design and implementation of data, digital and technology strategy). This advises the Leadership Team whom supports the Permanent Secretary to run the department. On occasion, DSAP may escalate issues to the DfE Data Governance Board.

3. Role of the Panel

DSAP will consider applications made to DfE for extracts of personal data such as:

- data containing any information relating to an identifiable natural person
- data which carries risk of personal identification including where linkages with other datasets could enable identification.

DSAP will require appropriate safeguards to be in place prior to sharing information.

Whilst performing this function DSAP will:

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\(^1\) National Pupil Database (NPD), the Individualised Learner Record (ILR), Schools Workforce (SWF) data, Children in Need data (CIN), Children Looked After (CLA)
• provide assurance to the Secretary of State that the confidentiality of personal data is safeguarded in line with the General Data Protection Regulation and the Data Protection Act 2018, and other relevant legislation;

• ensure that requests are technically sound, comply with the regulations which govern the release of personal pupil data, are practical and appropriate to the needs of the project / research, and are ethical in nature;

• consider whether the use of identifying and / or identifiable and sensitive data is necessary, or whether less sensitive data might suffice;

• confirm the information security procedures (e.g. 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;

• where necessary and appropriate, consult and seek input from the Data Governance Board and its sub bodies on issues demanding or needing strategic direction, guidance or resource. These will be escalated to the Data Governance Board at the chair’s discretion;

• provide the DfE Data Governance Board with appropriate management information of all DfE data shares, the work of panel and to ensure the department’s resources is sufficient to support a demand-led model.

4. Panel Membership

The Data Sharing Approval Panel consists of DfE and non-DfE members. Additional DfE members with particular professional or technical knowledge may also be invited as required.

4.1 DfE Members

Chair - Deputy Director, Head of Data Modernisation Division, DfE
Vice Chair - Head of External Data Sharing & National Pupil Database

Core members:
• Deputy Director, Head of Infrastructure and Funding Directorate Analysis Division, DfE
• Deputy Director, Head of Higher Education Analysis, DfE
• Deputy Director, Head of Data Insights and Statistics Division and Head of Profession for Statistics, DfE
• Deputy Director, Data Science Service for the Education and Skills Funding Agency, DfE
Core members (with specialist knowledge):
- Legal Office advisor, DfE
- Data Protection Officer, DfE

Core members (with case-specific knowledge):
- Team Leader, NPD and Data Sharing team, DfE
- Team Leader, Data Governance & Assurance in the Education and Skills Funding Agency, DfE

Core members (with challenge function):
- Head of FE and post-16 statistics, DfE
- Head of the Higher Education Statistics Unit, DfE

Other:
- Department Security Unit advisor, DfE
- Other team members to present DSAP cases, DfE
- DSAP Secretariat, DfE

4.2 Non-DfE Members

The Department appoints up to four non-DfE members who have extensive experience of sharing sensitive data as well as the ethics for doing so. The role is voluntary, non-DfE members can withdraw at any time for any reason. The current non-DfE members are:

- Simon Briscoe – Consultant, Director of Data Analysis Bureau & Specialist Advisor, Public Administration and Constitutional Affairs Committee
- Jack Hardinges – Policy Advisor, The Open Data Institute
- Matthew Homer – Associate Professor, University of Leeds & Chartered Statistician
- David Jesson - Fellow of the Royal Statistical Society (FRSS)

5. DfE Member's Responsibilities

Chair is responsible for chairing the meeting and facilitating the debate on each case ensuring a fair and balanced debate on each case and ensuring a quorate, minimum number of core members, pass judgement on each case. Vice chair provides cover for the Chair. Both the Chair and Vice Chair are core members.

- Core members are responsible for reading all of the casework prior to each DSAP meeting, debating the merits or otherwise of each case culminating in a decision of approval, rejection or a request for further clarifying information.
- Core members (with specialist knowledge) will be called upon for advice as required to ensure relevant legislation is upheld and DfE policies are adhered to.
• Core members (with case-specific knowledge) are responsible for ensuring the cases brought to DSAP for their area are presented appropriately as well as debating on all other cases.
• Core members (with challenge function) are responsible for providing challenge to DSAP core members debate as well as ensuring cases brought to DSAP for their area are presented appropriately.

6. Non-DfE Member’s Responsibilities

Non-DfE members of DSAP are asked to contribute to the monthly DSAP meetings by:

6.1 Offering advice on specific decisions:

• making recommendations as to whether a particular data share or data sharing agreement is suitable or unsuitable (especially cases that have a commercial aspect to them);
• challenging DfE to ensure that the department is fair and follows due process; and
• ensuring DfE has clear strategies that maximise benefit of personal data held by the department in ways which are appropriately secure and provide reassurance to data subjects about how their data is handled.

6.2 Offering advice on DfE’s data sharing policies and on the progress of data sharing modernisation projects:

• Helping DfE make iterative improvements to the process and information asked from requesters;
• Offering advice and input on how to improve DfE’s data sharing policies, strategy and direction; and
• Inputting into the frameworks and processes by which DSAP makes decisions when non-DfE members are not present.

If any decisions to share data fall into the following categories, which DSAP would benefit particularly from additional scrutiny, then DfE will look to ensure that the non-DfE members are present to advise as appropriate when the decision is made:

• 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, for example medical data; and
• Any other situations where DfE’s data sharing teams believe that DSAP might benefit from external member input.
Non-DfE members will attend either via telekit or in person at a DfE site. They will 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.

7. DSAP Member’s Standards of Conduct

All members are expected to follow the 7 principles of public life (Nolan Principles) as they apply to the Data Sharing Approval Panel as a whole. All members are also expected to adhere to a simple code of conduct:

- the panel may receive information of a confidential nature, e.g. commercially sensitive information relating to the development of new products or services, or policy information not yet within the public domain. Members of the panel are required to keep such matters confidential;

- panel members 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;

- panel members are encouraged to promote DfE data sharing and the role of DSAP but should refrain from any public, political, media activities about DfE data sharing policy, processes or activities that would undermine or jeopardise the work of the panel;

- 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. The exact form of these records will be determined by the panel and its Secretariat.

8. DfE Information Asset Owners’ Responsibilities

The secretariat acts as a triage function for each and every case, thereby deciding which cases are ready to go to DSAP and which ones need further scrutiny. The Secretariat will also manage the volume of cases that are submitted to DSAP in order to ensure a steady stream of cases are flowing through the approval system.

For each case (requests for access to personal data will always require escalation to DSAP), the Information Asset Owner must ensure he/she has:

- established the credentials of the applicant(s) and the institution or organisation for which they work;
- determined the names and job titles of all individuals who will be accessing the released data;
• discovered 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;
• ensured that the requestor has completed the application pack and associated documentation such that it can be considered by DSAP;
• established with the applicant the minimum amount of information required to satisfy those purposes;
• worked with the applicant to understand the nature of the request and establish whether there are any conflicting needs;
• established that the need for personal level data cannot be met by alternative means;
• described the disclosiveness of the micro-data requested (in terms of sensitivity or identifiability) and any conditions under which the information may become identifiable;
• established whether the recipient’s information security standards meet the department’s requirements for providing data directly to the applicant;
• encouraged the applicant to conduct their research / analysis in ONS secure research service;
• agreed the finite period of time for which the access will be permitted, and the processes by which the data will be destroyed;
• ensured that requests are technically sound, comply with data protection legislation which govern the release of personal data, are practical and appropriate to the needs, and are for ethical reasons;
• ensured cases have consulted legal, privacy and security experts as appropriate;
• informed applicants of the progress of their applications including decisions made by DSAP:
  o where applications are rejected, provided the reasons for its rejection, and explain what steps would need to be taken for a resubmitted bid to be considered;
  o where applications are approved, explained what steps would be taken to progress their case.

9. DSAP Panel Meetings

All panel meetings will be chaired by the Chair or the Vice Chair. The panel will be quorate when there are three core members in attendance who are able to make decisions on each case. The agenda and minutes for each panel meeting will be provided by DSAP Secretariat.

To ensure DSAP provides a timely service to requestors and DfE, it holds a combination of longer monthly meetings (with non-DfE members) along with shorter weekly meetings. Presentation of data sharing cases will be carried out weekly. At the monthly meetings, standing agenda items are:

• previous minutes and actions from last meeting
• presentation of data sharing cases
• additional agenda items as pre-agreed with the Chair
• any other business.

The Secretariat is responsible for:

• arranging the weekly meetings;
• deciding whether there is sufficient business to justify a full meeting or whether to seek decisions via e-mail 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,
• producing the bi-annual publications of DfE data shares for gov.uk.

10. DSAP’s decision-making process

DSAP decisions require the agreement of:

• at least three DfE members at the weekly and monthly meetings
• a majority of non-DfE members at the monthly meetings
• a majority of all members in attendance

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 – this does not preclude an applicant re-submitting the application at a later stage with a revised application which will then be freshly considered on its own merits

11. Carrying out DSAP business in correspondence

There are three scenarios when requests for access to personal level data may be considered by the panel outside of the usual panel meeting, see below. Any such consideration and subsequent actions will be reported to DSAP at the next meeting.

• where there is insufficient business to justify a full meeting the secretariat may seek decisions by the panel via e-mail correspondence. It is expected panel members will provide a response within 3 working days;
• where 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 information asset owners and / or the Chair can review and confirm approval ahead of the next meeting. Where required, it is expected that a response back to the applicant be provided by the panel within 3 working days;

- where 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 e-mail correspondence. It is expected that a response back to the applicant be provided within 3 working days of the additional information being provided by the applicant.

12. 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 data.sharing@education.gov.uk who will be able to co-ordinate any appeal as required. If the appeal cannot be resolved between DSAP and the requester, then the appeal will be heard by the DfE Data Governance Board and Chief Data Officer.

13. Accountability and Governance

DSAP has primary responsibility for decisions made in relation to all personal data the Department for Education extracts, holds, processes and shares externally. If there is any unresolvable disagreement between DfE and non-DfE members, this will be escalated to the department’s Chief Data Officer. An escalation route to the Secretary of State exists where DSAP believes a request is particularly sensitive and cannot be resolved through the appeals process outlined above.

14. Review

These terms of reference will be reviewed by DSAP members and with the Data Governance Board yearly.

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