

Better Use of Data Consultation

The Greater Manchester Combined Authority and through it, GM – Connect, welcomes the opportunity to comment on the proposed extension of data sharing legislation outlined in the “Better Use of Data” consultation publication. We extended an invitation to important partners across GM to participate in our consultation review. We have also included the views of NHS and local authority partners who chose to participate in the review process with us.

GM - Connect is a Greater Manchester-wide transformational data sharing capability and governance structure hosted by the Greater Manchester Combined Authority (GMCA). It will direct and own the data-sharing strategy across public agencies, promoting a GM-wide approach and supporting agencies to resolve data sharing issues that are required to enable both operational work and analytics. The core team will encompass Information Governance, Innovation and Engagement, and Technology and Data Analytics specialists who will support and provide a framework for existing GM groups.

We recognise the challenges in balancing the public service and financial benefits which stem from effective data sharing against the desire to protect personal information. We also respect the need for individuals to know and understand the organisations and purposes their information is being used for. This legislation will work towards gaining citizens trust and enable public authorities to show their communities what can be achieved with appropriate and supported information sharing. We would like to emphasise that our response relates to the delivery of public services, ensuring financial and service accountability to Government and the tax payer. We are not arguing for sharing data for commercial purposes and do not in any way argue against privacy. On the contrary. We propose that data should be shared securely and safely in order to protect both privacy and life.

Progress also depends on whether proven methods of securely and proportionally sharing data piloted via this proposed legislation lead to further understanding of and confidence in balancing these potentially challenging goals through opening up further areas of activity. The ease and speed by which new objectives can be added, especially from public bodies outside of core government departments will be a critical factor in enabling newly devolved arrangements to flourish.

Public sector organisations need to work in partnership to deliver the improvements in service delivery, improvements in life outcomes for individuals and associated reductions in cost of service delivery which will be derived from effective data sharing. To achieve this aim the legislation and associated guidance must be constructed to be clear and informative to avoid a lack of clarity generating a risk averse culture at an operational level that would detract from the progressive and supportive nature of this development. This is particularly important when considering the permissive nature of the proposals and the references to criminal sanctions.

The consultation questions are quite specific and before providing responses to them, there are some wider comments we would like to make.

Intended Use

The legislation is intended for use where

- The objective could not be met without data sharing;
- It is not realistic and practicable to use consent to achieve the intended outcome or use of consent would not meet the criteria of free and informed decision making; and
- Sharing and analysis of de-identified data would not achieve the intended outcome.

Arguably, any objective could be met without data sharing if enough resource is deployed, up to and including the sharing of paper records using couriers. The point is that automated data sharing reduces the resource commitment. There is a danger that this criterion could be a focus to prevent data sharing. We would like to see this criterion reference that "*The objective could not be met **cost effectively** without data sharing or traditional Information sharing methods would be too complex*"

The Permissive Approach

The proposed gateway is "permissive" in that the provider can decide whether or not to supply the data and there is no reference to a mechanism outlined to appeal the decision. There has been a significant operational reluctance within some public sector organisation to share data and while the rationale for a permissive approach is understood, this could be used without proper understanding or full consideration of the significance of the request, to stifle data sharing.

There should be a presumption to share which would be supportive of the message that Dame Caldicott has emphasised in her previous reviews. The proposed code could outline classifications of acceptable reasons and, better still, there could be an independent review. The Code could emphasise that

every endeavour should be made to achieve data sharing and that rejection of the proposals needs to be a rare exception rather than the default setting. To facilitate this could we request the legislation include a directional and clear message that 'public sector bodies should seek opportunities to share data for public benefit unless there is a legal or regulatory reason not to do so.' So much of the legislation is dedicated to enabling sharing without a clear simple statement around intent. A clear statement like the one above will be a huge help in enabling us to lead in making sure the intent of the act is locally executed.

Safeguarding

The draft legislation is specifically structured to say that nothing in these proposed provisions prevents the use of information for (amongst other things) safeguarding vulnerable adults or children. The implication being that existing legislation is already sufficient for safeguarding purposes.

While it could be considered adequate, it is based around being reactive because the test of "proportionality" is vague and subjective and leads to a risk averse approach when matters have escalated and there already is a potential safeguarding problem, effectively preventing the intent outlined in DFE Regulations - *"No single professional can have a full picture of a child's needs and circumstances and, if children and families are to receive the right help at the right time, everyone who comes into contact with them has a role to play in identifying concerns, sharing information and taking prompt action."*(DFE Regulations)

Emphasis needs to shift to being much more preventative in nature and data sharing would assist in highlighting emerging problems and situations which could be dealt with early.

A definition or description of what would be considered "safeguarding" would go a long way to supporting the aspirations on not only this Bill, but supporting the inter agency sharing of information that is necessary to prevent both children and vulnerable adults slipping into statutory interventions. This definition could then provide the ability to undertake preventative enquiries, not only at a community level but for those individuals that have been shown to be the most vulnerable in society.

Purpose

In outlining the purposes of the legislation (para 39) it refers to three purposes including (c) *the improvement of the well being of individuals.*

In drafting the legislation, however, the reference to well being in (c) above has been combined with the reference to fuel poverty.

Was it the intention to limit this objective to fuel poverty because the interpretation "of improvement of well being" could be wide ranging and would enable public bodies to approach data sharing from a wider context? We would welcome specific inclusion of this as an objective.

Criminal Offence

We note the introduction of criminal liability and recognise that in the ultimate circumstances this could well be warranted. However, the very inclusion of such a provision acts in a risk averse way to inhibit data sharing. There is a significant difference between data sharing which is negligent and that which is undertaken for "samaritarian" purposes. The Codes of Practice need to be very clear in this area to give public sector workers confidence, otherwise the legislation will become a second tier of paralysis caused by fear of prosecution.

Health and Social Care Data

The commentary outlines that health and care data plays a critical role in the design and delivery of public services but a specific initial objective in this area is precluded because it is believed additional safeguards will be needed and these need to be in line with the findings of the Dame Caldicott's review due in early 2016.

We cannot emphasise enough how critical it is to include an objective in this area. A major plank of the devolution deal for Greater Manchester and, in reality, a pathfinder for the whole of the country is the integration of health and social care.

While the sensitivities surrounding health records are appreciated, basic operational data needs to be shared to enable services to be integrated. Moreover, the key factor is to move much further towards prevention rather than reactive treatment and this will be facilitated by effective predictive data analysis.

While it is accepted that additional safeguards are required around medical data, the data which drives efficient coordination of care between health and social care is not concerned with detailed medical histories. It is administrative data not clinical data and if health and social care services are to remain free at the point of delivery, the efficiency we require is critical. We recommend that a distinction between the types of data held by Health agencies is made clear and different standards are clearly applied to each. For example, it would be helpful if all public agencies could access the GP register at times of emergency so that the GP can be contacted. This process will not reveal clinical data but will enable the GP to carry out their duties more effectively and improve health and safety outcomes for citizens.

As the boundaries between Public Services continue to blur with the necessity for integrated ways of working, the need for access to data from multiple agencies to support families and individuals with complex needs continues to grow. For example, health and social care data needs to encompass community safety where the blue light services play an active part in people's lives where health and social care matters are at the heart of their intervention. There needs to be a much clearer view about the definitions of and bodies involved with health and social care data which facilitates rather than inhibits joined up service delivery, early intervention and prevention. This may be achieved by changing the definition of "direct care" to incorporate the above type of responses, direct and the ability to identify preventative ways to provide interventions to improve health and wellbeing.

Finally it is noted that health and social care data is specifically excluded in the proposals for commissioning research by clause 8 (3) which excludes health and social care bodies. It is understood that this is also based on a need to consider the outcome of the Caldicott review so may be amended once the position is clarified

Combating Fraud

The proposals feel very much about data matching to provide evidence to prosecute existing fraud.

It is perhaps a presumption that proposed pilot activity could extend to the prevention of fraud as covered by the 2006 Fraud Act. This area seems to be inhibited currently, for example, in relation to proving continued access to benefit, guardianship payments or validating single person discounts.

It would be helpful if the proposed codes provided practical examples or commentary which aligns with the Fraud Act

Note that the list of specified persons does not include the Combined Authority for Greater Manchester (including Transport for Greater Manchester) and other relevant devolution bodies. See also comments below about the potential inefficient approach which could feature in the proposed Codes of Practice.

Reducing Debt

It is not at all clear if these proposals will add value. There would need to be clarity about how arrangements could fairly address debt across public bodies on a pro rata basis. They also need to address the fundamental difference between someone who cannot pay the debt and those who won't pay it.

The proposals are too narrow and do not address some practical issues which surround dealing with debt. For example, currently Council Tax services may

well cause an individual to become bankrupt but cannot share this likely outcome with social care services to protect vulnerable adults and avoid escalation.

In a second context, Council Tax services are precluded from establishing the true income of charge payers via HMRC data to set up an accurate attachment to earning order.

The proposals ought to extend to or focus on the efficient and accurate processing of debt which seeks to avoid escalation which increases cost to public bodies and the individuals.

Codes of Practice

The detailed arrangements which will underpin the legislation will be governed by statutory Codes of Practice. These would set out:-

- Details of when the power is intended to be used
- Guidance for successful implementation. E.G what is required in a business case
- Additional safeguards E.G privacy impact assessments

There is the potential for this to become costly and time consuming in establishing agreement to data sharing. The circumstances surrounding data sharing for troubled families, for example, will not effectively differ across all Councils but this approach seems to suggest that DWP would need separate agreements with each local authority.

While it could be accepted that leading edge Councils might clear a path for others by establishing principles it surely must be possible to recognise that there are some consistent needs which cover multiple organisations which could be covered by overarching arrangements.

The Combined Authority is developing arrangements for health and social care involving 37 organisations. In other areas of activity 10 different Councils will be involved. It is essential that the processes outlined in the Codes enable, in fact facilitate, global agreements to ensure efficient achievements of the benefits enshrined within the proposals. Specifically, in the case of the GM combined Authority that it is able to submit overarching business cases which would be applicable to all organisations?

Conversely, however, if the production of PIA's is intended to be open about what is being proposed, publishing them to the public is not necessarily being transparent. PIAs can often be complicated to understand for the average reader. It would be more beneficial to define the sharing agreed under the power and publish in a simple form accessible to all understanding.

Other General Considerations

Data Matching is facilitated by matching common data fields. The current restrictions on access to National Insurance numbers and, to a lesser extent National Health numbers inhibits data matching. Consideration should be given to proactively using these unique identifiers, together with Unique Property Reference Numbers (UPRN's) across the public sector.

The construction and format of data fields held within administrative data system is also a critical point if ONS are to be able to rely of these sources as an alternative to conducting a Census and to widen the use of administrative data in producing national statistics. In this context, public bodies need to work in partnership to build arrangements for the longer term and, indeed, ONS ought to be able to commission the capture of key data from source bodies where this can deliver efficiencies and significant benefits.

The proposed Codes of Practice should have regard to existing arrangements where possible rather than impose extra burdens on public bodies. For example, security in relation to data transfer and storage is already dealt with under the banner of the Public Sector Network (PSN).

The concept of "Big Data" as recently reviewed by the House of Commons Science and Technology Committee explores the benefits to the nation in this area. One notable benefit is the prospect of connecting datasets and identifying patterns which would not otherwise be observed. If research requests need to be very specific, with a business case, impact assessment and sign off, this is likely to preclude or inhibit this type of "Big Data" activity.

It is understood that internal research involving data matching within an organisation is permitted without the accreditation processes outlined in the proposals.

Finally, it would be helpful if reference to penalties reflect that there is a proportionality perspective where care needs to be taken to differentiate between those who are misguided or mistaken versus those who deliberately flout the law.

Turning to the specific questions asked in the consultation document

Improving public service delivery

1. Are there any objectives that you believe should be included in this power that would not meet these criteria?

In overall terms the objectives would provide more flexibility if the words "including but not limited to" were included to future proof the ability to add

new objectives where clarity emerges or circumstance change in understanding impacts on public services and the needs of individuals.

See previous comments on the vital need to include Health and Social Care and in regard to safeguarding

Early intervention and prevention should feature as a focus for improving services delivery to individuals as, at the same time, driving down overall costs.

Efficiency improvements would ensue from data sharing which do not directly lead to the offer of a service. For example the avoidance of error in ensuring accurate address data is maintained and address changes are consistent across public service bodies (social care home address differs from that held by the GP). The objectives need to clarify this point

Monitoring and evaluation of programmes and initiatives such as troubled families is a requirement which needs to be reflected in the objective criteria.

2. Are there any public authorities that you consider would not fit under this definition?

- The Combined Authority (and presumably other emerging devolution arrangements) together with fire and transport authorities
- The reference to district councils implies two tier authorities. For the avoidance of doubt Metropolitan Districts and Unitary Authorities should be listed separately
- Registered Social Landlords (who already provide data in relation to troubled families).

3. Should non-public authorities (such as private companies and charities) that fulfil a public service function to a public authority be included in the scope of the delivering public services power?

Yes

Also, if a charity or private company were to participate in the sharing under the new power, would it be expected that the data controller (the public authority) submit the business case and PIA and ensure / take responsibility of the relationship with the "third party", if so there is a question of further sharing, which is not allowed under the proposed legislations that will need attention. The same questions apply with organisations who have delegated their functions but remains ultimately responsible (this is in the context of health)

4. Are these the correct principles that should be set out in the Code of Practice for this power?

See previous comment about the need to avoid these principles driving unnecessary bureaucracy

Providing assistance to citizens living in fuel poverty

5. Should the Government share information with non-public sector organisations as proposed for the sole purpose of providing assistance to citizens living in fuel poverty?

6. Would the provision of energy bill rebates, alongside information about energy efficiency support, be appropriate forms of assistance to citizens living in fuel poverty?

7. Are there other forms of fuel poverty assistance for citizens that should be considered for inclusion in the proposed power?

The ability to share the data regarding those identified suffering with fuel poverty with public authorities would enable the targeting of specific services, especially around health and safety in the home.

Access to civil registration to improve public service delivery

8. Should a government department be able to access birth details electronically for the purpose of providing a public service, e.g. an application for child benefit?

Yes. this would provide the ability for organisations to make the process more effective and efficient, not only for themselves but also for applicants. It would further make the obtaining of these public services more accessible to those who need it.

It would be beneficial to understand how this provision relates to the "tell us once" initiative already involving registrars

9. Do you think bulk registration information, such as details of all deaths, should be shared between civil registration officials and specified public authorities to ensure records are kept up to date (e.g. to prevent correspondence being sent to families of a deceased person)?

Yes however, this list does not currently include Combined Authorities, nor is Transport for Greater Manchester which is the delivery arm for the Greater Manchester Combined Authority, or a facility for organisations like it included.

Combating fraud against the public sector through faster and simpler access to data

10. Are there other measures which could be set out in the Code of Practice covering the proposed new power to combat fraud to strengthen the safeguards around access to data by specified public authorities?

No. Rather the proposals are too narrow as outlined above

11. It is proposed that the power to improve access to information by public authorities to combat fraud will be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the Fraud gateway be operational for before it is reviewed?

Three years as proposed seems appropriate

Improving access to data to enable better management of debt owed to the public sector

12. Which organisations should Government work with to ensure fairness is paramount when making decisions about affordability for vulnerable debtors who owe multiple debts?

See commentary above about the limitations of these proposals

13. How can Government ensure the appropriate scrutiny so pilots under the power are effectively designed and deliver against the objectives of the power?

14. It is proposed that the power to improve access to information by public authorities for the purpose of better managing debt owed to government will be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the debt power be operational for before it is reviewed?

Three years as proposed seems appropriate

Access to data which must be linked and de-identified using defined processes for research purposes

15. Should fees be charged by public authorities for providing data for research purposes, and if so should there be a maximum fee permitted which is monitored by the UK Statistics Authority?

Because the power is permissive it pre-supposes that the public authority agrees there is value in the research and therefore may want to supply the data as a free contribution.

If a public authority charges a fee this must not exceed the cost to the person doing the work for which the fee is charged

16. To ensure a consistent approach towards departments accepting or declining requests for disclosing information for research projects, should the UK Statistics Authority as the accreditation body publish details of rejected applications and the reasons for their rejection?

Yes, and this should extend to forming a view about whether or not the rejection was justified. Where public bodies are withholding data without valid reason this should be address by the relevant minister

This would aid with transparency and would also provide an insight in to which organisations are considering their data protection obligations

17. What principles or criteria do you think should be used to identify research that has the potential for public benefit, or research that will not be in the public benefit?

The proposed criteria are sound. However, there is no specific mention of aggregated data with the implication that this is already covered. There is nevertheless sometimes resistance even to provide this for research purposes. The arrangements should make it clear that aggregated data can be shared

Access by UK Statistics Authority to identified data for the purpose of producing official statistics and research

18. Is two years a reasonable maximum period of time for the duration of a notice for the supply of data to the UK Statistics Authority for the purposes of producing National and official statistics and statistical research?

Two years is insufficient in terms of protecting time series of data. ONS should advise on an appropriate period

19. If your business has provided a survey return to the ONS in the past we would welcome your views on:

(a) the administration burden experienced and the costs incurred in completing the survey, and

(b) ways in which the UK Statistics Authority should seek to use the new powers to further reduce the administrative burdens on businesses who provide data to the ONS for the purposes of producing National and other official statistics.

20. What principles and factors should be considered in preparing the Code of Practice on matters to be considered before making changes to processes that collect, store, organise or retrieve data?

Public bodies should be required to implement common data standards which facilitate data sharing. For example BS7999 covering addressing standards.

Public bodies should be required to implement minimum IT security standards as prescribed by the government. Exceeding in Information technology security can be prohibitive to sharing information or being innovative in technical solutions to enable sharing. The code should address this.

Public bodies should demonstrate a standard level of information governance maturity.

Responding to the consultation

Your details

To evaluate responses properly, we need to know who is responding to the consultation and in what capacity.

We will publish our evaluation of responses. Please note that we may publish all or part of your response unless you tell us (in your answer to the confidentiality question) that you want us to treat your response as confidential. If you tell us you wish your response to be treated as confidential, we will not include your details in any published list of respondents, although we may quote from your response anonymously.

Name (optional):

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Position (optional):

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Would you like us to treat your response as confidential?*

If you answer yes, we will not include your details in any list of people or organisations that responded to the consultation.

() Yes (✓) No *Note: Comments need to be attributed to the organisation*

Is this a personal response or an official response on behalf of your organisation?

- Personal response
 - Official response
-

If you ticked "Official response", please respond accordingly:

Type of responding organisation*

- Business
 - Charity
 - Local authority
 - Central government
 - Wider public sector (e.g. health bodies, schools and emergency services)
 - University or other higher education institution
 - Other representative or interest group (please answer the question below)
-

Type of representative group or interest group

- Union
 - Employer or business representative group
 - Subject association or learned society
 - Equality organisation or group
 - School, college or teacher representative group
 - Other (please state below)
-

Nation*

- England

Wales

Northern Ireland

Scotland

Other EU country: _____

Non-EU country: _____

How did you find out about this consultation?

Gov.uk website

Internet search

Other

_____word of mouth_____

May we contact you for further information?

Yes No

Questions

Improving public service delivery

Question one: Are there any objectives that you believe should be included in this power that would not meet these criteria?

No, the basis for sharing data appears to cover most relevant purposes. We also agree with the need for more consistency across public service and organisations.

Yes

If yes, please explain your reasons.

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.....

Question two: Are there any public authorities that you consider would not fit under this definition?

No - We don't think there are any public authorities that do not fit under the definition.

We also acknowledge that additional safeguards regarding confidential personal information (Health and Care) are likely to be needed in line with Dame Fiona Caldecott 2016 review. We therefore welcome the work that the Cabinet Office and Health officials will undertake to look at how and which health and care data may be integrated into the proposed legislation as we feel this area of data sharing is less progressed than others yet of key importance.

Yes

If yes, please explain your reasons:

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.....

Question three: Should non-public authorities (such as private companies and charities) that fulfil a public service function to a public authority be included in the scope of the delivering public services power?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Please explain your reasons:

Yes, we believe that the provision of public services by non-public sector bodies is critically important. So for example Registered Social Landlords (RSLs) need to be with scope of the power, what is the situation with Education academies.

Question four: Are these the correct principles that should be set out in the Code of Practice for this power?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Please explain your reasons:

They appear to cover the necessary issues.

Providing assistance to citizens living in fuel poverty

Question five: Should the government share information with non-public sector organisations as proposed for the sole purpose of providing assistance to citizens living in fuel poverty?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Please explain your reasons:

Yes – we think this seems a sensible approach to help tackle fuel poverty.

Question six: Would the provision of energy bill rebates, alongside information about energy efficiency support, be appropriate forms of assistance to citizens living in fuel poverty?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

Yes – especially if there is linked publicity to say why it has been provided – link to information about staying safe and well in winter.

Other topics to promote include:

- a) Tackling excess summer deaths – due to high temperatures – this is often forgotten by many residents.
- b) Promoting the take-up of the flu jab for vulnerable households

Question seven: Are there other forms of fuel poverty assistance that should be considered for inclusion in the proposed power?

- Yes
- No

If yes, please explain your reasons:

Mention on bills where a resident is likely to qualify for energy / insulation works. For example, those who are 'passported' through as a result of benefits.

Access to civil registration information to improve public service delivery

Question eight: Should a government department be able to access birth details electronically for the purpose of providing a public service, e.g. an application for child benefit?

- Strongly agree
- Agree
- Neither agree nor disagree

Disagree

Strongly disagree

Please explain your reasons:

With an application for child benefit the current process is the applicant either has the CB form verified by the registrar following the birth registration (form then posted to the DWPO) or the applicant has to send the birth certificate. Where a birth has been registered from 2007 the data is mainly held electronically on the Registration On Line system and as per the example this information could be obtained from GRO subject to the data sharing agreements. This could work for births going forward. Some kind of form would still need to be completed by the applicant as the birth registration provides proof of birth only and details of the parent(s) personal circumstances would still be required, though it may be difficult in some cases to obtain agreement for data sharing. There may be reduction in income to LAs as is recognised and this is of concern.

Question nine: Do you think bulk registration information, such as details of all deaths, should be shared between civil registration officials and specified public authorities to ensure records are kept up to date (e.g. to prevent correspondence being sent to a deceased person)?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Please explain your reasons:

With Tell Us Once (TUO) details of the next of kin are shared with the details of the deceased then passed to specific local and central government services. Bulk sharing of data would need to be limited to the deceased details for the purpose of keeping records up to date, and where next of kin details were also required to be shared this would need a data sharing agreement with the next of kin as is the case with the TUO service. This would need to be completed at local level when the death is registered so there would need to be a generic means of obtaining agreement and specified formats for sharing the data.

Combating fraud against the public sector through faster and simpler access to data

Question ten: Are there other measures which could be set out in the Code of Practice covering the proposed new power to combat fraud to strengthen the safeguards around access to data by specified public authorities?

Yes

No

Please explain your reasons:

It could be advantageous to apply similar safeguarding methods as were introduced to the use of directed surveillance to instil greater transparency and public confidence, namely a second tier approval process built into the data request (example in the use of RIPA, this is authorised by the Local Authority and then the Magistrates Court are asked to confirm and authorise the request) – If a two tier application process for the data request / release was introduced then confidence in its application might be secured.

Question eleven: It is proposed that the power to improve access to information by public authorities to combat fraud would be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the fraud gateway be operational for before it is reviewed?

The area of the fraud data exchange gateway will need to be open for at least 24 months before any meaningful review is undertaken, this will allow for the scope of any pilot to be fully tested and the impact of the data exchange in the resolution of said investigation fully understood (allowing for the potential criminality to be taken through the courts and the evidence gathered as a result of the data exchange tested at the highest level). We note the duty to review in the proposed bill is talking about 3 years.

Improving access to data to enable better management of debt owed to the public sector

Question twelve: Which organisations should government work with to ensure fairness is paramount when making decisions about affordability for vulnerable debtor who owe multiple debts?

Financial Institutions are critical.

Local Authorities (Housing Benefit & Council Tax Reduction (CTR), Social Care including welfare rights staff working in the debt and charging arena). Over the last 12 months Walsall Council debt team have helped individuals manage £3.25 million in debts collectively and they are supporting approximately 260 people at any one time.

Utility providers to automatically offer best tariffs, this should include comparisons on who currently offers the best deal for an individual. Social tariffs to be automatically offered to individuals and families who are considered vulnerable.

Social enterprise and community interest groups

HMRC (tax credits etc)

Citizens Advice Bureaux (Both Business and personal debts) Housing Associations (Rent Arrears)

All organisations who are nationally recognised to assist people with personal debt such as Step Change and National Debt Line to mention a couple.

Question thirteen: How can Government ensure the appropriate scrutiny so pilots under the power are effectively designed and deliver against the objectives of the power?

The best approach would be to have full access to partner organisations I.T records in relation to an individual's debts owed to Local Authorities, Department for Works and Pension (DWP), Her Majesty's Revenues and Customs (HMRC) and any other statutory agencies where public money is owed.

This will only work if all agencies taking part in the pilot cooperate fully with data sharing to ensure that fairness is paramount for the most vulnerable debtors.

Question fourteen: It is proposed that the power to improve access to information by public authorities to combat fraud would be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the fraud gateway be operational for before it is reviewed??

. Proposal for three years appears reasonable; with annual evaluation.

Access to data which must be linked and de-identified using defined processes for research purposes

Question fifteen: Should fees be charged by public authorities for providing data for research purposes, and if so should there be a maximum fee permitted which is monitored by the UK Statistics Authority?

Yes

No

Yes, fees should be charged to recover costs, as a LA we would need to do this if asked to provide data in order to compensate for time / resources, and so requests do not become an expensive burden. But there potentially needs to be a maximum fee, with UKSA guidance on calculation, so the cost doesn't become prohibitive if we need data from others. Some researchers might be able to profit from the data they request / analyse and sell on / incorporate into reports.

Some requests may involve very small datasets which take no time to access, cleanse, check and export, others may include hundreds of thousands of historical records. Requests should be charged for in an appropriate way that reflects the time, resources and skills

required. Costs should be standardized. Quick and easy requests could perhaps be free or a minimum fee, over a certain limit chargeable with no maximum fee.

Data may be held in formats that do not support easy processing and therefore take significantly more time / resources to process and should therefore be charged for accordingly. Like FOI it might be appropriate to include an exemption based on excessive staff time.

Will accreditation incur a cost to the authority and involve refreshment / renewal? If so, coupled with additional work, reducing budgets and staff, it is only right that costs should be covered.

Question sixteen: To ensure a consistent approach towards departments accepting or declining requests for disclosing information for research projects, should the UK Statistics Authority as the accreditation body publish details of rejected applications and the reasons for their rejection?

Yes No

Yes rejected requests should be published to aid learning, prevent unnecessary requests and ensure transparency. Suggest also publishing approved requests.

Question seventeen: What principles or criteria do you think should be used to identify research that has the potential for public benefit, or research that will not be in the public benefit?

for public benefit ...

- Part of higher educational research – tap into university research capability?
- Pays due regard to research ethics – i.e. reference MRS ethical guidelines, also Human Rights, DPA etc.

not be in the public benefit...

- Where its primary purpose is for commercial gain.

In deciding whether a request is of public benefit can the data asset owner challenge a decision? Can the requestor appeal against a decision?

Access by UK Statistics Authority to identified data for the purpose of producing official statistics and research

Question eighteen: Is two years a reasonable maximum period of time for the duration of a notice for the supply of data to the UK Statistics Authority for the purposes of producing National and official statistics and statistical research?

Yes

No

REF Qs 18-20; Though not providers of this data, we are users of it and hence, we do agree with the principle of UKSA and ONS having access to identifiable administrative data as this is definitely required; future plans for the Census 2021 and beyond will need this change in legislation to access this data.

For the business datasets, the current survey structure isn't ideal, data is delayed and the small sample sizes result in wide confidence intervals. So if more accurate and timely data can be achieved from administrative sources then this would be welcomed. Hence we are more concerned with the detail of what data will be published and available for us to use, though we recognise this is beyond the scope of this consultation, and we have already provided our comments regarding loss of detail or coverage in recent ONS consultations which we assume will be referenced?

Question nineteen: If your business has provided a survey return to the ONS in the past we would welcome your views on:

a) the administration burden experienced and the costs incurred in completing the survey

.n/a.

b) ways in which the UK Statistics Authority should seek to use the new powers to further reduce the administrative burdens on businesses who provide data to the ONS for the purposes of producing National and other official statistics

n/a

Question twenty: What principles and factors should be considered in preparing the Code of Practice on matters to be considered before making changes to the processes that collect, store, organise or retrieve data?

n/a

General thoughts

The Code Practice and proposals appears to be both sound and effective ways of improving the use and sharing of data between bodies with a legitimate purpose. Whilst the proposals make reference to the planned changes to the General Data Protection Regulations, we assume that these changes are intended to ensure that Data Controllers are more accountable; individuals have stronger rights; there are significantly tougher powers of enforcement for national data protection authorities and that data controllers implement "data protection by design and default". Given this we are seeking assurance that these

proposals will adequately address these legislative changes and additional requirements in regards to sharing and safeguarding personal data.

1 INTRODUCTION

The Civica Group is a specialist provider of digital solutions, critical software applications and business process services for the public sector, supplying more than 1,000 public bodies in the UK and internationally.

We share the vision and commitment to transform public services and to improve citizen engagement with public bodies, in particular as the pace of change and expectation continues to increase often driven by the rapid advance in technology and automation including the proliferation of devices and communications and the greater availability of data. We agree that information is the key to sound decision-making and efficient operations and that proportionate, secure and well-governed sharing of information between public authorities can improve the lives of citizens, support decisions on the economy and improve the efficiency and effectiveness of the public sector.

We have provided some short responses below to the consultation questions. We also believe it would be a useful exercise to map out a day in the life of a variety of citizens and their engagement with public services to highlight benefits and priorities for collecting data once and using it multiple times with suitable safeguards to enable significant customer service improvement and savings.

2 CONSULTATION QUESTIONS

Question 1. Are there any objectives that you believe should be included in this power that would not meet these criteria?

No.

Question 2. Are there any public authorities that you consider would not fit under this definition?

No. This should apply to all public authorities.

Question 3. Should non-public sector bodies (such as private companies and charities) that fulfil a public service function to a public authority be included in the scope of the public service delivery power?

Yes. Data sharing with non-public sector bodies is essential where service is delivered by them on behalf of a public authority. Equally data held by such non-public authorities needs to be shared to ensure a full picture of data pertaining to an individual or sometimes more importantly their wider family and network is achieved. One example is data from Private and Voluntary sector organisations engaged in delivery of Health and Care services. Personal Budgets can result in expenditure outside of the Public Sector using public sector funds – another complex delivery chain for Health and Care data.

Para. 29 states that safeguards have been included where appropriate to ensure that data can only be used for the specific purposes for which data is disclosed under the power. This should apply equally to public bodies or to a private body delivering a service on behalf of a public body, since if not the case then the services provided to citizens by those bodies working in partnership with a private company or charity would not benefit from this legislation to the detriment rather than improvement of public services. Private companies or charities should be subject to the same penalties as public bodies for breaching data protection rather than be excluded from using the data.

Question 4. Are these the correct principles that should be set out in the Code of Practice for this power?

Yes.

Question 5. Should the Government share information with non-public sector organisations as proposed for the sole purpose of providing assistance to citizens living in fuel poverty or for any other reason?

Yes. Recognising that if the identification process was not fully complete that a citizen application process could still operate when an individual believed they had been omitted but had an entitlement. With the ability to switch energy suppliers a citizen may switch part way through a tax year and as such consideration is needed as to how energy suppliers would handle that where the allowance may be greater than the current energy bill once switched.

Question 6. Would the provision of energy bill rebates, alongside information about energy efficiency support, be appropriate forms of assistance to citizens living in fuel poverty?

Yes as this sets the precedent to share information with private bodies in order to benefit the customer.

Question 7. Are there other forms of fuel poverty assistance for citizens that should be considered for inclusion in the proposed power?

Question 8. Should a government department be able to access birth details electronically for the purpose of providing a public service, e.g. an application for child benefit?

Yes. Registering a child at birth and making data available would assist a range of public services to deliver improved and more responsive services.

Question 9. Do you think bulk registration information, such as details of all deaths, should be shared between civil registration officials and specified public authorities to ensure records are kept up to date (e.g. to prevent correspondence being sent to families of a deceased person)?

Yes. Automatically informing multiple authorities and organisations of an individual's death will be of benefit to a wide range of services. Also, there are likely to be a number of cases where the original death notification was not processed and a bulk transfer allows for a catch up on record checking. Enabling a digital death certificate to be available to private organisations as proof of death is also more efficient than purchasing multiple copies of paper death certificates that need to be posted to and from private organisations such as banks.

Death of an individual can alert Mental Health organisations to check for any relatives who may be linked where such individuals have a prior mental health episode either generally or in relation to prior experience of the death of a family member.

Question 10. Are there other measures which could be set out in the Code of Practice covering the proposed new power to combat fraud to strengthen the safeguards around access to data by specified public authorities?

All look reasonable. No others suggested.

Question 11. How long should the Fraud gateway be operational for before it is reviewed?

Three years seems a reasonable period to assess the effectiveness and operational practicalities alongside the data safeguarding considerations in order to provide feedback and lessons learnt to further improve the model.

Question 12. Which organisations should Government work with to ensure fairness is paramount when making decisions about affordability for vulnerable debtors who owe multiple debts?

Suggest better to define a policy, the production of which could be supported by organisations that provide debt counselling and debt recovery solutions, thereby avoiding an on-going consultation process, recognising that a formal review with such bodies would be beneficial as over time new considerations would become necessary and/or appropriate.

Question 13. How can Government ensure that proposals for pilot data projects and the evaluation of projects under the debt power are effectively scrutinized against objectives?

Suggest implement an audit team, and an agreed reporting and declaration model from those organisations involved in pilots, and also measure the outcomes i.e. is the level of repayment better than historic levels?

Question 14. How long should the debt power be operational for before it is reviewed?

Three years seems a reasonable period to assess the effectiveness and operational practicalities alongside the data safeguarding considerations in order to provide feedback and lessons learnt to further improve the model.

Question 15. Should fees be charged by public authorities for providing data for research purposes, and if so should there be a maximum fee permitted which is monitored by the UK Statistics Authority?

Necessary to recognise the amount of work contained in doing this. Although organisations will need to make a business case in order to access the data this could be burdensome for the organisations having to provide it. Costs should be actual costs of providing data and not limited to a maximum.

Question 16. To ensure a consistent approach towards departments accepting or declining requests for disclosing information for research projects, should the UK Statistics Authority as the accreditation body publish details of rejected applications and the reasons for their rejection?

Yes. There should also be an appeals process. Should an appeal be upheld then publication of any rejection should be removed – the alternative is not to publish rejections until an appeal is completed.

Question 17. What principles or criteria do you think should be used to identify research that has the potential for public benefit, or research that will not be in the public benefit?

Research should have a purpose that can demonstrate the value aimed to be achieved. Perhaps consider limiting the number of bodies the information is requested from each time so, for example, a 'round robin' to all local authorities is restricted.

Question 18. Is two years a reasonable maximum period of time for the duration of a notice for the supply of data to the UK Statistics Authority for the purpose of producing National and official statistics and statistical research?

No, suggest this too long.

Question 19. If your business has provided a survey return to the ONS in the past we would welcome your views.

Question 20. What principles and factors should be considered in preparing the Code of Practice?

Information should only be requested where the statistical purpose has a potential value that can be clearly articulated. Once collected evidence of the value needs to be demonstrated to support future collection.

It should not be possible to identify individuals' personal records from information provided, or through the combination of information obtained elsewhere.

Data security is of paramount importance. There should be an audit conducted to ensure the code of practice is being adhered to. Financial penalty of £250 is not severe enough as a deterrent in the first instance and will not give citizens confidence that their data will be looked after.

Question 21. Other considerations

There is an opportunity to transform public services across the board by collecting data once and using it multiple times to carry out statutory and non-statutory services in the public sector. While not covered in the scope of this consultation we would be happy to contribute further in future, for example on key topics to build public confidence such as retention, publishing of relevant data and transparency. Citizens need to see and understand the benefit to them of sharing their data, as opposed to current views that it is used for punitive measures.

Secondly, we believe there should be more emphasis on integrated health and care models. Significant benefit would be achieved through improved and enhanced guidance and support for sharing information, both within and across public bodies and outwith to private and voluntary sector organisations.

The Summary Care Record on the surface appears to be the ideal location to hold all summary care information and make it available to all concerned and approved parties. As a minimum, information regarding which care professionals are involved with a citizen, their contact details, and the reason they are involved provides a leap forward if it were made available to all care professionals (subject to sensitive data and consent).

Consent from citizens needs to be considered when sharing information pertaining to their records. In a health and care setting consent is deemed to be required to share information between different Care agencies. A simple illustration of the benefits of shared information is an example where a citizen is known to have a condition requiring regular visits to a clinic for treatment whilst suffering from anxiety. The individual misses clinics when anxious, ending up in A&E. Joining the information together leads to recognition that music calms the individual who then always attended clinic and support such as provision of a low-cost music player avoids high cost of care in A&E.

Better Use of Data Consultation Response from Core Cities Group

Queries on this consultation response to: Jason Lowther, Birmingham City Council, [REDACTED]

Introduction

This paper provides the response of the Core Cities Group to the Cabinet Office consultation on the “Better use of data in government”. Our response provides some important general feedback and then responds to the specific questions asked in the consultation paper. The Core Cities Group represents the councils of England’s eight largest city economies outside London along with Glasgow and Cardiff. The issue of data sharing, and data devolution, is particularly pertinent to core cities because of our economic scale and role in driving public sector reform, uniquely so across the biggest cities.

General comments

The proposed new approach and specific powers are helpful in taking forward this important issue. The proposals are an important contribution to making sense of a complex landscape.

The current proposals are a somewhat eclectic selection of specific topics; it would be useful to ground these in a long-term aspiration (eg to deliver the most cost-effective and efficient public services by appropriate use of government data, to enable a place-based approach and support economic growth) and general enabling principles (e.g. enabling a proactive and preventative approach to help people; reducing threat, risk and harm; adopting a common person identifier used across government systems).

There are other areas where this type of thematic approach could usefully be applied – eg health and social care services around the frail elderly, early intervention to prevent offending, child protection.

The current proposals don’t fully support moves to deliver appropriate, cost-effective, joined-up preventative approaches and early intervention to prevent harm. Proposals should cover issues which indicate an individual is “at risk of” or who “displays warning signs for” a negative outcome, ensuring that services are proactive not just reactive. As well as the current focus on initial identification issues, it would be useful to focus on the use of data to plan and deliver services, and to track the progress of individuals. The requirement for organisations to share data for research purposes should be mirrored in a requirement to share data for service design/delivery purposes also.

It is helpful that the paper talks about “individuals and households who face multiple disadvantages” rather than just the current “troubled families” definition.

Health data

As acknowledged in the consultation paper, the treatment of health information (and Dept of Health data) needs to be included in the final proposals. Sharing of health information is one of the most critical data needs to improving the use of government data. We recognise the sensitivities in this area but note that there are multiple existing data sharing agreements which may provide helpful ways forward. For example, Solihull MB Council's Data Sharing Agreement with NHS partners includes detailed risk stratification and specific treatment of research.

The Government's devolution agenda potentially provides a low risk way to test new data approaches, including arrangements with health services. There could be considerable value in undertaking local demonstration pilots e.g. around health and social care integration, mental health or frail elderly issues? Core Cities Group would be interested in co-developing these with the Cabinet Office.

We note that a national review of research governance arrangements in health and social care services has just completed public consultation:

<http://www.hra.nhs.uk/about-the-hra/our-plans-and-projects/replacing-research-governance-framework/>

Schools

The issue of schools' data will be particularly important given the somewhat atomised management arrangements for these in future. All schools should be expected to engage in data sharing arrangements. The refusal of many Academy schools to share attendance data has been a significant issue for the Troubled Families programme and work to reduce young people "not in education, employment or training".

National Insurance Numbers

The effective sharing of data is undermined if a universal personal identifier is not available. Whilst NHS Numbers have been useful in health and social care areas, the NINO has wider application. A significant barrier experienced in the Troubled Families Programme is the lack of specific individual information from DWP (eg NINOs to help cross-reference intelligence). The current proposals rule out the use of HMRC data, which could inadvertently limit the use of NINO information. NINOs are not sensitive information and could be an essential tool in enabling effective identification and avoiding data errors. They should therefore be explicitly open for cross-referencing information.

With data linkage and de-identification it is important for research and population health aspects to maintain a level of geography and demography within the dataset, e.g. lower super output area and age, gender and ethnicity.

Proposed new criminal offence

We are concerned about the introduction of a new criminal offence in this area. There will need to be clear safeguards to avoid this making data owners become even more risk averse, with negative outcomes for vulnerable people and public service cost-effectiveness. The proposals need to clarify whether the criminal offence would be corporate or personal.

We recognise that the proposals increase the number of bodies involved in data sharing which increases the risk of fraud or negligence. However, the main mitigation of this risk should be through clear responsibilities, systems and processes. We believe a devolved approach would be most effective in delivering the required outcomes whilst minimising risks (see below).

Devolution and place-based approach

We suggest that the Government's devolution agenda provides opportunities to consider where data is best "held" or "stored" to enable a place-based approach, providing a shared view of citizens and service users for more effective service planning and delivery, better targeting public resources, and the support of local economic growth.

A devolved approach would open up new opportunities for:

- **robust assurances for security and privacy (for example with named data controllers and appropriate systems and responsibilities)**
- **combined authorities to develop a leading role in data management, sharing and analysis**
- **shared data management and analytic capacity**
- **piloting the use of health data**
- **testing the use of personal identifiers such as NINO**
- **development of holistic privacy impact assessments**
- **developing relationships with the regional research community**
- **engagement with the general public on the appropriate use of their data**

We would like to explore piloting this "data devolution" with the Cabinet Office.

Public engagement

We recognise that there is significant public concern about potential misuse of personal data. What is needed is an open discussion of the benefits of sharing data for the individuals (and wider society), and the safeguards that are in place to ensure privacy and data security. Core cities would be interested in collaborating with the Cabinet Office to pilot this engagement as part of data devolution.

Responses to specific consultation questions

Improving public service delivery	
<p>1. Are there any objectives that you believe should be included in this power that would <i>not meet</i> these criteria?</p>	<p>The principal of benefit to the subject needs careful definition and assessment. There may be cases where an individual does not see an intervention as immediately beneficial, but a reasonable person may judge it to be beneficial in the longer term (for example preventing suicide, treatment for drug misuse, benefit sanctions leading to employment, child protection interventions).</p> <p>Whilst understanding the pragmatic benefit of excluding “benefits to wider society”, we would suggest that this decision should be kept under review.</p> <p>The prohibition on new databases needs to be carefully phrased to avoid undermining local initiatives to improve data sharing and security. Perhaps refer explicitly to “no new <u>national</u> databases”.</p> <p>The disposal of unused data or data that becomes redundant needs to be considered.</p>
<p>2. Are there any public authorities that you consider would not fit under this definition?</p>	<p>All schools (including academies and free schools) should be required to engage in data sharing with local public services.</p> <p>We welcome the work that the Cabinet Office and Heath officials will undertake to look at how and which health and care data may be integrated into the proposed legislation as we feel this area of data sharing is less progressed than others yet of key importance.</p>

<p>3. Should non-public authorities (such as private companies and charities) that fulfil a public service function to a public authority be included in the scope of the delivering public services power?</p>	<p>Yes.</p> <p>All providers of public services need to be included (including those from the private sector, voluntary/ community sector, Registered Social Landlords, etc.). This should include all services commissioned with public money and/or relating to the statutory responsibilities of the public sector.</p> <p>Appropriate legislative safeguards and governance need to be place. A 'high' minimum security standard must be maintained by all bodies. Public bodies are more open to public scrutiny than private companies. All bodies using public funds should be open to the same level of scrutiny. Ignorance or naivety can't be allowed to result in the loss of misuse of information.</p> <p>Private companies may fulfil a number of functions (private and public) and potential conflicts of interest in holding or processing additional data should be declared, along with the additional safeguards. This is open and transparent and would provide data subjects with more added assurance. There are significant financial gains from using the data (or subsets) for 'other' purposes.</p>
<p>4. Are these the correct principles that should be set out in the Code of Practice for this power?</p>	<p>Yes</p>

Providing assistance to citizens living in fuel poverty	
<p>1. Should the Government share information with non-public sector organisations as proposed for the sole purpose of providing assistance to citizens living in fuel poverty?</p>	<p>Yes</p> <p>The Government should share information with non-public sector organisations. This could enable those organisations to target households individually that are deemed to be in fuel poverty rather than simply aiming their efforts at a particular post code level.</p>
<p>2. Would the provision of energy bill rebates, alongside information about energy efficiency support, be appropriate forms of assistance to citizens living in fuel poverty?</p>	<p>Yes</p> <p>Energy bill rebates, along with information about energy advice and support would be appropriate forms of assistance to families in fuel poverty. The two go hand-in-hand. Rebates would be helpful initially, but in the long term residents may need to manage their energy usage more effectively and know where to go to seek assistance if there is still a shortfall.</p> <p>It would be helpful to have linked publicity to say why it has been provided – link to information about staying safe and well in winter.</p> <p>Other topics to promote include:</p> <ul style="list-style-type: none"> • Tackling excess summer deaths – due to high temperatures – this is often forgotten by many residents. • Promoting the take-up of the flu jab for vulnerable households.
<p>3. Are there other forms of fuel poverty assistance for citizens that should be considered for inclusion in the proposed power?</p>	<p>Yes.</p> <p>There are significant opportunities for these households to get a more holistic solution to their problems.</p>

(3) continued/-

Examples include advice on affordable warmth, tariff switching, NHS or LA funded heating and insulation measures, ensuring cold weather alerts reach the right people, targeting winter warmth campaigns, improved targeting and uptake of influenza vaccinations, that buildings meet ventilation and other building and trading standards.

The data should therefore also be made available to LAs and the NHS on request. This would be in keeping with the access that LAs have had up until now with bulk EPC data.

Also, indicators relevant to the single person discount should be included, especially for those who fall just outside the benefit "safety net".

We know that it is important to ensure homes are effectively insulated. Availability of this type of data would enable targeting of assistance (see answer to question 1).

LAs would also be able to mention on bills where a resident is likely to qualify for energy / insulation works. For example, those who are 'passport' through as a result of benefits.

Access to civil registration to improve public service delivery	
1. Should a government department be able to access birth details electronically for the purpose of providing a public service, e.g. an application for child benefit?	<p>Yes.</p> <p>This information is already in the public domain (at local registrars) and online direct access is a natural progression.</p>
2. Do you think bulk registration information, such as details of all deaths, should be shared between civil registration officials and specified public authorities to ensure records are kept up to date (e.g. to prevent correspondence being sent to families of a deceased person)?	<p>Yes.</p> <p>Council Revenues officers have had "deaths" data provided for many years, but are specifically prevented from sharing this to help deliver better services to the bereaved.</p> <p>With <i>Tell Us Once</i> (TUC) details of the next of kin are shared with the details of the deceased then passed to specific local and central government services. Bulk sharing of data would need to be limited to the deceased details for the purpose of keeping records up to date, and where next of kin details were also required to be shared this would need a data sharing agreement. There would need to be a generic means of obtaining agreement and specified formats for sharing the data.</p>

Combating fraud against the public sector through faster and simpler access to data

- | | |
|---|--|
| <p>1. Are there other measures which could be set out in the Code of Practice covering the proposed new power to combat fraud to strengthen the safeguards around access to data by specified public authorities?</p> | <p>Appropriate legislative safeguards and governance need to be place. A 'high' minimum security standard must be maintained by all bodies. Public bodies are more open to public scrutiny than private companies. All bodies acting on behalf of a public body or funded from public funds should be open to the same level of scrutiny. Ignorance or nativity can't be allowed to result in the loss of misuse of information.</p> |
|---|--|

(1) continued/-

The public may be justified in being worried out such sensitive data being shared. Private companies may fulfil a number of functions (private and public) and potential conflicts of interest in holding or processing additional data should be declared, along with the additional safeguards. This is open and transparent and would provide data subjects with more added assurance. There are significant financial gains from using the data (or subsets) for 'other' purposes.

It may be necessary for a regulatory body (ICO?) to carry out additional inspections or 'test checks' on activity.

It could be advantageous to apply similar safeguarding methods as were introduced to the use of directed surveillance to instil greater transparency and public confidence, namely a second tier approval process built into the data request (example in the use of RIPA, this is authorised by the Local Authority and then the Magistrates Court are asked to confirm and authorise the request) – If a two tier application process for the data request / release was introduced then confidence in its application might be secured.

	See also our comments on data devolution under "general comments" earlier related to named data controllers at local level.

<p>2. It is proposed that the power to improve access to information by public authorities to combat fraud will be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the Fraud gateway be operational for before it is reviewed?</p>	<p>The area of the fraud data exchange gateway will need to be open for at least 24 months before any meaningful review is undertaken, this will allow for the scope of any pilot to be fully tested and the impact of the data exchange in the resolution of said investigation fully understood (allowing for the potential criminality to be taken through the courts and the evidence gathered as a result of the data exchange tested at the highest level). We note the duty to review in the proposed bill is talking about 3 years.</p>
<p>Improving access to data to enable better management of debt owed to the public sector</p>	
<p>1. Which organisations should Government work with to ensure fairness is paramount when making decisions about affordability for vulnerable debtors who owe multiple debts?</p>	<p>The relevant upper tier local authority seems to provide the most appropriate organisation, given its local knowledge, universal footprint and democratic accountability. In particular, Housing Benefit & Council Tax Reduction (CTR) and Social Care departments including welfare rights staff working in the debt and charging arena.</p> <p>Financial Institutions are critical.</p> <p>Utility providers automatically to offer best tariffs. Social tariffs to be automatically offered to individuals and families who are considered vulnerable.</p> <p>Social enterprise and community interest groups</p> <p>HMRC (tax credits etc)</p> <p>Citizens Advice Bureaux (Both Business and personal debts)</p> <p>Housing Associations (Rent Arrears)</p> <p>All organisations who are nationally recognised to assist people with personal debt such as Step Change</p>

	and National Debt Line to mention a couple.
2. How can Government ensure the appropriate scrutiny so pilots under the power are effectively designed and deliver against the objectives of the power?	Engage closely with local public agencies.
3. It is proposed that the power to improve access to information by public authorities for the purpose of better managing debt owed to government will be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the debt power be operational for before it is reviewed?	The proposal will involve significant work and change for local agencies, therefore a minimum review period of 3-5 years may be appropriate.
Access to data which must be linked and de-identified using defined processes for research purposes	
1. Should fees be charged by public authorities for providing data for research purposes, and if so should there be a maximum fee permitted which is monitored by the UK Statistics Authority?	<p>There should be the right for public authorities to charge for the commercial use of data, and to recover costs.</p> <p>Fees should be discretionary.</p> <p>A standard fee scale could mirror that for Freedom of Information Act requests, with a maximum fee which is controlled.</p> <p>Need to clarify whether this is for <i>all</i> research purposes and also whether this is one-way or two-way?</p> <p>There is more scope for public sector as a whole to look at charging for access to data that may be of commercial value.</p> <p>Like FOIA requests, it might be appropriate to include an exemption based on excessive staff time.</p> <p>Will accreditation incur a cost to the authority and involve refreshment / renewal? If so, coupled with additional work, reducing budgets and staff, it is only right that costs should be covered.</p>
2. To ensure a consistent approach towards departments accepting or declining requests for disclosing	<p>Yes. The principle of openness should be paramount. As well as rejected applications, accepted applications should be published. A system such as "What Do They Know?" for FOIA requests could be useful here.</p> <p>Publication would help to understand reasons for decisions.</p>

<p>information for research projects, should the UK Statistics Authority as the accreditation body publish details of rejected applications and the reasons for their rejection?</p>	<p>We would like to see data providers (in particular local authorities) engaged in advising the UKSA in its new accreditation role.</p>
<p>3. What principles or criteria do you think should be used to identify research that has the potential for public benefit, or research that will not be in the public benefit?</p>	<p>It should be made clear that "public policy" includes the design of public services and interventions, and support to economic growth.</p> <p>We suggest that the Government's devolution agenda provides opportunities to consider where data is best "held" or "stored" to enable a place-based approach, in a way that has robust assurances for security and privacy. This could also open up new opportunities with the research community on a regional basis. We would like to explore piloting this "data devolution" with the Cabinet Office.</p> <p>Other criteria could include linkage with public sector and public benefit. The "Informing Public Policy and the Professions" element of recent HEFC <u>work</u> should help here.</p> <p>Examples of criteria indicating public benefit could include:</p> <ul style="list-style-type: none"> • Part of higher educational research – tap into university research capability? • Pays due regard to research ethics – i.e. reference MRS ethical guidelines, also Human Rights, DPA etc. <p>An example of a criterion indicative no public benefit could be where its primary purpose is for commercial gain.</p> <p>In deciding whether a request is of public benefit can the data asset owner challenge a decision? Can the requestor appeal against a decision?</p>

Access by UK Statistics Authority to identified data for the purpose of producing official statistics and research	
<p>1. Is two years a reasonable maximum period of time for the duration of a notice for the supply of data to the UK Statistics Authority for the purposes of producing National and official statistics and statistical research?</p>	<p>Yes, but the extent of this needs to be very clearly communicated. There is already a lot of data that is statutorily reported to national bodies, which places a burden on staff in local areas both to improve data quality and to put appropriate systems in place. Two years is enough time to do this but organisations need clarity as early as possible on what the changes will be and what resources they will be provided with to enable this.</p>
<p>2. If your business has provided a survey return to the ONS in the past we would welcome your views on:</p> <p>(a) the administration burden experienced and the costs incurred in completing the survey, and</p> <p>(b) ways in which the UK Statistics Authority should seek to use the new powers to further reduce the administrative burdens on businesses who provide data to the ONS for the purposes of producing National and other official statistics.</p>	<p>Though not providers of this data, we are users of it and hence, we do agree with the principle of UKSA and ONS having access to identifiable administrative data as this is definitely required; future plans for the Census 2021 and beyond will need this change in legislation to access this data.</p> <p>For the business datasets, the current survey structure isn't ideal, data is delayed and the small sample sizes result in wide confidence intervals. So if more accurate and timely data can be achieved from administrative sources then this would be welcomed. Hence we are concerned with the detail of what data will be published and available for us to use, though we recognise this is beyond the scope of this consultation, and we have already provided our comments regarding loss of detail or coverage in recent ONS consultations which we assume will be referenced.</p>
<p>3. What principles and factors should be considered in preparing the Code of Practice on matters to be considered before making changes to processes that collect, store, organise or retrieve data?</p>	

Responding to the consultation

Your details

To evaluate responses properly, we need to know who is responding to the consultation and in what capacity.

We will publish our evaluation of responses. Please note that we may publish all or part of your response unless you tell us (in your answer to the confidentiality question) that you want us to treat your response as confidential. If you tell us you wish your response to be treated as confidential, we will not include your details in any published list of respondents, although we may quote from your response anonymously.

Name (optional): Professor Matthew Woollard

Position (optional): Director, UK Data Archive/UK Data Service

Organisation name: UK Data Service

Address: University of Essex, Wivenhoe Park, Colchester, CO4 3SQ

Email: [REDACTED]

Telephone (optional): [REDACTED]

Would you like us to treat your response as confidential?*

If you answer yes, we will not include your details in any list of people or organisations that responded to the consultation.

Yes No

Is this a personal response or an official response on behalf of your organisation?

Personal response

Official response

If you ticked “Official response”, please respond accordingly:

Type of responding organisation*

- Business
 - Charity
 - Local authority
 - Central government
 - Wider public sector (e.g. health bodies, schools and emergency services)
 - University or other higher education institution
 - Other representative or interest group (please answer the question below)
-

Type of representative group or interest group

- Union
- Employer or business representative group
- Subject association or learned society
- Equality organisation or group
- School, college or teacher representative group
- Other (please state below)

The UK Data Service (<http://ukdataservice.ac.uk/>) is a data service infrastructure, funded by the Economic and Social Research Council (ESRC) to support researchers, teachers and policymakers who depend on high-quality social and economic data. It provides a free-at-the-point-of-use service to researchers who want access to social and economic data. The lead organisation of the UK Data Service, is the UK Data Archive at the University of Essex, which has had almost 50 years' experience of making data available for research. The UK Data Service is currently investigating the integration of new and novel sources of data for research into its existing service, and supporting key ESRC investments in the management of these data.

The UK Data Service has staff at the Universities of Essex, Manchester, Southampton, Edinburgh, Leeds and University College London, and Jisc Manchester.

The UK Data Archive is also the host of the Administrative Data Service (<http://adn.ac.uk/about/ads>) which coordinates the ESRC's Administrative Data Research Network and is the first point of contact for researchers who want access to administrative data, with partners at the Universities of Manchester, Oxford, the West of England and Edinburgh. The ADRN will be providing a separate response.

Nation*

England

Wales

Northern Ireland

Scotland

Other EU country: _____

Non-EU country: _____

The UK Data Service has a remit to cover the whole of the United Kingdom.

How did you find out about this consultation?

Gov.uk website

Internet search

Other

May we contact you for further information?

Yes No

General Statement

1. The three strands should not be dependent on each other

As the UK Data Service is one of many organisations which already make government data available for research it generally welcomes the third strand of these proposals. The first and second strands are outside our scope and therefore we are neutral to them. Each strand should be understood to be separate. The success or failure of one strand should not be dependent on another.

2. Strand three is welcome, safeguards are mostly proportionate.

The overall objective to increase access to administrative and other unpublished data is highly desirable. The proposals provide adequate safeguards for data subjects, clarify the roles and responsibilities of the parties involved, and have the potential to lead to benefits for all stakeholders within the data ecosystem. Thus we welcome the proposal.

3. Value provided by research is insufficiently recognised.

From our long experience in providing safeguarded access to data from a variety of sources, both from within government and without, and to a very large number of researchers over a long period, we note that there are some issues which have not been addressed here. Most importantly, while the 'rights' of data subjects are dealt with, and the 'benefits' to the ONS (and wider government) are addressed, the benefits and value provided by researchers (regardless of organisation) are largely overlooked. This is unfortunate as it may lead to underestimation of the societal benefits which could be realised from high quality research based on better access to government data.

4. Benefits of reuse by multiple researchers not articulated.

*While the proposals are careful to ensure that no new, large and permanent databases are created, they do not articulate the benefits for the **reuse** of data by multiple researchers, including the importance of retaining sufficient information to ensure that data extracts may be repeated and research findings are replicable.*

5. Distinction between government research and non-government research unclear.

The discussion document does not properly articulate the relationship between researchers within government (i.e., ONS) and researchers from beyond government. We would welcome clarity on parity of access and equivalence of researcher training and accreditation standards across sectors, while accepting that researchers beyond government may need additional safeguards.

6. Permissive powers are the least beneficial.

We believe that access to the majority of these data, either for statistical purposes or research purposes should be presumed possible, unless there are pressing reasons for it to remain closed. These reasons should always be published in advance. The third strand seems very much about researchers trying to pry open closed doors; researchers should be knocking on an open door.

7. Administrative data are not always an adequate replacement for survey data.

The first numbered paragraph 14 (p.4) relating to the administrative burden placed on businesses, does not address any of the issues of quality or content which may be lost if the Annual Business Survey was replaced by administrative data, and it does not discuss wider the benefits of wider reuse which currently exists. We are not confident that the HMRC admin data covers all aspects of existing survey data and in the absence of further information we are not confident that the existing access arrangements would be maintained. Both have a significant impact on research. The current barriers to research access and data linkage are a significant obstacle to the necessary rigorous assessment of the quality and value of administrative data sources in comparison with existing surveys.

8. Cost benefit analysis is one-sided.

We do not believe that the average estimated 3 hours per year (valued at £70.59) is as significant a burden to businesses as this report implies, and we do not believe it would be entirely saved either, since a smaller survey would be required to validate the HMRC administrative data.¹ The costs of production and the benefits which accrue from the analysis of both survey data and linked administrative data need to be compared.

9. Responsible research is as important as data protection.

While the overall thrust of the third section is on the appropriate protection of data subjects, equal attention (which does not affect data protection) should be paid to the research process. Research should always be robust (based on an indication of the quality of the data and at the minimum stand up to independent verification), timely (carried out within months of a hypothesis being developed), able to be carried out efficiently (minimal monetary cost to the researcher, and with the minimum duplication of safeguards) and published/communicated to maximise the audience.

10. Publication schedule of data sources to be more detailed.

The absence of a clear publication strategy for sources of administrative data and detailed information relating to them is a significant barrier to the specification of

¹ <http://webarchive.nationalarchives.gov.uk/20160105160709/http://www.ons.gov.uk/ons/guide-method/method-quality/specific/business-and-energy/annual-business-survey/quality-and-methods/abs-admin-data-progress-2012.pdf>

research proposals which might provide public benefit. The proposed legislation should either mandate the publication of all relevant information about, and contained in, all administrative data sources, or at the very least provision should be made so that all potential researchers can establish what administrative data are held. At present, the content of a number of administrative data sources can only be inferred from consulting the departmental-level open data sharing strategies and cross-referencing against published statistics.

11. Proposed standards for accreditation. Who approves these?

It is unclear whether the proposed standards to be issued by the accreditation body need to be approved by the data owners. At present there is a lack of harmonisation amongst data owners for their various 'standards' for research, researcher, and accredited access facility. As no two departments have identical arrangements for access facilities at present, could the accreditation body have wider powers to mandate these requirements? This is particularly pressing with regard to research which requires data linkage, in which circumstances it is extremely difficult for researchers to determine and meet the differing requirements of different data-owning departments.

12. Health and social care data.

The proposals are silent on health and social care data in a research context. Health/social care data may contain socio-economic information and survey data may contain medical information. Research at the biosocial frontier will increasingly demand answers to questions which can only be addressed with reference to linked health and socioeconomic information and will be hampered by a lack of clear guidance and equivalent data access standards. Somewhere this needs to be taken into consideration, if only as one of the concerns of the accreditation body.

Questions

Improving public service delivery

Question one: Are there any objectives that you believe should be included in this power that would not meet these criteria?

No

Yes

If yes, please explain your reasons.

No response

Question two: Are there any public authorities that you consider would not fit under this definition?

No

Yes

If yes, please explain your reasons:

No response

Question three: Should non-public authorities (such as private companies and charities) that fulfil a public service function to a public authority be included in the scope of the delivering public services power?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Please explain your reasons:

Strongly agree for research purposes. Public authorities commission non-public authorities to conduct research. If non-public authorities were to be excluded then public authorities would have to undertake this research themselves.

Question four: Are these the correct principles that should be set out in the Code of Practice for this power?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

In general we agree, but the words 'business case' should not be used exclusively in terms of commercial benefit. We would prefer to think of this as a 'rationale' or 'justification'.

Providing assistance to citizens living in fuel poverty

Question five: Should the government share information with non-public sector organisations as proposed for the sole purpose of providing assistance to citizens living in fuel poverty?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

No response

Question six: Would the provision of energy bill rebates, alongside information about energy efficiency support, be appropriate forms of assistance to citizens living in fuel poverty?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

No response

Question seven: Are there other forms of fuel poverty assistance that should be considered for inclusion in the proposed power?

- Yes
- No

If yes, please explain your reasons:

No response

Access to civil registration information to improve public service delivery

Question eight: Should a government department be able to access birth details electronically for the purpose of providing a public service, e.g. an application for child benefit?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

Since (most) vital registration records are publicly available already, some of the concerns around 'bulk' electronic records seem overblown. With certain restrictions these electronic registers could be public. (Adoptions, sex changes and errors notwithstanding.)

On the other hand, a very clear understanding of the lacunae in these registers should be provided to any potential users. For example, the linkage between NHS Birth Notification and Birth Registration suggests some births will not be registered by at least one method; it also shows that there are discordancies between the two datasets.²

Paragraph 59 mentions restrictions on sharing certain categories of civil registration information. These should be expressly included within legislation rather than a Code of Practice.

Question nine: Do you think bulk registration information, such as details of all deaths, should be shared between civil registration officials and specified public authorities to ensure records are kept up to date (e.g. to prevent correspondence being sent to a deceased person)?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

See response to previous question

Combating fraud against the public sector through faster and simpler access to data

Question ten: Are there other measures which could be set out in the Code of Practice covering the proposed new power to combat fraud to strengthen the safeguards around access to data by specified public authorities?

- Yes

² <http://www.ons.gov.uk/ons/rel/hsq/health-statistics-quarterly/no--33--spring-2007/pilot-linkage-of-nhs-numbers-for-babies.pdf>

() No

Please explain your reasons:

No response

Question eleven: It is proposed that the power to improve access to information by public authorities to combat fraud would be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the fraud gateway be operational for before it is reviewed?

No response

Improving access to data to enable better management of debt owed to the public sector

Question twelve: Which organisations should government work with to ensure fairness is paramount when making decisions about affordability for vulnerable debtor who owe multiple debts?

No response

Question thirteen: How can Government ensure the appropriate scrutiny so pilots under the power are effectively designed and deliver against the objectives of the power?

No response

Question fourteen: It is proposed that the power to improve access to information by public authorities to combat fraud would be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the fraud gateway be operational for before it is reviewed??

No response

Access to data which must be linked and de-identified using defined processes for research purposes

General statement

The discussion does not cover any linkages which are not between two administrative data sources. All of the proposals here should additionally cover the safe linkage of government funded survey data to administrative data. Any relevant processes should also be relevant for administrative data which is not personal. These proposals may lead to a situation where it is easier for researchers to get access to linked de-identified data than data which is not derived from personal information.

While it may be inappropriate for legislation per se to tackle the wider culture of data sharing, it might be helpful to include this within the remit of the accreditation body. At present, there are legal gateways for access to some of the data discussed in this report, but the perceptions of the law, and the different interpretation of it by different elements of government remains a barrier. We would not want one of the consequences of this legislation to be inconsistency of approach. We would also strongly recommend that for the implementation of this legislation to be successful robust public engagement, possibly through deliberative dialogues, to be part of the responsibilities of the accreditation body.

[Para 101] The phrase 'further disclosed' here is problematic. If this is taken literally then research verification and transparency is excluded. This would be hugely detrimental to this process, and could be potentially very expensive if the same linked data has to be re-constructed. (We also don't believe this is likely to be possible since administrative data changes over time.)

[Paras 102/3] The accreditation process should also be transparent and have built in monitoring and the right to appeal. (For non-government researchers the Approved Researcher status would be a model to emulate.) The accreditation body should be resourced appropriately to carry this out. The accreditation process should be as close to existing processes as possible to prevent additional costs.

[Para 121] The assumption that the cost of delivering a fully-fledged service which allows the linkage of administrative data will be cheaper than carrying out a survey is erroneous. The implicit assumption that the product quality of linked administrative data will be so great as to render surveys obsolete is also unwarranted. Administrative data has very clear failings when it comes to examining the relationship between variables, which surveys do not. Linked administrative data has very clear benefits over traditional surveys. Therefore, we strongly believe in a mixed economy for information gathering.

Question fifteen: Should fees be charged by public authorities for providing data for research purposes, and if so should there be a maximum fee permitted which is monitored by the UK Statistics Authority?

Yes

No

In general 'no' since most (but not all) research is publicly funded, and this is robbing Peter to pay Paul. And the collection of these data has already been paid for.

In cases where research is not publicly-funded this could be done on a cost recovery basis.

However, if fees are charged by public authorities, these should be transparent to researchers and to the wider public. There should also be a cap and the accreditation body should monitor all fees requested. The matter of fees for the use of TTPs and accredited access facilities will depend on the nature of the funding model designed for them, but data-providing public authorities should not receive fees for these purposes."

Furthermore, if fees are charged by public authorities, the accreditation body should be allowed to implement a financial penalty for the non-production of data within a specified (to be determined) time frame. Penalties should also be incurred by data providers who do not provide enough/appropriate metadata, and appropriate caveats which researchers should understand before undertaking analysis. The data which is provided should be independently understandable to the researcher without further recourse to the data provider. (The amount of time lost by researchers while waiting for data once access has been approved should be factored in to this penalty.)

Question sixteen: To ensure a consistent approach towards departments accepting or declining requests for disclosing information for research projects, should the UK Statistics Authority as the accreditation body publish details of rejected applications and the reasons for their rejection?

Yes No

The accreditation body should publish details of both accepted and rejected applications for research, researchers, indexers, and access facilities.

The accreditation body should not publish the reasons for rejection if that rejection is commercially or personally sensitive.

The question presupposes that UKSA is an appropriate accreditation body. We believe that UKSA is probably the best existing body to have this function, but if it lacks expertise in any of the areas where it is needed, it must be resourced

appropriately to cope with this. It is important to note that if the UKSA were permitted to delegate some of these responsibilities to other parties the level of accountability should not change.

A cost-benefit analysis comparing the UKSA and an independent body should be undertaken to inform this question.

Question seventeen: What principles or criteria do you think should be used to identify research that has the potential for public benefit, or research that will not be in the public benefit?

The consultation for ONS's Approved Researcher status has highlighted a number of criteria which could be used.

Any principles or criteria should not be overly prescriptive, and should have some latitude for interpretation which could be applied transparently. The accreditation body should publish the criteria. The accreditation body should be solely responsible for deciding what is (or not) in the public benefit. A mixed economy where each data owner gets a bite at the cherry will not produce consistent results.

The principles should take into account the fact that some research may not produce immediate results, and that some 'blue skies' research may not have immediately obvious public benefit.

Given that the risk of disclosure is fully mitigated within the process of access to data it should not be a criterion.

Access by UK Statistics Authority to identified data for the purpose of producing official statistics and research

[Para 116] We welcome this paragraph since this is the only section which really considers wider reuse. While we concur that the responsibility for access remains in the hands of the originating body, the reuse activities could be delegated to the accreditation body. For example, department A and B agree to have data linked for the purposes of producing official statistics. At the same time as this agreement is completed, the departments also provide in principle agreement that these data could be used for research in the future. They decide also whether their explicit consent is required or not. If it is not then the accreditation body can decide when this form of access is requested.

Question eighteen: Is two years a reasonable maximum period of time for the

duration of a notice for the supply of data to the UK Statistics Authority for the purposes of producing National and official statistics and statistical research?

Yes

No

It is possible that there may be some confusion in question 18.

1) If this means: is two years a reasonable period of time for data to be produced, we say firmly no: Two years is too long. If this proposal is to make access to data more efficient, then a period no more than six months should be the default, and twelve months the maximum for special cases. This would reduce the delay caused by the current ISO system, and would add an additional time efficiency.

2) If this means: is two years a reasonable period of time to notify the Statistics Authority about any changes in administrative data which may compromise the quality, etc., etc. (see para 119) then we would affirm that the notice period for data changes should be no less than the two years proposed. Since this has implications beyond the ONS's role with official statistics. There are many valuable long-term research programmes that would be seriously undermined by a move to dependence on administrative data. This undermining would be exacerbated by subsequent changes in data availability, data quality and the data themselves.

Question nineteen: If your business has provided a survey return to the ONS in the past we would welcome your views on:

a) the administration burden experienced and the costs incurred in completing the survey

b) ways in which the UK Statistics Authority should seek to use the new powers to further reduce the administrative burdens on businesses who provide data to the ONS for the purposes of producing National and other official statistics

We find this question inappropriate and unbalanced. If the question: "If you are a researcher and have performed analysis on data created through some form of survey instrument, we would welcome your views on the quality of these data, their discoverability, usability and the level of documentation provided for their use. We would also like to know on average how long does it take you to get access to these data" were asked instead it would also be unbalanced.

We agree that some surveys are burdensome, but the total value to users, because of their construction, planning, and quality, are always greater than that cost. The consultation document uses terms which may be applicable to one survey, but not to others. The consultation document also ignores (possibly purposefully) that some of the most successful applications of linked data is between administrative data and survey data.

We understand that most of the academic research which uses the Annual Business Survey will be impossible if it were 'replaced' with administrative data.

Question twenty: What principles and factors should be considered in preparing the Code of Practice on matters to be considered before making changes to the processes that collect, store, organise or retrieve data?

The fundamental principles are to protect and respect the rights of the individuals whose data is being used. The Code of Practice should also include an ethical review which will provide assurances to citizens that confidentiality and privacy are appropriately respected at all stages of any process. However, any safeguards should be proportionate to the risks involved. If the disclosure risk of any of the linked data from these exercises is absolutely zero then they should be made openly available; if the disclosure risk is high (and the impact of this risk is also high) then the data access requirements must be stricter. But, in principle, data should be shared as widely as possible within the relevant legal constraints.

Potential negative impacts need to be weighed up against societal benefits.



iStandUK (<http://www.iStandUK.org>) is a collaboration, hosted by Tameside Council, of Local Authorities and Government Departments, with a mission to '*promote standards for efficiency, transformation, and transparency of local public services*'.

We are pleased to respond to the 'Better use of data in Government' consultation, by making observations about the potential for applying data standards to improve how data is both exploited and protected. These points are drawn from our white papers, particularly

- <http://istanduk.org/white-papers/open-standards-for-digital-local-public-services/>
- <http://istanduk.org/white-papers/a-strategic-approach-to-data-sharing/>
- <http://istanduk.org/white-papers/opportunities-for-applying-standards-to-troubled-families/>

The consultation focuses on the legal and cultural barriers to sharing and re-using information, and proposes a series of powers, codes of practice and governance arrangements. However, there is little mention of the data standards, APIs, and digital capabilities, that are necessary as the foundation to ensure that individual initiatives can be scaled and replicated to ensure that access to data is at the heart of operational service delivery, and place-based service design.

The specifics in the paper, of

- automatic provision of fuel poverty assistance to those most in need; and
- improving the ability to identify families who would benefit from the Troubled Families programme

... are themselves patterns of more general scenarios in which better outcomes could be achieved if data is routinely shared, and analysed. We recommend that the associated codes of practice should establish these repeating patterns and the data standards which are common to each. This approach will draw out how the needs of people, families and communities are addressed by combinations of public services, and the potential for data sharing to support collaboration and continuity of service. Key standards and capabilities can then be applied to data sharing, such as

- identity management;
- registers of master data;
- common data models.

The paper mentions

... a shift towards querying datasets through APIs in place of the typical practice of using bulk data shares, with positive benefits on privacy and security.

... which is a necessary component of digital transformation of local public services. Whereas data has previously been shared as a snapshot of an entire dataset, we should now expect that a real-time request can be made by a trusted organisation, for a single piece of data, for a specified purpose. Both 'open data' and 'protected data' can be made available in this way using 5* data techniques, APIS, and common data models.

We should look to reduce the amount, and sensitivity, of data that is passed, by setting up data-shares which respond with simple answers to business questions, such as eligibility for a service. In this way, data need not be persisted at all, and there is no need to reinterpret data that is presented using the terminology and identifiers from other sectors. This is an approach exemplified by the 'Attribute Exchange' programme

championed by Warwickshire County Council and Local CIO Council, where application for services such as 'Blue Badge' can be 'self-served', even when eligibility data is held by more than one organisation.

That type of data sharing is founded in data standards, reusing platform capabilities which can be reprovisioned to support all manner of services.

The paper correctly associates 'purpose', with the initial collection of data, making links to the gateways that allow re-use. A definitive register of 'purposes' should underpin an inventory of 'data-shares' which can be queried by service, organisation type, role, and so on.

Similarly, Privacy Impact Assessments, Data Sharing Agreements and Memoranda of Understanding, should be available to a consistent data format, rather than a series of documents, to support transparency, and as a part of a 'handshake' as data is requested and transferred.

We recommend that the consultation should recognise that data standards are a vital part of the 'better use of data in government' and that the codes of practice should include a commitment to establishing the standards and associated services necessary to make data sharing routine.

Room 113
County Hall, Bond Street Wakefield
West Yorkshire WF1 2QW

Typetalk Calls welcome

22nd April 2016

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Data Sharing Policy Team
Floor 6
London
WC2B 6NH

Dear Sirs

Better Use of Data in Government

Please find attached the comments to the consultation document from Wakefield Council. I hope that you find these views useful.

Yours faithfully

Yours faithfully



Councillor G Stokes
Portfolio Holder for Modern Public Services

Draft Responses to Better Use of Data - Consultation Paper

As a preliminary statement

The Council welcomes the ideas generated in the Consultation paper and the notion that the better use of data can be used to improve services. However, in the world that local authorities inhabit, the pressure to co-deliver services with the NHS (in its many forms) informs the reality of the future of social care services. The Council is therefore disappointed that this whole sector of activity and information sharing has been omitted from this consultation, which therefore limits the progress that can be made on that very important matter.

It is also important to us that local authorities have a place at the table, because of the large variety of services they provide to our citizens. We therefore recommend that the Strategic Steering Group not only has on it "interested Civil Society Organisations and independent observers" but local government representatives too, as data access is important to local authorities too.

Consultation Questions	Draft Responses
<p><u>Improving public service delivery</u></p> <ol style="list-style-type: none"> 1. Are there any objectives that you believe should be included in this power that would <i>not meet</i> these criteria? 2. Are there any public authorities that you consider would not fit under this definition? 3. Should non-public authorities (such as private companies and charities) that fulfil a public service function to a public authority be included in the scope of the delivering public services power? 4. Are these the correct principles that should be set out in the Code of Practice for this power? 	<ol style="list-style-type: none"> 1. No, but we would wish NHS bodies and Academy schools to be included in this proposed legislation. 2. NHS bodies need to be included, as well as Coroners and Medical Examiners (when created), who need to liaise with the living as well as deal with the dead. 3. Yes. Legislation should also define 'public service function' to include utility providers etc and include them in scope of regulations. 4. Yes, but a preamble that a presumption exists that information should be shared, subject to statutory and service specific safeguards, would be invaluable.
<p><u>Providing assistance to citizens living in fuel poverty</u></p> <ol style="list-style-type: none"> 1. Should the Government share information with non-public sector organisations as proposed for the sole purpose of providing assistance to citizens living in fuel poverty? 2. Would the provision of energy bill rebates, alongside information about energy efficiency support, be appropriate forms of assistance to citizens living in fuel poverty? 	<ol style="list-style-type: none"> 1. Why just fuel poverty? Why not include 'child poverty' in definition to support delivery of outcomes of Child Poverty Act. The omission of utility companies here is puzzling, as they provide public services but are not explicitly referred to in the commentary. 2. Yes

3. Are there other forms of fuel poverty assistance for citizens that should be considered for inclusion in the proposed power?

Access to civil registration to improve public service delivery

1. Should a government department be able to access birth details electronically for the purpose of providing a public service, e.g. an application for child benefit?
2. Do you think bulk registration information, such as details of all deaths, should be shared between civil registration officials and specified public authorities to ensure records are kept up to date (e.g. to prevent correspondence being sent to families of a deceased person)?

3. It is unclear what is intended for those people who are on low incomes, but not claiming benefits. What happens if there is a long cold spell, or people who are ill and thus use more fuel to stay warm? Would it be possible to have a system whereby a vast increase in usage would trigger some sort of query as to whether assistance is needed?

- 1 and 2 The government have a system of Tell Us Once within the Register Office, so providing government with the births and death lists should enable much of what is desired to occur.

In Wakefield the example of the new baby daughter and replacement birth certificate for Child Benefit has occurred about 3 times in 10 years so we doubt the value of that example, however, we are in agreement in respect of the free short birth certificate being replaced with a RON report to HMRC advising of all the new births within the district. The data fields could be restricted to the information which appears on a free short birth certificate.

It is agreed that bulk registration information, such as details of all deaths (with limited data fields to comply with DPA) should be shared with public authorities to ensure records are kept up to date. Potentially this could save LA's and local Registration Services resources currently taken up by the provision of the TUO service.

Outside of the provision of the RON report function, the process of data sharing would be almost as resource intensive as producing a certificate. Digital data held by local Registration Services is only available from 1990 onwards. What system is proposed for the transmission of data which is not held digitally?

We have considerable reservations about the Minister modifying public authorities entitled to this information by secondary legislation.

Whilst we accept that the aim is to have Privacy

<p><u>Combating fraud against the public sector through faster and simpler access to data</u></p> <ol style="list-style-type: none"> 1. Are there other measures which could be set out in the Code of Practice covering the proposed new power to combat fraud to strengthen the safeguards around access to data by specified public authorities? 2. It is proposed that the power to improve access to information by public authorities to combat fraud will be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the Fraud gateway be operational for before it is reviewed? <p><u>Improving access to data to enable better management of debt owed to the public sector</u></p> <ol style="list-style-type: none"> 1. Which organisations should Government work with to ensure fairness is paramount when making decisions about affordability for vulnerable debtors who owe multiple debts? 	<p>Impact Assessments, Data Sharing Agreements and memoranda of Understanding, in practice our experience is that government departments send out forms which cannot be altered, so severely limiting local authorities' power to negotiate what they need to protect their data.</p> <p>We also would caveat the granting of information held on birth entries of people subsequently adopted. Currently a valid request has to be met with the provision of the birth certificate. An adopted person may well not want their original birth certificate to be made available. The local registration service does not hold information in respect of the adopted birth entry; this is held by GRO in the Adopted Children Register.</p> <p>Definition of 'government department' should also include 'local authority' not just civil service and its agencies</p> <ol style="list-style-type: none"> 1. We would like an explicit statement that this applies to local authorities too. 2. We think 1 year/18 months is a suitable timescale. <ol style="list-style-type: none"> 1. We have considerable reservations about the proposal that there should be one body which negotiates with vulnerable debtors, without knowing which body it is proposed would actually be doing the work, and how this would work in practice. Whilst the idea of a single spokesperson on debt is attractive, local authorities deal with (vulnerable people and)
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<p>2. How can Government ensure the appropriate scrutiny so pilots under the power are effectively designed and deliver against the objectives of the power?</p> <p>3. It is proposed that the power to improve access to information by public authorities for the purpose of better managing debt owed to government will be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the debt power be operational for before it is reviewed?</p> <p><u>Access to data which must be linked and de-identified using defined processes for research purposes</u></p> <p>1. Should fees be charged by public authorities for providing data for research purposes, and if so should there be a maximum fee permitted which is monitored by the UK Statistics Authority?</p> <p>2. To ensure a consistent approach towards departments accepting or declining requests for disclosing information for research projects, should the UK Statistics Authority as the accreditation body publish details of</p>	<p>debts all the time and the myriad reasons people get into debt. Is the intention that a body (public or other external body) be appointed as the 'Official' provider of advice to ensure consistency and impartiality?</p> <p>If one body is to do this, what accounting arrangements will be made to account for monies received which do not belong to the body collecting it? Also of monies collected – how are these to be distributed to all relevant parties –equally??</p> <p>In terms of data matching to identify all debts owed by an individual / company - what identifying information is it intended to data match on and, to ensure accuracy is there a scenario where we will need to collect additional data to what is required for the raising of the debt to facilitate this</p> <p>2. The SLC example was a particularly poor one to use, as clearly the power currently exists to carry out a data matching exercise.</p> <p>3. We think 1 year/18 months is a suitable timescale.</p> <p>1. Authorities should be given the <u>power</u> to charge, and there should be no maximum fee, otherwise the public bodies end up funding the research work.</p> <p>2. We think that all requests, whether accepted or declined should be published, with reasons for that decision.</p>
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<p>rejected applications and the reasons for their rejection?</p> <p>3. What principles or criteria do you think should be used to identify research that has the potential for public benefit, or research that will not be in the public benefit?</p>	<p>3. The principles/criteria for research resulting from the sharing and use of data from public sector organisations has to have the potential for public benefit and an outcome that is of value to those organisations and/or of an identifiable benefit or benefits to the public. A definition of public benefit in this context to be agreed.</p> <p>If research is to be carried out the purpose of that research must be clear and it is suggested that criteria be established relating to significant social, economic or welfare benefits for example better service delivery, lower costs, more efficient operations, better targeted and more efficient public services, improved health and wellbeing, improved welfare to the public or sections of the public, strengthen the economy, skills development and business growth.</p> <p>The research must be conducted with reasonable diligence and care, in good faith, properly informed and taking into account all the relevant factors.</p> <p>The outcome of the research must be disseminated to enable organisations to take advantage of it.</p>
<p><u>Access by UK Statistics Authority to identified data for the purpose of producing official statistics and research</u></p> <p>18. Is two years a reasonable maximum period of time for the duration of a notice for the supply of data to the UK Statistics Authority for the purposes of producing National and official statistics and statistical research?</p> <p>19. If your business has provided a survey return to the ONS in the past we would welcome your views on:</p> <ul style="list-style-type: none"> (a) the administration burden experienced and the costs incurred in completing the survey, and (b) ways in which the UK Statistics Authority should seek to use the new powers to further reduce the administrative burdens on 	<p>[numbering awry here – to be corrected]</p> <p>18. we think 3years is a reasonable maximum time</p> <p>19. As a local authority is not a business we are not in a position to answer this question.</p>

businesses who provide data to the ONS for the purposes of producing National and other official statistics.

20. What principles and factors should be considered in preparing the Code of Practice on matters to be considered before making changes to processes that collect, store, organise or retrieve data?

20. We would like local authority bodies to be a consultee for any Code of Practice as well as the 5 sets of people outlined in the consultation

Responding to the consultation

Your details

To evaluate responses properly, we need to know who is responding to the consultation and in what capacity.

We will publish our evaluation of responses. Please note that we may publish all or part of your response unless you tell us (in your answer to the confidentiality question) that you want us to treat your response as confidential. If you tell us you wish your response to be treated as confidential, we will not include your details in any published list of respondents, although we may quote from your response anonymously.

Name (optional):

Gavin Roberts

Position (optional):

Senior Analyst

Organisation name:

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Email:

[REDACTED]

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[REDACTED]

Would you like us to treat your response as confidential?*

If you answer yes, we will not include your details in any list of people or organisations that responded to the consultation.

Yes No

Is this a personal response or an official response on behalf of your organisation?

Personal response

Official response

If you ticked “Official response”, please respond accordingly:

Type of responding organisation*

Business

Charity

Local authority

Central government

Wider public sector (e.g. health bodies, schools and emergency services)

University or other higher education institution

Other representative or interest group (please answer the question below)

Type of representative group or interest group

Union

Employer or business representative group

Subject association or learned society

Equality organisation or group

School, college or teacher representative group

Other (please state below)

Nation*

England

Wales

Northern Ireland

Scotland

Other EU country: _____

Non-EU country: _____

How did you find out about this consultation?

Gov.uk website

Internet search

Other

May we contact you for further information?

Yes No

Questions

Improving public service delivery

Question one: Are there any objectives that you believe should be included in this power that would not meet these criteria?

No

Yes

If yes, please explain your reasons.

It was felt that there is no need to add any additional objectives in this power. However, the objectives themselves, and the criteria, should be clear and fully explained.

Question two: Are there any public authorities that you consider would not fit under this definition?

No

Yes

If yes, please explain your reasons:

Question three: Should non-public authorities (such as private companies and charities) that fulfil a public service function to a public authority be included in the scope of the delivering public services power?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Please explain your reasons:

Although it was agreed that the inclusion of non public authorities that fulfil a public service function should be included, there is concern that a minority of these may use the data for other purposes.

Question four: Are these the correct principles that should be set out in the Code of Practice for this power?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

Whilst it is agreed that these are the correct principles that should be set out in the Code of Practice for this power, it is felt that flexibility and further detail will be required in section b 'Guidance for successful implementation'. This will be required to address the different levels of sensitivity, volume, geographical spread and frequency adequately, as a one-size-fits-all approach will not be sufficient.

Providing assistance to citizens living in fuel poverty

Question five: Should the government share information with non-public sector organisations as proposed for the sole purpose of providing assistance to citizens living in fuel poverty?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

The advantage of citizens who are living in the coldest homes benefitting from automatic energy bill rebates cannot be disputed. However, in sharing this data with energy companies, there is a concern that this may:

- *Stigmatise families*
- *Negatively affect personal credit history through credit checking*
- *Cause blacklisting*

Question six: Would the provision of energy bill rebates, alongside information about energy efficiency support, be appropriate forms of assistance to citizens living in fuel poverty?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

Whilst the provision of energy bill rebates alongside information about energy efficiency support for citizens living in fuel poverty are appropriate and advantageous, this is not sufficient provision. There are many reasons why citizens experience fuel poverty, and more information about what wider support and assistance is available should be offered.

Question seven: Are there other forms of fuel poverty assistance that should be considered for inclusion in the proposed power?

- Yes
- No

If yes, please explain your reasons:

Energy rebates should be considered as just one of the options to assist people living in fuel poverty. Lower energy prices and tariffs should also be considered. A large number of citizens eligible for a rebate will likely use pre-payment meters and therefore paying very high tariffs for their energy.

Access to civil registration information to improve public service delivery

Question eight: Should a government department be able to access birth details electronically for the purpose of providing a public service, e.g. an application for child benefit?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

We agree that a government department should be able to access birth details electronically for the purpose of providing a public service.

However, consideration should be given for citizens to be able to 'opt-out' of their data being matched in this way.

Question nine: Do you think bulk registration information, such as details of all deaths, should be shared between civil registration officials and specified public authorities to ensure records are kept up to date (e.g. to prevent correspondence being sent to a deceased person)?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Please explain your reasons:

We agree that bulk registration information should be shared between civil registration officials and specified public authorities to ensure records are kept up to date.

We support the protective measures that will be put in place to ensure access to registration data is controlled, proportionate and considered.

Combating fraud against the public sector through faster and simpler access to data

Question ten: Are there other measures which could be set out in the Code of Practice covering the proposed new power to combat fraud to strengthen the safeguards around access to data by specified public authorities?

Yes

No

Please explain your reasons:

We agree that the measures set out in the Code of Practice covering the proposed new power to combat fraud to strengthen the safeguards around the access to data by specified public authorities are suitable.

Question eleven: It is proposed that the power to improve access to information by public authorities to combat fraud would be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the fraud gateway be operational for before it is reviewed?

It is recommended that a review takes place at least 12 months after the fraud gateway has been operational, to allow sufficient time for pilots to be established and outcomes and benefits evaluated.

Improving access to data to enable better management of debt owed to the public sector

Question twelve: Which organisations should government work with to ensure fairness is paramount when making decisions about affordability for vulnerable debtor who owe multiple debts?

Government must work with a wide range of organisations to ensure fairness is paramount when making decisions about affordability for vulnerable debtors who owe multiple debts. This should also include education and signposting to assistance for those vulnerable debtors to manage their debt and finances. Interventions should be staged before debt escalates and court action is required.

Organisations include:

- Debt charities
- Banks
- Credit card companies
- Money Advice Service

Question thirteen: How can Government ensure the appropriate scrutiny so pilots under the power are effectively designed and deliver against the objectives of the power?

It is recommended that any pilots are scrutinised by internally and externally, by an independent evaluator. External evaluation will ensure the pilots are assessed in terms of their effectiveness without any bias.

Question fourteen: It is proposed that the power to improve access to information by public authorities to combat fraud would be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the fraud gateway be operational for before it is reviewed??

It is recommended that a review takes place at least 12 months after the fraud gateway has been operational, to allow sufficient time for pilots to be established and outcomes and benefits evaluated.

Access to data which must be linked and de-identified using defined processes for research purposes

Question fifteen: Should fees be charged by public authorities for providing data for research purposes, and if so should there be a maximum fee permitted which is monitored by the UK Statistics Authority?

Yes

No

It is felt that charging fees would be a complex system to outline and manage. It would be difficult to standardise such a system when requests will vary across organisations in terms of timescales, staff time and types of data systems in place.

Question sixteen: To ensure a consistent approach towards departments accepting or declining requests for disclosing information for research projects, should the UK Statistics Authority as the accreditation body publish details of rejected applications and the reasons for their rejection?

Yes No

It is felt that publishing the details of rejected applications and the reasons for their rejection would not be useful. Requests for disclosing information for research projects are likely to be wide ranging and should therefore be assessed on an individual basis.

Access by UK Statistics Authority to identified data for the purpose of producing official statistics and research

Question seventeen: What principles or criteria do you think should be used to identify research that has the potential for public benefit, or research that will not be in the public benefit?

The majority of principles have been covered earlier in the consultation however the main principle that the data should not just be for the benefit of public bodies for

research and should be accessible to all, including non identifiable data available to the public.

Access by UK Statistics Authority to identified data for the purpose of producing official statistics and research

Question eighteen: Is two years a reasonable maximum period of time for the duration of a notice for the supply of data to the UK Statistics Authority for the purposes of producing National and official statistics and statistical research?

Yes

No

Whilst we agree that two years is a reasonable maximum period of time, a shorter timescale should ideally be introduced to ensure data is analysed and utilised in the production of any official statistics and statistical research in a timelier manner.

Question nineteen: If your business has provided a survey return to the ONS in the past we would welcome your views on:

a) the administration burden experienced and the costs incurred in completing the survey

N/A

b) ways in which the UK Statistics Authority should seek to use the new powers to further reduce the administrative burdens on businesses who provide data to the ONS for the purposes of producing National and other official statistics

N/A

Question twenty: What principles and factors should be considered in preparing the Code of Practice on matters to be considered before making changes to the processes that collect, store, organise or retrieve data?

Principles for the collection and storage of this data should include

- *Data should be collected and stored for legitimate reasons*
- *Privacy and Security Should be one of the guiding principles*
- *Data should only be transmitted securely*
- *Minimise the number of people with access to the identifiable data*
- *Data collection should always be mindful of the rights of the individuals.*

Better Use of Data Consultation – response from Birmingham City Council

Queries on this consultation response to: Jason Lowther, Birmingham City Council,
[REDACTED]

Introduction

This paper provides the response of Birmingham City Council to the Cabinet Office consultation on the “Better use of data in government”. Our response provides some important general feedback and then responds to the specific questions asked in the consultation paper.

General comments

The proposed new approach and specific powers are helpful in taking forward this important issue. The proposals are an important contribution to making sense of a complex landscape.

The current proposals are a somewhat eclectic selection of specific topics; it would be useful to ground these in a long-term aspiration (eg to deliver the most cost-effective and efficient public services by appropriate use of government data) and general enabling principles (e.g. enabling a proactive and preventative approach to help people; to reduce threat, risk and harm; a single person identifier used across government systems).

There are other areas where this type of thematic approach could usefully be applied – eg health and social care services around the frail elderly, early intervention to prevent offending.

The current proposals don't fully support moves to deliver appropriate joined up preventative approaches and early intervention to prevent harm. This would need to cover issues which indicate an individual is “at risk of” or who “displays warning signs for” a negative outcome.

As well as the current focus on initial identification issues, it would be useful to focus on the use of data to plan and deliver services, and to track the progress of individuals. The requirement for organisations to share data for research purposes should be mirrored in a requirement to share data for service design/delivery purposes also.

It is helpful that the paper talks about “individuals and households who face multiple disadvantages” rather than just the current “troubled families” definition.

Health data

As acknowledged in the consultation paper, the treatment of health and Dept of Health data will be critical. Sharing of health information is one of the most critical data needs to improving the use of government data. We recognise the sensitivities in this area but note that there are multiple existing data sharing agreements which may provide helpful ways forward. For example, Solihull MB Council's Data Sharing Agreement with NHS partners includes detailed risk stratification and specific treatment of research.

The Government's devolution agenda potentially provides a low risk way to test new data approaches, including arrangements with health services. There could be considerable value in undertaking local demonstration pilots e.g. around mental health or frail elderly issues? Birmingham City Council (as part of the West Midlands Combined Authority) would be interested in co-developing these with the Cabinet Office.

We note that a national review of research governance arrangements in health and social care services has just completed public consultation:

<http://www.hra.nhs.uk/about-the-hra/our-plans-and-projects/replacing-research-governance-framework/>

Schools

The issue of schools' data will be particularly important given the somewhat atomised management arrangements for these in future. All schools should be expected to engage in data sharing arrangements. The refusal of many Academy schools to share attendance data has been a significant issue for the Troubled Families programme and work to reduce young people "not in education, employment or training".

National Insurance Numbers

The effective sharing of data is undermined if a universal personal identifier is not available. Whilst NHS Numbers have been useful in health and social care areas, the NINO has wider application. A significant barrier experienced in the Troubled Families Programme is the lack of specific individual information from DWP (eg NINOs to help cross-reference intelligence). The current proposals rule out the use of HMRC data, which could inadvertently limit the use of NINO information. NINOs are not sensitive information and could be an essential tool in enabling effective identification and avoiding data errors. They should therefore be explicitly open for cross-referencing information.

With data linkage and de-identification it is important for research and population health aspects to maintain a level of geography and demography within the dataset, e.g. lower super output area and age, gender and ethnicity.

Proposed new criminal offence

We are concerned about the introduction of a new criminal offence in this area. There will need to be clear safeguards to avoid this making data owners become even more risk averse, with negative outcomes for vulnerable people and public service cost-effectiveness. The proposals need to clarify whether the criminal offence would be corporate or personal.

We recognise that the proposals increase the number of bodies involved in data sharing which increases the risk of fraud or negligence. However, the main mitigation of this risk should be through clear responsibilities, systems and processes. We believe a devolved approach would be most effective in delivering the required outcomes whilst minimising risks (see below).

Devolution and place-based approach

We suggest that the Government's devolution agenda provides opportunities to consider where data is best "held" or "stored" to enable a place-based approach, providing a shared view of citizens and service users for more effective service planning and delivery, better targeting public resources, and the support of local economic growth.

A devolved approach would open up new opportunities for:

- robust assurances for security and privacy (for example with named data controllers and appropriate systems and responsibilities)
- combined authorities to develop a leading role in data management, sharing and analysis
- shared data management and analytic capacity
- piloting the use of health data
- testing the use of personal identifiers such as NINO
- development of holistic privacy impact assessments
- developing relationships with the regional research community
- engagement with the general public on the appropriate use of their data

We would like to explore piloting this "data devolution" with the Cabinet Office.

Responses to specific consultation questions

Improving public service delivery	
<p>1. Are there any objectives that you believe should be included in this power that would <i>not meet</i> these criteria?</p>	<p>The principle of benefit to the subject needs careful definition and assessment. There may be cases where an individual does not see an intervention as immediately beneficial, but a reasonable person may judge it to be beneficial in the longer term (for example preventing suicide, treatment for drug misuse, benefit sanctions leading to employment, child protection interventions).</p> <p>Whilst understanding the pragmatic benefit of excluding “benefits to wider society”, we would suggest that this decision should be kept under review.</p> <p>The prohibition on new databases needs to be carefully phrased to avoid undermining local initiatives to improve data sharing and security. Perhaps refer explicitly to “no new <u>national</u> databases”?</p> <p>The disposal of unused data or data that becomes redundant needs to be considered.</p>
<p>2. Are there any public authorities that you consider would not fit under this definition?</p>	<p>All schools (including academies and free schools) should be required to engage in data sharing with local public services.</p>
<p>3. Should non-public authorities (such as private companies and charities) that fulfil a public service function to a public authority be included in the scope of the delivering public services power?</p>	<p>Yes.</p> <p>All providers of public services need to be included (including those from the private sector, voluntary/ community sector, Registered Social Landlords, etc.). This should include all services commissioned with public money and/or relating to the statutory responsibilities of the public sector.</p>

<p>(3) continued/-</p>	<p>Appropriate legislative safeguards and governance need to be place. A 'high' minimum security standard must be maintained by all bodies. Public bodies are more open to public scrutiny than private companies. All bodies using public funds should be open to the same level of scrutiny. Ignorance or naivety can't be allowed to result in the loss of misuse of information.</p> <p>Private companies may fulfil a number of functions (private and public) and potential conflicts of interest in holding or processing additional data should be declared, along with the additional safeguards. This is open and transparent and would provide data subjects with more added assurance. There are significant financial gains from using the data (or subsets) for 'other' purposes.</p>
<p>4. Are these the correct principles that should be set out in the Code of Practice for this power?</p>	<p>Yes</p>

Providing assistance to citizens living in fuel poverty	
1. Should the Government share information with non-public sector organisations as proposed for the sole purpose of providing assistance to citizens living in fuel poverty?	Yes
2. Would the provision of energy bill rebates, alongside information about energy efficiency support, be appropriate forms of assistance to citizens living in fuel poverty?	Yes
3. Are there other forms of fuel poverty assistance for citizens that should be considered for inclusion in the proposed power?	<p>Yes. There are significant opportunities for these households to get a more holistic solution to their problems.</p> <p>Examples include advice on affordable warmth, tariff switching, NHS or LA funded heating and insulation measures, ensuring cold weather alerts reach the right people, targeting winter warmth campaigns, improved targeting and uptake of influenza vaccinations, that buildings meet ventilation and other building and trading standards.</p> <p>The data should therefore also be made available to LAs and the NHS on request. This would be in keeping with the access that LAs have had up until now with bulk EPC data.</p> <p>Also, indicators relevant to the single person discount should be included, especially for those who fall just outside the benefit "safety net".</p>

Access to civil registration to improve public service delivery	
1. Should a government department be able to access birth details electronically for the purpose of providing a public service, e.g. an application for child benefit?	<p>Yes.</p> <p>This information is already in the public domain (at local registrars) and online direct access is a natural progression.</p>
2. Do you think bulk registration information, such as details of all deaths, should be shared between civil registration officials and specified public authorities to ensure records are kept up to date (e.g. to prevent correspondence being sent to families of a deceased person)?	<p>Yes.</p> <p>Council Revenues officers have had "deaths" data provided for many years, but are specifically prevented from sharing this to help deliver better services to the bereaved.</p>

Combating fraud against the public sector through faster and simpler access to data	
1. Are there other measures which could be set out in the Code of Practice covering the proposed new power to combat fraud to strengthen the safeguards around access to data by specified public authorities?	<p>Appropriate legislative safeguards and governance need to be place. A 'high' minimum security standard must be maintained by all bodies. Public bodies are more open to public scrutiny than private companies. All bodies acting on behalf of a public body or funded from public funds should be open to the same level of scrutiny. Ignorance or nativity can't be allowed to result in the loss of misuse of information.</p> <p>The public may be justified in being worried out such sensitive data being shared. Private companies may fulfil a number of functions (private and public) and potential conflicts of interest in holding or processing additional data should be declared, along with the additional safeguards. This is open and transparent and would provide data subjects with more added assurance. There are significant financial gains from using the data (or subsets) for 'other' purposes.</p>

	It may be necessary for a regulatory body (ICO?) to carry out additional inspections or 'test checks' on activity.
2. It is proposed that the power to improve access to information by public authorities to combat fraud will be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the Fraud gateway be operational for before it is reviewed?	We suggest 6 - 12 months. Practitioners should be able recognise the benefits of a gateway very quickly, even if the final outcomes are not known. To a great degree, the 'volume' of access is an indicator. Services of this nature tend to see significant reductions in usage very quickly if they are not beneficial.

Improving access to data to enable better management of debt owed to the public sector

1. Which organisations should Government work with to ensure fairness is paramount when making decisions about affordability for vulnerable debtors who owe multiple debts?	The relevant upper tier local authority seems to provide the most appropriate organisation, given its local knowledge, universal footprint and democratic accountability.
2. How can Government ensure the appropriate scrutiny so pilots under the power are effectively designed and deliver against the objectives of the power?	Engage closely with local public agencies.
3. It is proposed that the power to improve access to information by public authorities for the purpose of better managing debt owed to government will be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the debt power be operational for before it is reviewed?	The proposal will involve significant work and change for local agencies, therefore a minimum review period of 3-5 years may be appropriate.

Access to data which must be linked and de-identified using defined processes for research purposes

<p>1. Should fees be charged by public authorities for providing data for research purposes, and if so should there be a maximum fee permitted which is monitored by the UK Statistics Authority?</p>	<p>There should be the right for public authorities to charge for the commercial use of data.</p> <p>Fees should be discretionary.</p> <p>The fee scale could mirror that for Freedom of Information Act requests, with a maximum fee which is controlled.</p>
<p>2. To ensure a consistent approach towards departments accepting or declining requests for disclosing information for research projects, should the UK Statistics Authority as the accreditation body publish details of rejected applications and the reasons for their rejection?</p>	<p>Yes. The principle of openness should be paramount. As well as rejected applications, accepted applications should be published. A system such as "What Do They Know?" for FOIA requests could be useful here.</p> <p>Publication would help to understand reasons for decisions.</p> <p>We would like to see data providers (in particular local authorities) engaged in advising the UKSA in its new accreditation role.</p>
<p>3. What principles or criteria do you think should be used to identify research that has the potential for public benefit, or research that will not be in the public benefit?</p>	<p>It should be made clear that "public policy" includes the design of public services and interventions.</p> <p>We suggest that the Government's devolution agenda provides opportunities to consider where data is best "held" or "stored" to enable a place-based approach, in a way that has robust assurances for security and privacy. This could also open up new opportunities with the research community on a regional basis. We would like to explore piloting this "data devolution" with the Cabinet Office.</p> <p>Other criteria could include linkage with public sector and public benefit. The "Informing Public Policy and the Professions" element of recent HEFC <u>work</u> should help</p>

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Access by UK Statistics Authority to identified data for the purpose of producing official statistics and research	
1. Is two years a reasonable maximum period of time for the duration of a notice for the supply of data to the UK Statistics Authority for the purposes of producing National and official statistics and statistical research?	Yes, but the extent of this needs to be very clearly communicated. There is already a lot of data that is statutorily reported to national bodies, which places a burden on staff in local areas both to improve data quality and to put appropriate systems in place. Two years is enough time to do this but organisations need clarity as early as possible on what the changes will be and what resources they will be provided with to enable this.
2. If your business has provided a survey return to the ONS in the past we would welcome your views on:	n/a
(a) the administration burden experienced and the costs incurred in completing the survey, and	n/a
(b) ways in which the UK Statistics Authority should seek to use the new powers to further reduce the administrative burdens on businesses who provide data to the ONS for the purposes of producing National and other official statistics.	n/a
3. What principles and factors should be considered in preparing the Code of Practice on matters to be considered before making changes to processes that collect, store, organise or retrieve data?	n/a

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www.northgatepublicservices.co.uk

Data Sharing Policy Team
Cabinet Office
Floor 6
Aviation House
London WC2B 6NH

22nd April 2016

Dear Sir/Madam,

Please find below our response to the consultation on Better Use of Data.

Background

1. Northgate Public Services is a software and outsourcing business with decades of experience using data to help transform public services. Our software is used by every regional police force, 95% of local authorities, government agencies and health bodies. We also work with housing providers in the UK and internationally.
2. We firmly agree that when used to its maximum potential, data has the power to transform public services for communities and to cut the cost of delivery for government. We also welcome the extensive civil society consultation that preceded publication, as a more widespread understanding of the implications of sharing data - or not sharing it - is vital to moving forward effectively.
3. We address the main points below, but our response stresses two things: the importance of streamlining the processes for data collection and sharing so that professionals feel enabled rather than further constrained; and the need for greater emphasis on the role of culture change in supporting data-enabled collaboration so that public services are improved for communities and taxpayers alike.

Introduction

4. Accurate and timely data has never been more vital to public services. The public sector is facing growing demand and fewer resources at a time when the digital world is transforming connections between people and government. As the consultation states, "data-enabled collaboration" will be essential to supporting people effectively at all stages of their lives and shifting the emphasis from issues management to prevention.
5. Government databases have historically developed in silos, which meant that large-scale change programmes – such as national ID cards or care.data – seemed out of the ordinary and have arguably left a legacy of suspicion about the purpose of data collection. In our experience, the sheer complexity

of data sharing remains one of our clients' biggest challenges, so we welcome the considered approach taken to developing these proposals. We believe that their incremental nature, starting with specific cases like fuel poverty and Troubled Families, will not only directly benefit individuals but also contribute to growing acceptance of the benefit of data sharing.

Scope of proposed powers

6. As the consultation notes, health and care data plays a critical role in better outcomes for citizens. Information collected through the Newborn Hearing Screening Programme, for example, has helped the NHS to reduce the average time taken to identify hearing loss in infants from three years to three months.
7. When developing the proposals for sharing health and care data in line with the Caldicott review, government may also wish to consider the operation of the National Joint Registry to both improved patient outcomes and reduced healthcare costs. Here, over 90% of patients have provided their consent for identifiable data to be added to the registry:

Example: National Joint Registry

The National Joint Registry (NJR), delivered by HQIP in partnership with Northgate Public Services, is the largest health register of its kind in the world.

The NJR holds detailed information on more than 2 million joint replacement surgeries across England, Wales, Northern Ireland and the Isle of Man. Analysis of these records enables the effectiveness of both procedures and medical devices to be tracked, compared and improved.

The detailed data is available to surgeons and commissioners to support improved patient outcomes and cost-effectiveness. Importantly, over 90% of patients undergoing joint replacement procedures provide consent for identifiable data to be added and securely stored within the NJR. The reason for inclusion is explained at the point the surgery is discussed, including that it would enable health professionals to contact patients in the event that there are concerns over a particular device. The NJR was used effectively for this purpose when concerns were raised about metal-on-metal hip replacements.

Non-identifiable data held within the NJR is also made available to the public, to allow patients who wish to understand more about the surgery or medical device used to review the information held, and to manufacturers to enable them to review and improve the performance of their implants and to safely introduce new products.

For more information, visit <http://www.njrcentre.org.uk/>

Improving public services

Troubled Families

8. We warmly welcome the inclusion of the Troubled Families programme as an area set to benefit from a data sharing agreement. From our experience of working with clients in a variety of multi-agency partnerships, data sharing remains a consistent challenge, despite the availability of multiple data sharing agreements between partners. The lack of a clear legal framework is one factor, but its replacement with a new legal framework - whilst welcome - will not itself overcome the many technical barriers that still exist.
9. Police information is fragmented, with officers and staff needing to search a myriad of systems and enter the same data many times. Having a single, accurate picture of all the intelligence a police force holds can be hugely time consuming as the data is often held in different formats.
10. The police-led Athena programme is designed to remove many of these technical barriers to data sharing and to enable more automatic collaboration. By holding data to common standards and streamlining the process for sharing across each participating force, information can be accessed by other partners – including potentially the public – without adding to the bureaucratic burden on officers. The software platform that underpins Athena, which was developed by Northgate Public Services, builds in all the relevant legislation, procedures and best-practice guidance, such as the Victims’ Code. This gives officers and staff confidence that the information they enter is being shared with HMCTS or the CPS in the right way.
11. Having confidence in police data – in both its accuracy and that it is being shared in full compliance with all relevant legislation – is what will free officers and staff from bureaucracy and help them to focus on preventing harm rather investigating crime. In many cases, this new way of holding data is driving changes how forces operate and use their resources, and the impact of this change should not be overlooked.
12. In the case of multi-agency partnerships, we often find that the lack of information sharing is not due to legal constraints but rather a perception that data sharing legislation is complex and a fear of the consequences of not meeting requirements. The addition of the proposed new criminal offence for unlawful disclosure and the need to negotiate individual data sharing agreements, while welcome, may still lead people to err on the side of caution rather than be confident that they are operating within the law. Even in areas where there are data sharing agreements already in place, information can remain in silos with co-located partners operating largely independently. This is something that needs to be broken down if we are to deliver a step-change in effectiveness.
13. Once the legal framework is established for Troubled Families, we would like to see consideration of how to develop it further so that it actively incentivises collaboration for the benefit of individuals. This may include encouraging information sharing at an earlier point in the development of a ‘case’ to

improve prevention or allowing the public to report issues online, which would help to reduce unnecessary calls into police control centres and allow resources to be refocused effectively.

14. *Question four:* We support the inclusion of private companies and third sector organisations within the scope of the public delivery power. This recognises the fact that many public service providers are working alongside networks of external organisations, including SMEs and the third sector, to achieve their goals. In relation to Troubled Families, building more effective partnerships outside of policing is a major objective for the police forces we work with, so we would support any mechanism that enables the secure sharing of information to help safeguard individuals and communities.

Fuel poverty

15. Automating what were previously labour-intensive processes offers huge potential for public services. We therefore welcome the inclusion of the Department for Energy and Climate Change (DECC) proposal for automatic data sharing to help combat fuel poverty.
16. *Question five:* We support the proposal that information relating to fuel poverty should be made available to non-public sector organisations. This will simplify what might otherwise be a time-consuming eligibility process for citizens and provide support where it is needed most.
17. *Question six:* We also support the proposal that information about energy efficiency support be made available automatically alongside energy bill rebates. This would achieve the government's aim of providing support to more people experiencing fuel poverty and also reduce the administration burden.

Civil registration information

18. *Questions eight and nine:* We support the proposal for departments to access birth details electronically and for bulk registration information to be shared with civil registration officials and public authorities to ensure records are kept up to date. This will help prevent citizens from having to 'prove' who they more than once when applying to receive additional government services.

Tackling fraud and debt

19. We welcome the use of additional data sharing powers to tackle fraud and debt. As an example, a data sharing agreement that allowed information to be shared across local authority borders has been invaluable in helping tackle the fraudulent use of Blue Badges.
20. The Blue Badge Improvement Service (BBIS), commissioned by the Department for Transport, is used by 206 local authorities to streamline the application process for the public and administration for local authority officers. Being able to access shared data through BBIS, even though the enforcement systems they use are different, has also supported more effective enforcement and fraud prevention. Additional benefit for applicants and further cost savings for authorities could be delivered by enabling

BBIS to access attributes of Department for Work and Pensions records, as applicants will have already proven the same eligibility requirements to DWP.

21. We also welcome greater information sharing in relation to debt. Housing providers already make use of the data they hold to identify and offer proactive support to residents at risk of falling into arrears. Given that it is likely that debt in one area will extend to another, greater information sharing will help maximise revenue as well as support citizens in crisis.
22. *Question fourteen:* We welcome the proposal that Ministers should establish pilots around sharing for debt management so that the benefits can be evaluated. This will add to the evidence base for the benefits of data sharing to both citizens' lives and the public purse.

Contact

If you have any questions about this response, please contact 

----- Forwarded message -----

From: **Gooday Chris (NHS BUSINESS SERVICES AUTHORITY)** [REDACTED]

Date: 22 April 2016 at 14:28

Subject: Better Use of Data -Consultation Paper response

To: "data-sharing@cabinetoffice.gov.uk" <data-sharing@cabinetoffice.gov.uk>

Cc: "Dibble Mark (NHS BUSINESS SERVICES AUTHORITY)" [REDACTED]

"Wanless Gordon (NHS BUSINESS SERVICES AUTHORITY)" [REDACTED]

"Monckton Nina (NHS BUSINESS SERVICES AUTHORITY)" [REDACTED]

Dear Data Sharing Consultation Team,

The NHS Business Services Authority are responding to the following two questions:

Access to civil registration to improve public service delivery

2. Do you think bulk registration information, such as details of all deaths, should be shared between civil registration officials and specified public authorities to ensure records are kept up to date (e.g. to prevent correspondence being sent to families of a deceased person)?

Response: As the administrator for the NHS Pension Scheme our members would benefit from access to up to date registration information to make timely and accurate payments and reduce the risk of overpayments.

Access to data which must be linked and de-identified using defined processes for research purposes

1. Should fees be charged by public authorities for providing data for research purposes, and if so should there be a maximum fee permitted which is monitored by the UK Statistics Authority?

Response: Fees should be charged as research requests can use up a significant amount of resource. We agree that there should be some transparency around the fees but feel that setting a maximum limit risks an increase to an organisation's operational expenditure.

Kind regards

Chris Gooday LLM
Information Governance Manager
Corporate Governance

[REDACTED]
www.nhsbsa.nhs.uk

[REDACTED]

Stella House, Goldcrest Way, Newburn Riverside Business Park, Newcastle upon Tyne NE15 8NY

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To post to this group, send email to data-sharing@cabinetoffice.gov.uk.

To view this discussion on the web, visit

<https://groups.google.com/a/cabinetoffice.gov.uk/d/msgid/data-sharing/20160422132904.DCDB1448002%40nhs-pd1e-esg108.ad1.nhs.net>

Responding to the consultation

Your details

To evaluate responses properly, we need to know who is responding to the consultation and in what capacity.

We will publish our evaluation of responses. Please note that we may publish all or part of your response unless you tell us (in your answer to the confidentiality question) that you want us to treat your response as confidential. If you tell us you wish your response to be treated as confidential, we will not include your details in any published list of respondents, although we may quote from your response anonymously.

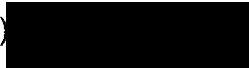
Name (optional): Kirsty Benzie

Position (optional): Information Governance & Assurance Manager

Organisation name: Gloucestershire County Council

Address: Shire Hall, Westgate Street, Gloucester, GL1 2TG

Email: 

Telephone (optional) 

Would you like us to treat your response as confidential?*

If you answer yes, we will not include your details in any list of people or organisations that responded to the consultation.

Yes No

Is this a personal response or an official response on behalf of your organisation?

Personal response

Official response

If you ticked “Official response”, please respond accordingly:

Type of responding organisation*

Business

Charity

Local authority

Central government

Wider public sector (e.g. health bodies, schools and emergency services)

University or other higher education institution

Other representative or interest group (please answer the question below)

Type of representative group or interest group

Union

Employer or business representative group

Subject association or learned society

Equality organisation or group

School, college or teacher representative group

Other (please state below)

Nation*

England

Wales

Northern Ireland

Scotland

Other EU country: _____

Non-EU country: _____

How did you find out about this consultation?

Gov.uk website

Internet search

Other

May we contact you for further information?

Yes No

Gloucestershire County Council (GCC) response to Better use of data consultation:

Theme 1: Improving public services		GCC response
LGA question:		
i	What are the implications of the proposals for improving public services on local authorities to:	
i	allowing public authorities to share personal data in specific contexts to improve the welfare of a specific person	This would be welcomed, especially if it clarified legal gateways for sharing and increased partner confidence in the ability to share in these specific contexts.
ii	providing assistance to citizens living in fuel poverty	Nationally agreed information sharing protocols for national programmes such as Troubled Families would also be welcomed as a part of these proposals.
iii	enabling public authorities to access civil registration data (births, deaths and marriages)	
Specific consultation questions by Cabinet Office		GCC response
Improving public service delivery		
1.	Are there any objectives that you believe should be included in this power that would <i>not meet</i> these criteria?	No.
2.	Are there any public authorities that you consider would not fit under this definition?	Although there is already some restricted legislation that allows the Registration Service to share data with the Police and National Crime Agency, should they, along with the Fire Service and the Coroners service be included within this legislation?
3.	Should non-public authorities (such as private companies and charities) that fulfil a public service function to a public	It depends what they are going to use the data for and how long they would keep it. There would need to be tight controls and monitoring which

4.	<p>authority be included in the scope of the delivering public services power?</p> <p>Are these the correct principles that should be set out in the Code of Practice for this power?</p>	<p>would be included in the Code of Practice and agreements with other organisations to share data.</p> <p>Yes</p>
5.	<p>Providing assistance to citizens living in fuel poverty</p> <p>Should the Government share information with non-public sector organisations as proposed for the sole purpose of providing assistance to citizens living in fuel poverty?</p>	<p>No comment</p>
6.	<p>Would the provision of energy bill rebates, alongside information about energy efficiency support, be appropriate forms of assistance to citizens living in fuel poverty?</p>	
7.	<p>Are there other forms of fuel poverty assistance for citizens that should be considered for inclusion in the proposed power?</p>	
8.	<p>Access to civil registration to improve public service delivery</p> <p>Should a government department be able to access birth details electronically for the purpose of providing a public service, e.g. an application for child benefit?</p>	<p>We support the principle that data should be shared between public bodies in order to improve efficiencies, benefit the public and reduce fraud. The sharing of this sort of data will improve all of these areas including reducing fraud from fraudulent applications for certificates in order to create new identities. However it should be acknowledged that this may have workload implications for the Registration Service unless automated methods are put in place using the Registration On Line system which is owned by the General Register Office. There would also be a potential loss of income from certificates issued at the time of the registration and historic copies issued after the registration.</p>
9.	<p>Do you think bulk registration information, such as details</p>	<p>Yes we would support this initiative with the same caveat as above</p>

	<p>of all deaths, should be shared between civil registration officials and specified public authorities to ensure records are kept up to date (e.g. to prevent correspondence being sent to families of a deceased person)?</p>	<p>regarding workload and income.</p>
<p>Theme II: Addressing fraud and debt</p>		
<p>LGA question:</p>		
<p>ii</p>	<p>What are the implications of the proposals for addressing fraud and debt on local authorities with particular reference to</p>	<p>GCC response</p>
<p>i</p>	<p>Combating fraud against the public sector through faster and simpler access to data</p>	<p>Access to DWP and HMRC could assist in the identification of fraudulent information such as N.I. numbers or identifying other employment. This would be particularly useful in Direct Payment or Personal budget fraud and recruitment investigations.</p>
<p>ii</p>	<p>Improving access to data to enable better management of debt owed to the public sector</p>	<p>Supplying the Council with death data would help to quickly identify people in receipt of services funded by the Council, that have died. This would help to minimise the instances of the authority being charged for services in respect of a service user who has died, either through fraud or error.</p> <p>Access to data from DWP, HMRC and possibly other agencies may help to identify the location of a debtor for whom address details have changed and new details are not known; it would also help in identifying current income and benefits being claimed by an individual who is being assessed for a chargeable service such as social care.</p>
<p>Specific consultation questions by Cabinet Office</p>		
<p>10.</p>	<p>Combating fraud against the public sector through faster and simpler access to data</p> <p>Are there other measures which could be set out in the</p>	<p>GCC response</p>

11.	<p>Code of Practice covering the proposed new power to combat fraud to strengthen the safeguards around access to data by specified public authorities?</p> <p>It is proposed that the power to improve access to information by public authorities to combat fraud will be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the Fraud gateway be operational for before it is reviewed?</p>	No comment
12.	<p>Improving access to data to enable better management of debt owed to the public sector</p> <p>Which organisations should Government work with to ensure fairness is paramount when making decisions about affordability for vulnerable debtors who owe multiple debts?</p>	No comment
13.	<p>How can Government ensure the appropriate scrutiny so pilots under the power are effectively designed and deliver against the objectives of the power?</p>	No comment
14.	<p>It is proposed that the power to improve access to information by public authorities for the purpose of better managing debt owed to government will be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the debt power be operational for before it is reviewed?</p>	No comment
Theme III: Allowing use of data for research and official statistics		
LGA question:		GCC response

<p>iii</p>	<p>What are the implications of the proposals for allowing use of data for research and official statistics on local authorities with particular reference to</p> <p>i Access to data which must be linked and de-identified using defined processes for research purposes</p> <p>ii Access by UK Statistics Authority to identified data for the purpose of producing official statistics and research</p>	<p>It is not clear from this document whether there is an expectation that local authorities should be doing similar linking and de-identifying already within their own organisation for operational/research purposes. The application of a specific model to facilitate such matching could aid and assist our own steps to achieve similar locally in developing the organisation's data warehouse.</p> <p>If anything, this supports the work we intend to do locally, with the added by-product of having readily link and de-identified datasets available to external researchers.</p> <p>The implication and impact might be the adherence to a more stringent set of governance guidance that makes the process more bureaucratic, and that puts an onus on authorities to provide more data to external research bodies.</p> <p>If handled in the proper way with correct safeguards, access by UK SA to such data could only be beneficial in the future.</p>
<p>Specific consultation questions by Cabinet Office</p>		
<p>15.</p>	<p>Access to data which must be linked and de-identified using defined processes for research purposes</p> <p>Should fees be charged by public authorities for providing data for research purposes, and if so should there be a maximum fee permitted which is monitored by the UK Statistics Authority?</p>	<p>GCC response</p> <p>Yes we should be able to charge fees for the service.</p>
<p>16.</p>	<p>To ensure a consistent approach towards departments accepting or declining requests for disclosing information for research projects, should the UK Statistics Authority as the accreditation body publish details of rejected applications and the reasons for their rejection?</p>	<p>No comment</p>

17.	<p>What principles or criteria do you think should be used to identify research that has the potential for public benefit, or research that will not be in the public benefit?</p>	No comment
18.	<p>Access by UK Statistics Authority to identified data for the purpose of producing official statistics and research</p> <p>Is two years a reasonable maximum period of time for the duration of a notice for the supply of data to the UK Statistics Authority for the purposes of producing National and official statistics and statistical research?</p>	Yes
19.	<p>If your business has provided a survey return to the ONS in the past we would welcome your views on:</p> <ul style="list-style-type: none"> (a) the administration burden experienced and the costs incurred in completing the survey, and (b) ways in which the UK Statistics Authority should seek to use the new powers to further reduce the administrative burdens on businesses who provide data to the ONS for the purposes of producing National and other official statistics. 	Not applicable
20.	<p>What principles and factors should be considered in preparing the Code of Practice on matters to be considered before making changes to processes that collect, store, organise or retrieve data?</p>	

----- Forwarded message -----

From: **Martin Ward** [REDACTED]
Date: 22 April 2016 at 15:02
Subject: 16.041 CO Better use of data in government
To: "data-sharing@cabinetoffice.gov.uk" <data-sharing@cabinetoffice.gov.uk>

This is the response of the Association of School and College Leaders (ASCL). See below for an explanation of ASCL.

I'm afraid I have not been able to develop any views on the specific proposals. However, ASCL agrees with the general approach you are taking as it aligns very closely with our view of the way data is and should be used in and about schools and colleges.

I hope that this is of value to your consultation. ASCL is willing to be further consulted and to help in any way that it can.

Best wishes

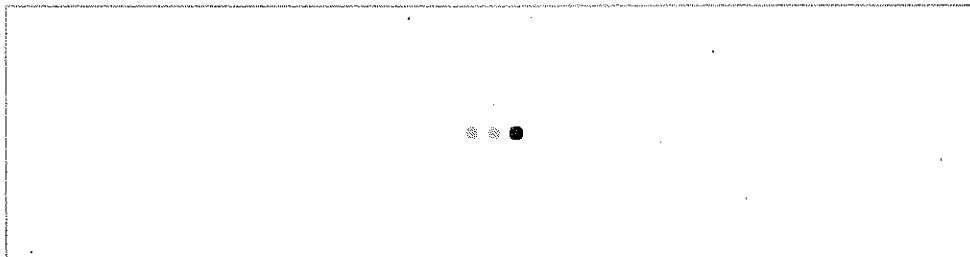
Martin Ward

Martin Ward | Public Affairs Director

Association of School and College Leaders

[REDACTED] 130 Regent Road | Leicester LE1 7PG

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The Association of School and College Leaders (ASCL) represents more than 18,000 heads, principals, deputies, vice-principals, assistant heads, business managers and other senior staff of maintained and independent schools and colleges throughout the UK. ASCL has members in more than 90 per cent of secondary schools and colleges of all types, responsible for the education of more than four million young people. This places the association in a unique position to consider this issue from the viewpoint of the leaders of secondary schools and of colleges.



City of Westminster

BETTER USE OF DATA CONSULTATION

Westminster City Council response

Contact

Oliver Jones (Senior Policy Officer, Policy, Performance and Communications)



Summary of Westminster City Council position

Westminster City Council is pleased to respond to the consultation on better use of data. The council welcomes the recognition of the issues surrounding the sharing of data between public authorities and the direction of travel this consultation brings, but we feel this would be a missed opportunity to deal with some other pressing areas related to data sharing, especially those affecting Local Government and its partners:

- The narrow scope of the proposals illustrate a limited engagement with Local Authorities, ignoring some of the biggest issues for a generation: housing, health issues related to older age and social care. This is both surprising, due to early involvement by SOLACE (Society of Local Authority Chief Executives) in response to the Law Commission consultation¹, and disappointing that the Bill as proposed would miss the opportunity to better use data to shape services, as recently highlighted by NESTA², to make £14bn³ worth of savings - £117m in Westminster alone.

CASE STUDY

A self-made housing issue

Local Authorities have a statutory requirement to provide a Housing Options Service (HOS) for residents. This service is a complex service dealing largely with people once they have hit rock bottom – usually with complex needs, where housing is often a side-issue for them.

Significant numbers of those approaching HOS have left public institutions (prison, hospital, mental health care etc) with little data provided to the Local Authority from the institution. The lack of effective data sharing in this situation, cited as sensitivity of the personal nature of the data held, leads to significant costs borne out by housing departments through the placement of individuals and families in expensive (nightly purchased) accommodation, while an appropriate review and checks can be made for the client's needs and a plan can be formulated, even though this information already exists.

This situation is not only inefficient, but also creates significant distress for those already in distressing situations.

- Limiting the scope of the proposed bill to *improving* welfare of individuals in this way ignores the significant financial challenge Local Government face. The level of transformative change created by the savings agenda has and will result in the cessation of services or raising of need thresholds. The ability to share data more effectively would ensure this is done in the most efficient and fair way possible.
- The UK Statistics Authority access to identified data proposal is limited in the ability of the UKSA to understand/ influence data owners regarding data quality. Data quality within local

¹ Law Commission, Data Sharing between Public Bodies (2014), <http://www.lawcom.gov.uk/project/data-sharing-between-public-bodies/>

² Introducing the Local DataVores research programme (2016), <http://www.nesta.org.uk/blog/introducing-local-datavores-research-programme>

³ Local Government Association, Future funding outlook for councils from 2010/11 to 2019/20 (2015) http://www.local.gov.uk/finance/-/journal_content/56/10180/4057616/ARTICLE

datasets is largely varied and without sufficient controls or communications there is potential for significant errors to be perpetuated in this proposal.

- The Code of Practice and supporting implementation work should provide a consistent framework which can be utilised across all public agencies to share information based on agreed standards with appropriate, and proportionate, supporting information e.g. metadata and data quality statements (including accuracy, relevance, timeliness etc.) are facilitated.

CASE STUDY

Universal Support Delivered Locally – Operational limitations

In August 2014, Westminster City Council and the Royal Borough of Kensington and Chelsea were selected as one of eleven local authority partnerships that would run a 12 month USDL pilot with the Department for Work and Pensions.

This pilot has collected data and information on local support services and initiatives since September 2014 and is building a valuable local and national evidence base of what works helping welfare claimants to understand and prepare for the introduction of Universal Credit (UC).

Although the trial was successful a number of data sharing obstacles needed to be overcome to ensure this. These obstacles can be broadly defined as cultural and systemic.

The pilot required the sharing of data between the full spectrum of delivery organisations with appropriate consent gained at the first instance – Central Government (DWP), regional central government offices (Job Centre Plus), Local Authorities (various departments) and the Voluntary and Community Sector (Citizens Advice Bureau amongst others).

Culturally, even with explicit consent provided many organisations have a conservative approach to data sharing borne out of punitive levels involved, the complex nature of sharing and a reluctance to provide necessary resource required to effectively share data. This led to important information not being shared between partners – such as whether personal budgeting support had been provided - leading to a lower level of outcome for the client.

Systemically, barriers to data sharing have been erected in response to previous leakages. Most notably the inability for central government to share data between systems led to the sharing of data using paper print outs – less effective and time consuming. During the pilot this led to an officer double keying data between systems – at a cost of c.£13k for a small pilot involving 600 residents.

- Consistency between the three areas of the Bill should be improved to ensure consistency to how the Bill treats non-public authorities ability to data share.
- The Bill fails to acknowledge the already existing, complicated, landscape of licensed products from public agencies that inhibit sharing of data i.e Ordnance Survey's Public Service Mapping Agreement (PSMA) and the limitations for onward value adding this creates for Local Authorities.

Summary of consultation questions

Improving public service delivery

1. Are there any objectives that you believe should be included in this power that would not meet these criteria?

RESPONSE: As outlined in the general points, the limitations on the objectives do not reflect the current transformation across Local Government. The proposed funding landscape for Local Authorities will mean the continued cessation of services or increasing thresholds that will require removal of benefit for those less in need – an opportunity where appropriate data sharing will enable a more efficient and fairer process.

2. Are there any public authorities that you consider would not fit under this definition?

RESPONSE: This definition strikes a fine balance of broadness whilst aligning to the objectives for the use of data sharing.

3. Should non-public authorities (such as private companies and charities) that fulfil a public service function to a public authority be included in the scope of the delivering public services power?

RESPONSE: Major outsourcing and partnership working exists within the public sector, much of which enable data sharing through existing legislation, although additional benefits could be derived by other non-public sector organisations having the ability to share information directly – i.e. between contracts within the same organisation.

4. Are these the correct principles that should be set out in the Code of Practice for this power?

RESPONSE: The Code of Practice should stress proportionate supporting documentation, i.e. scalable business case and privacy impact assessments to address variation in opportunity from single project to large scale data exchange. The Code of Practice should also set out further supporting information on datasets, such as consistent metadata format and data quality statements.

Providing assistance to citizens living in fuel poverty

5. Should the Government share information with non-public sector organisations as proposed for the sole purpose of providing assistance to citizens living in fuel poverty?

RESPONSE: For the purposes of delivering the Warm Home Discount, sharing with energy suppliers is required. There is a consistency issue with the *Improving public service delivery* – the safeguards in place should be extended to all areas so that Public Authorities can match data to provide a suitability flag for criteria. This would be useful for acknowledging where benefit appeals are underway to avoid eviction from housing.

6. Would the provision of energy bill rebates, alongside information about energy efficiency support, be appropriate forms of assistance to citizens living in fuel poverty?

RESPONSE: Yes, if a tight remit for the use of the information to provide benefits to the customer that are directly related to the desired outcome.

7. Are there other forms of fuel poverty assistance for citizens that should be considered for inclusion in the proposed power?

RESPONSE: Data should be shared with health and social care organisations to ensure a suitable level of support and contact is available to secure the wellbeing of those in fuel poverty.

Access to civil registration to improve public service delivery

8. Should a government department be able to access birth details electronically for the purpose of providing a public service, e.g. an application for child benefit?

RESPONSE: A suitable principles should be included in the Code of Practice to ensure the risk for identity theft is mitigated and that any impacts as a result of error or identity theft can be reversed at the same speed as they were implemented.

9. Do you think bulk registration information, such as details of all deaths, should be shared between civil registration officials and specified public authorities to ensure records are kept up to date (e.g. to prevent correspondence being sent to families of a deceased person)?

RESPONSE: Our understanding from residents indicates that there is already an expectation that this occurs within public authorities and will be an important tool in addressing potential fraud and funding issues associated with death – such as Freedom Passes. To ensure a measured power, the Code of Practice must ensure automated systems working on this data have the capability of reversing changes as quickly as they can be applied to ensure system/ human errors are not amplified across numerous services. The Code of Practice should also provide clarity on the use of this data to avoid any public mistrust.

Combating fraud against the public sector through faster and simpler access to data

10. Are there other measures which could be set out in the Code of Practice covering the proposed new power to combat fraud to strengthen the safeguards around access to data by specified public authorities?

RESPONSE: No comment.

11. It is proposed that the power to improve access to information by public authorities to combat fraud will be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the Fraud gateway be operational for before it is reviewed?

RESPONSE: As part of the workshop, 3-years was suggested as an appropriate period. Monitoring data should be made available throughout this period to reduce the reporting timeframe at the end of the pilots.

Improving access to data to enable better management of debt owed to the public sector

12. Which organisations should Government work with to ensure fairness is paramount when making decisions about affordability for vulnerable debtors who owe multiple debts?

RESPONSE: No comment.

13. How can Government ensure the appropriate scrutiny so pilots under the power are effectively designed and deliver against the objectives of the power?

RESPONSE: The fraud pilots are utilising a Strategic Steering group, this seems appropriate.

14. It is proposed that the power to improve access to information by public authorities for the purpose of better managing debt owed to government will be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the debt power be operational for before it is reviewed?

RESPONSE: This period and process should be consistent with the fraud proposals.

Access to data which must be linked and de-identified using defined processes for research purposes

15. Should fees be charged by public authorities for providing data for research purposes, and if so should there be a maximum fee permitted which is monitored by the UK Statistics Authority?

RESPONSE: As the powers are permissible, the burden lays with the providing organisation. A fee structure would allow the recouping of expenditure. The fee level would need to be set at the lowest possible level to otherwise not defeat the intention of the power.

16. To ensure a consistent approach towards departments accepting or declining requests for disclosing information for research projects, should the UK Statistics Authority as the accreditation body publish details of rejected applications and the reasons for their rejection?

RESPONSE: In the aid of transparency for the public, the UKSA should publish all requests.

17. What principles or criteria do you think should be used to identify research that has the potential for public benefit, or research that will not be in the public benefit?

RESPONSE: No comment.

Access by UK Statistics Authority to identified data for the purpose of producing official statistics and research

18. Is two years a reasonable maximum period of time for the duration of a notice for the supply of data to the UK Statistics Authority for the purposes of producing National and official statistics and statistical research?

RESPONSE: Two years seems appropriate, although a minimum notice period would also be welcome to allow public authorities time to ensure consistency in the provision of the data requested.

19. If your business has provided a survey return to the ONS in the past we would welcome your views on:

- a. the administration burden experienced and the costs incurred in completing the survey

RESPONSE: No comment.

- b. ways in which the UK Statistics Authority should seek to use the new powers to further reduce the administrative burdens on businesses who provide data to the ONS for the purposes of producing National and other official statistics.

RESPONSE: No comment.

20. What principles and factors should be considered in preparing the Code of Practice on matters to be considered before making changes to processes that collect, store, organise or retrieve data?

RESPONSE: As increased devolution continues, a core minimum standard for the data requested would allow authorities to plan in data provision with system designers and administrators.

Better use of data consultation

Local Government Association Response April 2016

Purpose

Cabinet Office are inviting responses to a consultation about enabling information sharing between public authorities to improve the lives of citizens and support decisions on the economy and society.

The powers focus on three main areas:

1. *Improving public services*
 - a. To share data between public agencies in order to improve the welfare of the individual in question – this initially focuses on Troubled Families and Warm Home Discount. Additions are possible but will require secondary legislation.
 - b. Access to civil registration data like births, deaths and marriages
2. *Tackling fraud and debt*
 - a. Allow public agencies to manage debt across multiple agencies in a single interaction
 - b. To help spot fraud by enabling pilots to spot conflicting info across public services.
3. *Allowing use of data for research and for official statistics*
 - a. Power to compel for ONS to access detailed administrative data from across government and business to reduce reliance on surveys
 - b. Sharing de-identified data to support accredited researchers to access and link data in secure facilities

Cabinet Office went through a lengthy Open Policy Making¹ process with public authorities, academia and civil society organisations which informed the consultation².

The LGA has sought views from local authorities and took part in the Open Policy Making process which informed our response.

¹ <http://datasharing.org.uk/> contains updates and further information from the process

² consultation papers with illustrative clauses and consultation stage impact assessments:
<https://www.gov.uk/government/consultations/better-use-of-data-in-government>

About the LGA

The Local Government Association (LGA) is the national voice of local government. We work with councils to support, promote and improve local government.

We are a politically-led, cross party organisation, which works on behalf of local authorities to ensure local government has a strong, credible voice with national government. We aim to influence and set the political agenda on the issues that matter to councils so they are able to deliver local solutions to national problems.

The LGA covers every part of England and Wales, supporting local government as the most efficient and accountable part of the public sector.

General comments

The LGA overall welcomes the government's data sharing policy and legislative proposals. Effective sharing of information is essential for the delivery of smarter, joined-up public services. Taking responsibility for public health; multi-agency working with troubled families; and reforming public services through taking a place-based approach affirms the key role that councils play in local communities. Local authorities are one of the key local service providers working across multiple agencies to deliver services and to support vulnerable and disadvantaged people.

Some good practice has been put into place by local authorities through local information governance frameworks to enable the sharing of data amongst organisations. However, as the legislative landscape is so diverse and it is often difficult and unclear under which circumstances information can be shared, setting up such frameworks to enable the sharing of data has been a burdensome task. Due to a lack of consistent regulation and guidance, the approach to information governance is inconsistent between local authorities and agencies which makes the sharing even more complex.

The LGA is liaising closely with the Centre of Excellence for Information Sharing which works with local authorities to overcome some of the cultural barriers to information sharing in organisations. However, a legislative framework will provide some of the legal backing for sharing data, the lack of which often leads to uncertainty in local authorities about what can and cannot be shared. The legislation has been developed and debated through the open policy making process. However, local authorities have raised a few concerns about the proposed legislation which are set out below:

- The current approach to data sharing for improving public service is too narrow, as it addresses only very specific cases for data sharing under fuel poverty, civil registration, fraud and debt. It ignores some of the more pressing issues for data

sharing facing local authorities, such as housing, health and social care and should incorporate fire and rescue services who have an important early intervention/prevention role. The approach to data sharing for improving public services should be broadened to address multiple needs of people. We recommend greater engagement with local authorities and their involvement as members of the steering groups in particular when preparing the Code of Practice. Local authorities are working with individuals at the forefront of public services and have a great insight into the areas where data sharing can benefit those most.

- Greater consistency is needed between the different parts of the legislation to avoid confusion between them (see detail below) and to ensure data is shared effectively.
- Not all examples identified may require the sharing of data but could be achieved by other means. For example, through the sharing of a limited set of verified attributes, as used in the blue badge eligibility model pioneered by Warwickshire County Council with the Department for Work and Pensions. It is anticipated that more attribute exchange services may become available, which could replace the need for full data sharing. Hence, the use of attribute exchange and consent should be tested first and may apply to the cases of fuel poverty, civil registration, debt and fraud. This would mean amending subsection 2 (2) to include consideration of whether attributes of the information can be exchanged without the need to share personal data. We would like to see more active engagement by government with local government to further explore opportunities for attribute exchange.
- Some organisations stipulate conditions for data sharing such as encryption or specific networks which adds additional costs to meet the compliance regime and are neither helpful nor practical. There needs to be a better understanding about when data are sensitive and an appropriate and consistent digital approach for the safeguarding of data.
- The ability to share data should be widened to include non-public organisations that provide public services and not only limit this to fuel poverty and fraud and debt. Private and voluntary sector organisations deliver a variety of services on behalf of local authorities and this can include the collection and storage of data about the public. Since this is paid for by public money, we believe that it should be included in the legislation. This may be the Cabinet Office's intent, but we think it worth stating explicitly for the avoidance of doubt. The changing local government landscape should be reflected in the legislation, having regard to the various forms of devolution and the way data will be stored and held to enable a place based approach.

- The current proposal focuses on data sharing to 'improve the welfare of the individual in question'. However, most important to improving public services is the sharing of data to be able to intervene and prevent harm to the individual or business. The principle of benefit to the subject needs careful definition and assessment, in particular a clarification of who makes that judgment. There may be cases where an individual does not see an intervention as immediately beneficial, but a reasonable person may judge it to be beneficial in the longer term.
- The current proposal points to providing additional safeguards for health and social care data. We would like to see a greater alignment between the work of the Department of Health (DH) and Dame Caldicott's review with the Cabinet Office proposal on data sharing, particularly in relation to the key principles. Health is often a large contributing factor for individuals or households with multiple disadvantages, and some local authority functions are dependent on health information (largely anonymised, although there is some requirement for linked or linkable data to be shared). Much social research seeks to link health and social care data with other datasets, and some local authorities' functions are dependent on health information. It would be helpful, therefore, if the key principles were the same.
- Some of the recommendations outlined in the Cabinet Office paper will probably be at odds with the direction of travel within health. In particular, 'no building of new, large and permanent databases' seems to be different to the DH / HSCIC direction of travel with the Data Services for Commissioners Programme which is about creating HSCIC as the single safe haven for health and social care data (premised on a data services platform that will pull in data from NHS and social care).
- Local government is concerned about the introduction of a new criminal offence in this area, which may result in local authorities backing away from data sharing through fear of attracting criminal charges. It would be helpful if the Code of Practice demonstrates the enabling opportunities and improved outcomes for individuals and provides some clear safeguards to discourage data owners from becoming even more risk averse, with negative outcomes for vulnerable people and public service cost-effectiveness. The emphasis should be putting measures in place to encourage and enable safer sharing of data rather than criminalisation. We also seek clarification as to whether the criminal offence is corporate or personal.
- The impact assessments published alongside the draft legislation need to consider the impact and cost placed on local authorities from changes of processes to share and submit data and from a potential loss of income from

changes to sharing civil registration data. Those transformational costs to authorities need to be adequately funded to cover any burden.

Detailed response to specific consultation questions

Improving public service delivery

1. Are there any objectives that you believe should be included in this power that would *not meet* these criteria?

The objectives need to provide more clarity about who is benefitting from the data sharing as, such as in the case of troubled families, data sharing may benefit one individual in the family but may disadvantage another.

Also it is not clear why the naming of specific objectives, such as fuel poverty, is necessary. This would already fall under the condition of the first objective (that the person will be advantaged by data sharing). Splitting out and naming individual objectives risks further fragmentation of the already complex data sharing landscape, and could mean that future new uses for data sharing do not fit the tightly specified criteria.

2. Are there any public authorities that you consider would not fit under this definition?

The list of authorities listed in Schedule 2 is very limited and does not cover all public authorities who deliver local services such as fire authorities who often work with local authorities to identify individuals with multiple disadvantages such as housing or health issues.

Furthermore the local government landscape is rapidly changing with powers and duties being transferred to combined and devolved authorities. While the broad definition of public authorities covers them, the list is too narrowly defined.

3. Should non-public authorities (such as private companies and charities) that fulfil a public service function to a public authority be included in the scope of the delivering public services power?

Local authorities work in an ever increasingly complex landscape where services are commissioned and provided by non-public authorities. Legislation needs to be clear about the conditions under which non-public sector bodies will be included in the scope of the public service delivery power and how, for example when they are fulfilling a public service function to a public authority under contract or under the conditions of a grant. As above 'function of a public nature' needs to be defined. Legislation must also be clear about what non-public sector bodies are and the definition of private companies, charities, not for profit organisations and social enterprises.

The position of data sharing with schools will be particularly important given the somewhat varying arrangements for these in the future once they become academies and fall outside of the local education authority responsibility. There needs to be some clarity about data sharing arrangements with schools as often factors that indicate disadvantaged children and children at risk is identified by schools. Data sharing between different agencies is important to protect children at risk.

4. Are these the correct principles that should be set out in the Code of Practice for this power?

The Code of Practice and supporting implementation work should provide a consistent framework which can be utilised across all public agencies to share information based on agreed standards with appropriate, and proportionate, supporting information e.g. metadata and data quality statements (including accuracy, relevance, timeliness etc.) are facilitated. The overarching set of principles should define best practice for data sharing and safeguards under which authorities should operate to avoid a criminal offence.

It is not clear from the consultation paper what the principles will be for using the power. It would be helpful if the Code of Practice restates the fair processing principles of the DPA.

The principle of benefit to the subject needs careful definition and assessment. There may be cases where an individual does not see an intervention as immediately beneficial, but a reasonable person may judge it to be beneficial in the longer term (for example preventing suicide, treatment for drug misuse, benefit sanctions leading to employment, child protection interventions). Whilst understanding the pragmatic benefit of excluding "benefits to wider society". This decision should be kept under review.

Providing assistance to citizens living in fuel poverty

5. Should the Government share information with non-public sector organisations as proposed for the sole purpose of providing assistance to citizens living in fuel poverty?

We welcome the sharing with non-public sector organisations to provide assistance to citizens living in fuel poverty. However, it should be considered if the eligibility flag for fuel poverty could be provided through attribute exchange. The eligibility flag only requires a yes/no to identify citizens living in fuel poverty rather than a full sharing of data.

We do not understand why a specific case is made for this specific provision as it may lead to greater fragmentation of the data sharing legislation if other

similar cases exist where data need to be shared with non-public sector organisations. This would be useful for acknowledging where benefit appeals are underway to avoid eviction from housing.

The legislation should consider making a more generic provision under which condition data can be shared with non-public sector organisations in general.

- 6. Would the provision of energy bill rebates, alongside information about energy efficiency support, be appropriate forms of assistance to citizens living in fuel poverty?**

We agree to keep a tight remit on the information used to provide benefits to the customer that are directly related to the desired outcome. People may have reservations about being labelled living in fuel poverty when used in other circumstances.

- 7. Are there other forms of fuel poverty assistance for citizens that should be considered for inclusion in the proposed power?**

There could be benefits to sharing the data for example with health and social care organisations to ensure a suitable level of support and contact is available to secure the wellbeing of those in fuel poverty. Or local authorities so they can target promotion of take up of energy efficiency support to landlords. However, this may have to be consent based.

Access to civil registration to improve public service delivery

- 8. Should a government department be able to access birth details electronically for the purpose of providing a public service, e.g. an application for child benefit?**

There was an overall agreement from local authorities who responded to this provision, subject to good practice being enforced within those departments, and clear divisions between 'provision' and 'investigation'. Consideration should be given to extend the access to public sector organisations other than government departments.

Instead of data sharing, the provision may be a key candidate for attribute exchange process as a way to confirm birth and death details rather than providing full access to the data.

- 9. Do you think bulk registration information, such as details of all deaths, should be shared between civil registration officials and specified public authorities to ensure records are kept up to date (e.g. to prevent correspondence being sent to families of a deceased person)?**

We understand from local authorities that citizens expect that this information is shared between specified local authorities and are generally in favour of sharing civil registration data pending appropriate safeguards are in place. . To ensure a measured power, the Code of Practice must ensure automated systems working on this data have the capability of reversing changes as quickly as they can be applied to ensure system/ human errors are not amplified across numerous services. The Code of Practice should also provide clarity on the use of this data to avoid any public mistrust.

The impact of such change would need to be further assessed in particular in how far this affects the fee income to local authority and the general registration service.

The existing Tell Us Once service - <https://www.gov.uk/after-a-death/organisations-you-need-to-contact-and-tell-us-once> enables the passing of information (with the citizens' consent) between the Registrars service and a range of other council and central government services (e.g. DWP). Currently this is on a voluntary basis and does not include all central government services, e.g. Health, so some records are not shared and updated. Therefore, it does mean that the family of a deceased person may well get reminders for hospital appointments. This is both inconvenient/insensitive to the family and a waste of public resources.

However, there are issues to deal with before a blanket 'mandating' the sharing of bulk data including getting consent, the agreement of the ICO as well as providing assurance as to how this would be used and recourse when decisions made based on error – for example the accidental stopping of a citizen's benefits/pension, because some of the details are wrong, etc.

Combating fraud against the public sector through faster and simpler access to data

- 10. Are there other measures which could be set out in the Code of Practice covering the proposed new power to combat fraud to strengthen the safeguards around access to data by specified public authorities?**

We welcome the proposals to facilitate data sharing for counter fraud and support the measures designed to achieve transparency. It will especially help authorities to combat tenancy fraud to enable data sharing not only with DWP but also between local authorities. However, there needs to be some caution if the measure is punitive to some whereas it benefits others.

Again attribute exchange should be considered for sharing attribute information rather than sharing It is better to prevent fraud and error than to

detect it after the event, and this should be explicitly mentioned as best practice. Attribute exchange, as a mechanism for checking eligibility for service online, in real time as part of an application for service, has the potential to prevent fraud and error in a way that is quicker and cheaper to implement than other data sharing methods.

Not only government and civil society organisations but local government should form part of the strategic steering group as they play an important part in combating fraud ([link to fraud here](#)).

11. **It is proposed that the power to improve access to information by public authorities to combat fraud will be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the Fraud gateway be operational for before it is reviewed?**

In light of the time it takes to organise this type of pilot we suggest three years; one to cover the set-up and two years to enable active data matching and analysis of the effectiveness of the system. Monitoring data should be made available throughout this period to reduce the reporting timeframe at the end of the pilots.

Improving access to data to enable better management of debt owed to the public sector

12. **Which organisations should Government work with to ensure fairness is paramount when making decisions about affordability for vulnerable debtors who owe multiple debts?**

We support the proposal for data sharing to enable the better management of debt owed to the public sector by an individual or business. There is a benefit of having a complete view of an individual's debt, so that separate organisations do not exacerbate the problem by pursuing separate processes. However, it is unclear how this would be managed in practice: which organisation would take charge; how the debt owed to different public sector organisations would be prioritised; and how individual organisations would be recompensed.

13. **How can Government ensure the appropriate scrutiny so pilots under the power are effectively designed and deliver against the objectives of the power?**

Government should specify criteria under each of the objectives that the pilots must deliver. Proper governance arrangements need to be in place which

match the objectives. We suggest to utilise a strategic steering group similar to the fraud pilots

- 14. It is proposed that the power to improve access to information by public authorities for the purpose of better managing debt owed to government will be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the debt power be operational for before it is reviewed?**

The period and process should be three years consistent with the fraud proposals.

Time will be needed to establish a detailed and complex project, allow for the debt to be identified, managed, reduced and reported on so that it is possible to evaluate the pilots against set criteria.

Access to data which must be linked and de-identified using defined processes for research purposes

- 15. Should fees be charged by public authorities for providing data for research purposes, and if so should there be a maximum fee permitted which is monitored by the UK Statistics Authority?**

We think that fees should be charged on a cost-recovery basis as the provision of data can be complex and time consuming. However, local authorities should be able to charge at their discretion as they may wish to waive charges in some cases. We are not convinced that there is a need for a maximum fee, but thought should be given to whether requests can be declined if they are particularly burdensome.

- 16. To ensure a consistent approach towards departments accepting or declining requests for disclosing information for research projects, should the UK Statistics Authority as the accreditation body publish details of rejected applications and the reasons for their rejection?**

We support the suggested approach, but in the interests of transparency we suggest the UKSA publishes details of all applications, not just those which are rejected. This may assist other organisations making or considering an application. We do not think rejected applicants need be named.

- 17. What principles or criteria do you think should be used to identify research that has the potential for public benefit, or research that will not be in the public benefit?**

It's difficult to suggest specific principles and we think the UKSA will need to decide on a case-by-case basis. A robust scrutiny process will therefore be important. The main broad principle is safeguarding the privacy of individuals whose data is being used. The proposed research should indicate the group(s) whom the research is intended to benefit, how it is proposed to measure the benefit, and a commitment to disseminate the findings as transparently as possible without compromising individuals' privacy.

Access by UK Statistics Authority to identified data for the purpose of producing official statistics and research

18. **Is two years a reasonable maximum period of time for the duration of a notice for the supply of data to the UK Statistics Authority for the purposes of producing National and official statistics and statistical research?**

Two years is a reasonable period of time, although consideration should be given to allowing extensions in exceptional cases.

19. **If your business has provided a survey return to the ONS in the past we would welcome your views on:**
- (a) the administration burden experienced and the costs incurred in completing the survey, and**
 - (b) ways in which the UK Statistics Authority should seek to use the new powers to further reduce the administrative burdens on businesses who provide data to the ONS for the purposes of producing National and other official statistics.**

Not applicable to local authorities

20. **What principles and factors should be considered in preparing the Code of Practice on matters to be considered before making changes to processes that collect, store, organise or retrieve data?**

It would be helpful if the Code of Practice were as consistent as possible with data guidance issued by other Government departments on how local authorities must collect, store, organise, retrieve and submit data to Government Departments for any data that is to be used in the production of national or other statistics. That way, local authorities can update their processes in line with changes in guidance from Government. We recommend close collaboration with the Central and Local Government Information Partnership (CLIP) when developing the Code of Practice.

For more information please contact

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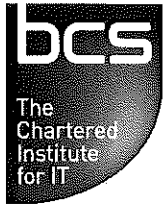
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We consider all requests on an individual basis.



Making IT
good for society

**BCS, The Chartered Institute for IT response to the
Better use of data in government consultation**

22nd April 2016

BCS, The Chartered Institute for IT

BCS is a charity with a Royal Charter. Its mission is to make IT better for society. It does this through leadership on societal and professional issues, working with communities and promoting excellence.

BCS brings together industry, academics, practitioners, educators and government to share knowledge, promote new thinking, educate, shape public policy and inform the public. This is achieved through and with a network of 75,000 members across the UK and internationally. BCS is funded through membership fees, through the delivery of a range of professional development tools for practitioners and employers, and as a leading IT qualification body, through a range of widely recognised professional and end-user qualifications.

www.bcs.org

Questions

Improving public service delivery

Question one: Are there any objectives that you believe should be included in this power that would not meet these criteria?

No Yes

If yes, please explain your reasons.

BCS believes that further definition of the criteria and oversight for the single gateway process is required to improve understanding. It is difficult to imagine where the criteria would be a barrier for sharing data without consent. In practice the single gateway could become a loop-hole mechanism to share data with no intent to explore opportunity to gain consent, failing to engage with the citizen on how government uses their information in the delivery of public services and creating further distrust in how data is used.

BCS believes that it is often misunderstood that individuals share information because they are willing to participate in a trade off, the evidence presented in the US by the University of Pennsylvania is that citizens are resigned to sharing information for fear of exclusion from use of services or digital society'. Citizens resigned to the will of government departments would create a dangerous precedent for citizen and state relationships and fail the goal set by the minister to 'to transform and improve the relationship between the citizen and the state'. There should be clear mechanisms for citizens to remove their consent for data sharing, unless it is deemed in the public interest to be essential, such as fighting crime. In instances where data sharing is essential to the delivery of services for wider public good. this should be within an agreed framework of ethics.

Question two: Are there any public authorities that you consider would not fit under this definition?

No Yes

If yes, please explain your reasons:

Based on BCS's present understanding of the term 'public authorities' the definition is considered to be suitable.

¹ <https://www.asc.upenn.edu/news-events/publications/tradeoff-fallacy-how-marketers-are-misrepresenting-american-consumers-and>

Question three: Should non-public authorities (such as private companies and charities) that fulfil a public service function to a public authority be included in the scope of the delivering public services power?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

BCS believes that private companies and charities fulfil a vital role in the service function to many public authorities. Data shared should at all times be minimised, proportionate and the purpose should be absolutely clear in the need for sharing and how it will be used. Data sharing with private organisations should include significant safeguards. The consultation does not detail the safeguards which will be specific to non-public authorities and BCS is therefore unable to provide a position until further clarification is available on what the safeguards will include.

Question four: Are these the correct principles that should be set out in the Code of Practice for this power?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

BCS believes principles set out in the Code of Practice to be a sound basis on which to build upon. The principles are a good start and would welcome further consultation on safeguards. However, there should be much more convergence with the original draft data science and ethical framework² to ensure practice is focused by the goal to transform and improve the relationship between the citizen and the state:

1 Start with clear user need and public benefit

² <https://data.blog.gov.uk/wp-content/uploads/sites/164/2015/12/Data-science-ethics-short-for-blog-1.pdf>

- 2 Use data and tools which have the minimum intrusion necessary
- 3 Create robust data science models
- 4 Be alert to public perceptions
- 5 Be as open as possible
- 6 Keep data secure

BCS believes that use and exploitation of audit trails, records and annual reports of the use of access powers would be desirable tools in transparency and building public confidence.

Providing assistance to citizens living in fuel poverty

Question five: Should the government share information with non-public sector organisations as proposed for the sole purpose of providing assistance to citizens living in fuel poverty?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

BCS agrees that if information sharing is proportionate, using the minimum necessary information, helping to automate rebates for citizens living in fuel poverty is a desirable outcome for society. However, it is essential that safeguards are in place to ensure the data is secure and that the use of the information is limited to the single purpose identified. The safeguards proposed in the consultation document are considered to be appropriate.

Question six: Would the provision of energy bill rebates, alongside information about energy efficiency support, be appropriate forms of assistance to citizens living in fuel poverty?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

BCS, The Chartered Institute for IT response to the better use of data in government consultation

BCS believes that citizens should also be supported in developing the necessary digital skills to enable them to access essential resources and assistance online.

Question seven: Are there other forms of fuel poverty assistance that should be considered for inclusion in the proposed power?

Yes No

If yes, please explain your reasons:

BCS believes that the key factors in this environment are awareness and communication which underpin the caring society we aspire to create.

Access to civil registration information to improve public service delivery

Question eight: Should a government department be able to access birth details electronically for the purpose of providing a public service, e.g. an application for child benefit?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Please explain your reasons:

BCS recognises the benefits of sharing information; ensuring essential information is available in an emergency and improving the efficiency government and more cost effective use of our taxes.

BCS believes that if an application is made to access information held elsewhere, such as the case of child benefits, then consent should be gained at that point of application for departments to share information. The purposes for which and the circumstances in which such records may be accessed without the consent or the knowledge of the individual or the parents or guardians should be explicit in any legislation.

Question nine: Do you think bulk registration information, such as details of all deaths, should be shared between civil registration officials and specified public authorities to ensure records are kept up to date (e.g. to prevent correspondence being sent to a deceased person)?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

While BCS fully recognises the potential advantages of sharing such core information we would encourage further exploration of user need. For sharing sensitive information has the potential for negative public perception and the consequences for breaches are significant. Information does not necessarily need to be shared beyond a data validation process, such as flagging discrepancies in the data that is held which can then be reviewed on a discretionary basis.

Combating fraud against the public sector through faster and simpler access to data

Question ten: Are there other measures which could be set out in the Code of Practice covering the proposed new power to combat fraud to strengthen the safeguards around access to data by specified public authorities?

- Yes No

Please explain your reasons:

BCS believes the proposed new power and the Code of Practice have attempted to combat fraud by strengthening the safeguards around access to data by specified public authorities, which is seen as a positive step in the right direction. However, this by itself only address one aspect of the ever growing computer fraud and cybercrime. There are criminals and victims. We must ensure that potential victims are better informed and more skilled at combating the attentions of the criminal by helping themselves and exploiting the safeguards society has established to protect them.

Question eleven: It is proposed that the power to improve access to information by public authorities to combat fraud would be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the fraud gateway be operational for before it is reviewed?

BCS believes that further information should be provided on the timescales of the pilots and likely outputs of success are available before a suitable review date is set.

Improving access to data to enable better management of debt owed to the public sector

Question twelve: Which organisations should government work with to ensure fairness is paramount when making decisions about affordability for vulnerable debtor who owe multiple debts?

BCS is not best placed to advise on specific organisations in this particular area. In securing the confidence of the public the departments choice should be driven by organisations that can demonstrate that they are both informed and independent.

Question thirteen: How can Government ensure the appropriate scrutiny so pilots under the power are effectively designed and deliver against the objectives of the power?

BCS believes that the government should publish a robust benefits plan where progress and output is measured against the benefits that are actually realised by the pilot. In planning the pilots, the likely outputs, benefits and key success criteria need to be considered and agreed before the pilot duration and timetable is set and a suitable review date agreed. Operational monitoring of the pilot and a post pilot benefit audit should be undertaken an independent authority.

Question fourteen: It is proposed that the power to improve access to information by public authorities to combat fraud would be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the fraud gateway be operational for before it is reviewed?

BCS believes the ability to combat fraud to be a fundamental factor in public confidence in our information society. The pilots the department intend to run must be long enough to address the risks and threats effectively over an acceptable period of operational running to realistically measure benefits. Throughout the trial period, including set up and evaluation, the public need to be kept informed and their awareness and personal responsibilities reinforced; the pilots should include an awareness and education initiative at all levels.

Access to data which must be linked and de-identified using defined processes for research purposes

Question fifteen: Should fees be charged by public authorities for providing data for research purposes, and if so should there be a maximum fee permitted which is monitored by the UK Statistics Authority?

(x) Yes () No

BCS does not object in principle to fees being charged by public authorities for providing data to a third party for research purposes. Public authorities should only collect data as part of their public task. Much of this data is published regularly in accordance with good governance; where costs may already be recovered to cover the cost of publication. BCS accepts that provision of data outside of these regular publication may be subject to a nominal 'cost of provision' charge with a controlled maximum fee permitted, which should be monitored by an appropriate authority.

Question sixteen: To ensure a consistent approach towards departments accepting or declining requests for disclosing information for research projects, should the UK Statistics Authority as the accreditation body publish details of rejected applications and the reasons for their rejection?

(x) Yes () No

BCS support this transparent and consistent approach to publishing rejected applications.

Question seventeen: What principles or criteria do you think should be used to identify research that has the potential for public benefit, or research that will not be in the public benefit?

BCS believe that professional codes of conduct bring accountability and integrity to statistical research, or any profession for that matter. The Royal Statistical Society Code of Conduct requires its Chartered and graduate statisticians to:

- *have an overriding responsibility to the public good; including public health, safety and environment*
- *have regard to basic human rights and avoid any actions that adversely affect such rights*

Access by UK Statistics Authority to identified data for the purpose of producing official statistics and research

Question eighteen: Is two years a reasonable maximum period of time for the duration of a notice for the supply of data to the UK Statistics Authority for the purposes of producing National and official statistics and statistical research?

(x) Yes () No

BCS, The Chartered Institute for IT response to the better use of data in government consultation

BCS believes two years an exceptionally reasonable maximum period of time for the duration of a notice for the supply of data to the UK Statistics Authority. The Companies Act requires financial accounts on an annual basis and defaulters are subject to stiff financial and legal penalties.

Question nineteen: If your business has provided a survey return to the ONS in the past we would welcome your views on:

- a) **the administration burden experienced and the costs incurred in completing the survey.** - *BCS believes the administrative burden can be considerable as the information requested may not be readily available from existing systems and the information requested, source and format, can be subject to change.*
- b) **ways in which the UK Statistics Authority should seek to use the new powers to further reduce the administrative burdens on businesses who provide data to the ONS for the purposes of producing National and other official statistics.** – *BCS believes that while the ONS demands placed on large enterprises may be high they generally have the internal skills and resources to accommodate the requests. It is with SMEs the bulk problems lie who often lack in house expertise. This can result in disproportionate demands on SME managers and additional costs where external expertise is required.*

Question twenty: What principles and factors should be considered in preparing the Code of Practice on matters to be considered before making changes to the processes that collect, store, organise or retrieve data?

In considering the consultation proposal, the BCS has four key observations regarding the document.

1. **Terminology** - It is noted that the definition proposed for “identified” data is not the same as the definition of “personal data” under the current Directive 95/46/EC or the GDPR and that the term “anonymisation” is being used where data could be regarded as identifiable and would not qualify as anonymised data under the GDPR. This risks introducing a level of confusion for public bodies. It also risks the possibility that there is a mismatch between the legal powers on which the public bodies will rely to make disclosures or obtain data and the personal data covered by the GDPR. For example, if the proposed legislation and Codes were to permit the disclosure of data which meets the criteria of “anonymisation” as set out in the Consultation paper without meeting data protection requirements, such disclosures would, technically at least, be in breach of the GDPR.
2. **Unlawful disclosure/use** - There is inconsistency in that some of the proposed powers seem to involve no criminal offence for wrongful disclosure or misuse by the recipient (or indeed discloser), e.g. the civil registration clauses. This should be addresses in the full draft legislation.

3. Application Program Interface (APIs) - The two references to APIs assume that querying datasets through APIs will automatically have "positive benefits on privacy and security" and "allow the access to the minimal necessary information". Such statements are wrong. It all depends on exactly what the individual API is meant to do and exactly how it's configured.

4. Proposed de-identification measures - BCS recommend that the proposed de-identification measures are consulted on further. We need to be certain that clauses for amendments to regulation are based on opportunity to improve de-identification rather than ensuring the identity information is removed, as simply removing identity information is not necessarily enough to protect the identity of the data source.

Responding to the consultation

Your details

To evaluate responses properly, we need to know who is responding to the consultation and in what capacity.

We will publish our evaluation of responses. Please note that we may publish all or part of your response unless you tell us (in your answer to the confidentiality question) that you want us to treat your response as confidential. If you tell us you wish your response to be treated as confidential, we will not include your details in any published list of respondents, although we may quote from your response anonymously.

Name (optional): Oliver Wiggins

Position (optional): Business Transformation Officer, City of Bradford Metropolitan District Council. Responding in my capacity as a member of Association of Directors of Children's Services (ADCS) National Performance and Information Management Group (PIMG)

Organisation name: Association of Directors of Children's Services (ADCS) National Performance and Information Management Group (PIMG)

Address: 3rd Floor, Margaret McMillan Tower, Princes Way, BRADFORD, BD1 1NN

E-mail contact preferred

Email: [REDACTED]

Telephone (optional): [REDACTED]

Would you like us to treat your response as confidential?*

If you answer yes, we will not include your details in any list of people or organisations that responded to the consultation.

No

Is this a personal response or an official response on behalf of your organisation?

Official response

If you ticked “Official response”, please respond accordingly:

Type of responding organisation*

Business

Charity

Local authority

Central government

Wider public sector (e.g. health bodies, schools and emergency services)

University or other higher education institution

Other representative or interest group (please answer the question below)

Type of representative group or interest group

Union

Employer or business representative group

Subject association or learned society

Equality organisation or group

School, college or teacher representative group

Other (please state below)

National representative group of local authority officers working within the field of children's services performance management, data and information management.

Nation*

England

Wales

Northern Ireland

Scotland

Other EU country: _____

Non-EU country: _____

How did you find out about this consultation?

Gov.uk website

Internet search

Other

May we contact you for further information?

Yes No

Please do, and we would very much welcome the opportunity to have a further dialogue if necessary at one of our future meetings. We have an extensive network of regional and national contacts of local authority specialists in this area and would be more than happy to assist in formulating policy, technical guidance and legislation in this area in whatever way we can.

Questions

Improving public service delivery (p12)

Question one: Are there any objectives that you believe should be included in this power that would not meet these criteria?

No

Yes

If yes, please explain your reasons.

Please note that in section 40, we would suggest that the objective around Troubled Families (which in itself is good) should legislate for still providing some kind of Early Help to those families who, when their data has been matched under this provision fail to meet the threshold criteria for the Troubled Families programme but would still benefit from a lower tiered Early Help intervention.

Question two: Are there any public authorities that you consider would not fit under this definition?

No

Yes

If yes, please explain your reasons:

.....
.....
.....

Question three: Should non-public authorities (such as private companies and charities) that fulfil a public service function to a public authority be included in the scope of the delivering public services power?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Please explain your reasons:

Many local authorities may commission certain data and information management functions from 3rd parties, ranging from independent consultants through to a fully contracted out ICT and information provision. Legislation should be flexible enough to allow the LA to delegate its powers of data processing under these proposals to its subcontractors (whilst remaining responsible under the DPA for the way that its subcontractors process the data). At the same time, there need to be sufficient safeguards in the legislation to guard against unregulated benefits to for-profit organisations (which there are, given the other provisions and principles proposed).

Question four: Are these the correct principles that should be set out in the Code of Practice for this power?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Please explain your reasons:

These provide a strong framework of information assurance. What is not completely clear here is the process for dealing with disagreements about, for example validity of the business case for data sharing. It is in nobody's interests for this to be developed over time through the courts in case law.

Providing assistance to citizens living in fuel poverty

Question five: Should the government share information with non-public sector organisations as proposed for the sole purpose of providing assistance to citizens living in fuel poverty?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Please explain your reasons:

We know from experience that the welfare of a child in a household is intimately bound up in the welfare of the adults in the same household and that improved outcomes for the child are less likely to occur where the health and well-being of the whole household is compromised. Therefore any measure that benefits the well-being of the whole household, such as sufficient heat, is very welcome.

Question six: Would the provision of energy bill rebates, alongside information about energy efficiency support, be appropriate forms of assistance to citizens living in fuel poverty?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Please explain your reasons:

As for Question 5 is.

Question seven: Are there other forms of fuel poverty assistance that should be considered for inclusion in the proposed power?

Yes

No

If yes, please explain your reasons:

In principle these provisions should be extended as widely as possible. However, we do not have sufficient professional expertise in this area to comment more specifically further.

Access to civil registration information to improve public service delivery

Question eight: Should a government department be able to access birth details electronically for the purpose of providing a public service, e.g. an application for child benefit?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

In principle, we would like to 'strongly agree' to this question in almost all circumstances. However, there are insufficient specific safeguards built in to section 59 (and section 65, bottom bullet point) as predicated to guard against inadvertent disclosure and matching of pre- and post-adoptive identities. This is because there is an inconsistent approach in this area across key partners at the moment. Whilst children's social care issues a brand-new ID for a post-adoptive child, and effectively treats them as a new person, the NHS in particular does not and their NHS number remains the same. Therefore, inadvertent disclosure and matching of pre-and post-adoptive identities could be achieved through a third-party system where both pre- and post-adoptive social care IDs could be matched to the same NHS number. This is a pre-existing problem which has the potential to be made worse with the release of registration data. What is needed – and this legislation provides a great opportunity to do this – is to compel all agencies to create a new ID for a post adoptive child on all systems and for the adoption agency only to hold the matches between pre- and post- adoptive identities.

Question nine: Do you think bulk registration information, such as details of all deaths, should be shared between civil registration officials and specified public authorities to ensure records are kept up to date (e.g. to prevent correspondence being sent to a deceased person)?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree

() Strongly disagree

Please explain your reasons:

Present arrangements in many local authorities are complex in this area and rely on one service incidentally finding out about a death and then alerting the other services in a reactive way to amend their records and systems accordingly. Often there are multiple legacy systems to be amended and there is always a risk that one may be missed. It would be much better (and more efficient) to deal with this proactively with the regular data download triggering this activity in an organised and orderly way.

Combating fraud against the public sector through faster and simpler access to data

Question ten: Are there other measures which could be set out in the Code of Practice covering the proposed new power to combat fraud to strengthen the safeguards around access to data by specified public authorities?

Yes

() No

Please explain your reasons:

There should be a specific provision for tackling school place fraud – i.e. the scenario where a premises in a certain geographical location in relation to a school catchment area is rented by family for the purpose of getting their child into a particular school by catchment area or for procuring home to school transport. It subsequently becomes apparent from other transactions held on the family that they are not actually resident there.

Additionally, there should be an overarching principle that data in this area can be shared for the purposes of safeguarding any child or adult. The lessons learned from recent high-profile cases of child sexual exploitation taking place in premises other than the child's home address and often in a different local authority area need to be fully incorporated in these provisions.

Question eleven: It is proposed that the power to improve access to information by public authorities to combat fraud would be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the fraud gateway be operational for before it is reviewed?

Instead of defining this as a fixed period of time, rather the approach should enshrine the quality of the review process. To that end a group of experts should monitor the implementation of this legislation and should take a proportionate and robust risk

management approach to determining their recommendations to the Minister. We would have thought that a timeframe of a least 2 years to do this properly would be needed.

Improving access to data to enable better management of debt owed to the public sector

Question twelve: Which organisations should government work with to ensure fairness is paramount when making decisions about affordability for vulnerable debtor who owe multiple debts?

No specific comment as this is not our primary area of expertise. Any proposals must continue to guarantee effective safeguarding of and outcomes for children and young people and the welfare of the households in which they live.

Question thirteen: How can Government ensure the appropriate scrutiny so pilots under the power are effectively designed and deliver against the objectives of the power?

No specific comment as this is not our primary area of expertise. Any proposals must continue to guarantee effective safeguarding of and outcomes for children and young people and the welfare of the households in which they live.

Question fourteen: It is proposed that the power to improve access to information by public authorities to combat fraud would be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the fraud gateway be operational for before it is reviewed??

Instead of defining this as a fixed period of time, rather the approach should enshrine the quality of the review process. To that end a group of experts should monitor the implementation of this legislation and should take a proportionate and robust risk management approach to determining their recommendations to the Minister. We would have thought that a timeframe of a least 2 years to do this properly would be needed.

Access to data which must be linked and de-identified using defined processes for research purposes

Question fifteen: Should fees be charged by public authorities for providing data for research purposes, and if so should there be a maximum fee permitted which is monitored by the UK Statistics Authority?

Yes

No

Fees should be chargeable to a level that will recover actual operating costs, plus appropriate management and supervisory overheads, and compensates for the fact that staff tied up providing data for this work cannot be utilised in other activities.. At the same time, fees should not be mandatory and may be paid for in kind, for example a reciprocal arrangement on another dataset, if this is to the public authority's advantage. Legislation should be sufficiently rigorous to prevent for-profit only activity taking place in this area.

Question sixteen: To ensure a consistent approach towards departments accepting or declining requests for disclosing information for research projects, should the UK Statistics Authority as the accreditation body publish details of rejected applications and the reasons for their rejection?

Yes No

Provided that this in itself does not become a massive and expensive overhead.

Question seventeen: What principles or criteria do you think should be used to identify research that has the potential for public benefit, or research that will not be in the public benefit?

Proposals as set forth in the consultation seem reasonable here.

Access by UK Statistics Authority to identified data for the purpose of producing official statistics and research

Question eighteen: Is two years a reasonable maximum period of time for the duration of a notice for the supply of data to the UK Statistics Authority for the purposes of producing National and official statistics and statistical research?

Yes

No

Generally speaking, we would welcome measures that shorten the production time for National statistics, as effective performance management in local authorities relies upon proactive and timely monitoring of and response to changing statistical

trends, typically evidenced by key performance indicators. At the moment, local authorities provide a lot of data to central government on an annual basis and get relatively little back in a timely way by return. Proposals as set forth here need to redress this position.

Question nineteen: If your business has provided a survey return to the ONS in the past we would welcome your views on:

Question not applicable to our organisation.

a) the administration burden experienced and the costs incurred in completing the survey

.....

.....

.....

b) ways in which the UK Statistics Authority should seek to use the new powers to further reduce the administrative burdens on businesses who provide data to the ONS for the purposes of producing National and other official statistics

.....

.....

.....

Question twenty: What principles and factors should be considered in preparing the Code of Practice on matters to be considered before making changes to the processes that collect, store, organise or retrieve data?

We have specific concerns about the proposed power of the Statistics Authority to compel the provision of a dataset in a particular format. There are no controls in there about how difficult this would be and the amount of resource which would be required from the originating organisation to achieve this. As a suggestion, similar to FOI requests, there should be an upper limit placed on the amount of time/resource an organisation needs to commit to achieve this. Also, the process of appeal is not made clear should the originating organisation consider that releasing the dataset as requested by the Statistics Authority is may materially harm its interests. Who in an public authority would be accountable and charged with the criminal offence of non-compliance?

In general terms, whilst we recognise the importance of the Statistics Authority having sufficient powers to unlock unnecessary resistance to effective data sharing, we do think that there are some general principles which should apply. If public authorities commit to contributing data under these powers then there needs to be a

fundamental principle that enhanced business intelligence can be returned to these bodies and should come out of the process in a timely and useable way - in other words, there needs to be demonstrable business benefits to all parties. We would want to reiterate the importance of there being immediate and demonstrable/cashable benefits to participating local authorities and that proposals for data matching enhance the safeguarding and welfare of children and adults. These proposals need to inform and widen the open data debate about what information can reasonably be in the public domain.

Subject to our specific technical comments above, we broadly very much welcome these new proposals and as noted earlier would be keen to assist further in the next stages of formulation.

Consultation response: better use of data

Thank you for the invitation to contribute.

BAE Systems Applied Intelligence helps nations, governments and businesses around the world defend themselves against cybercrime, reduce their risk in the connected world, comply with regulation and transform their operations. We have considerable experience using data.

We have provided a few general observations against each of the three groups of proposals below, and given more specific responses to several of the questions raised.

Improving public services

In our digital age, as the consultation paper emphasises, the improvement of our digital infrastructure (policies as well as pipes) to facilitate access to data is akin to upgrading sewers or electrification – something that all recognise the need for (if uncertain who should pay).

As public appreciation for the need to share data across government increases and the existing legislative complexity becomes increasingly deemed unacceptable we expect the public mood to rapidly swing from “how dare you” to “why aren’t you” with data sharing.

Our observations:

- **Moving with the mainstream:** Whilst government rightly considers fringe cases for individuals as well as the needs of the masses, mainstream opinion for government data-sharing is moving quickly toward greater openness – to reduce the administrative burden, enable innovation and reflect the more transparent, global, digital society we are becoming familiar with;
- **Rapid evolution to reduce risks:** Whilst society trusts government to take a responsible and measured approach to opening-up there is increasing risk that without sufficient progress we will not only jeopardise our ability to maintain the UK’s lead in open data but also increase the risk that frustrated individuals with privileged access will take matters into their own hands and release data inappropriately to jolt transparency forward;
- **Planning with future expectations in mind:** Unravelling the spaghetti of current arrangements, establishing new agreements and consequently improving services will likely take years rather than months; hence any views of what is acceptable should be with a 2018-2020 (rather than a 2014-2016) mind-set;
- **Making clear ethical choices as well as exposing “how” to scrutiny:** Maintaining public trust will be as much about clear ethical choices as a commitment to transparency; sharing citizen data on a temporal, event-driven basis to ease interaction (as with the popular “tell us once”

initiative) is likely to yield trust; tracking citizens through a proliferation of big data lakes is likely to be viewed as “big brother”;

- **Encouraging and enabling comparative performance of government services:** The “postcode lottery” picked up by the press regarding health services and “not spots” identified for broadband coverage encourage and enable local action; stimulating such analysis, beyond as well as within government, should promote engagement and empowerment and engender citizen trust.

Responses to questions:

Q1. Are there any objectives that you believe should be included in this power that would not meet these criteria?

Paragraph 39 states that data cannot be used where the benefit is to the wider community rather than individual citizens. We are inclined to disagree with this given the many examples of where a more engaged, healthier and more trusted community could save the government money on service and benefits, and improve their productivity. There is a long standing risk:benefit analysis in privacy law where the rights and benefits of the individual are compared and contrasted with the rights and benefits of the public (the “public interest test”). We feel that provided correct risk approaches are adopted, for example using impact assessments to balance protection and promulgation, data can be used for the benefit of the wider community where this benefit outweighs that of the individual citizen.

3. Should non-public authorities (such as private companies and charities) that fulfil a public service function to a public authority be included in the scope of the delivering public services power?

Although it is less in the press these days the Big Society initiative has seen numerous charity organisations step in and provide services to vulnerable individuals as government budgetary changes have impacted traditional service functions. The Citizens' Advice Bureau and other prominent charities would benefit from being part of any data-sharing solution. Naturally, the non-public authorities would need to provide an equivalent level of data protection, management and controls to engender public trust and be able to manage any additional compliance or regulatory requirements arising from performance of a public function e.g. Freedom of Information Act.

9. Do you think bulk registration information, such as details of all deaths, should be shared between civil registration officials and specified public authorities to ensure records are kept up to date (e.g. to prevent correspondence being sent to families of a deceased person)?

The sharing of such bulk data will help to maintain accurate public records as required by the Data Protection Act and the public. The example given reflects one of the less contentious bulk data sharing possibilities as privacy law requirements cease upon death. Bulk registration information of living individuals, with appropriate controls, access and governance procedures, will provide benefits in terms of records management and ultimately to the individual and the wider community.

Tackling fraud and debt

Whilst the scenarios are similar, we have considerably more experience helping to tackle fraud.

Our observations:

- **Converging criminality:** There is growing public impatience with the scale of fraud (e.g. tax related) in our age of austerity and the apparent inability of government to keep pace with the agility of those perpetrating; the convergence of cyber criminals' and fraudsters' operating models should provide a richer trail of digital fingerprints to reverse this trend.

As the consultation paper rightly points out government has a legitimate interest in both accessing this information and maintaining relative secrecy as to its *modus operandi*. Given false positives are kept acceptably low (to maintain public confidence) and collateral invasions of privacy suitably confined (e.g. through the tight control of privileged access) simplifying and accelerating data sharing for this use case is imperative.

The private sector seems to be making more rapid progress in this regard, not because of bigger budgets or less politics but because commercial pressures and the right reading of customers' expectations (i.e. that their virtual privacy is appropriately compromised to route out crime) necessitate and enable innovation.

Government nervousness about public confidence in data sharing for the prevention of fraud is largely unnecessary; the public trusts healthcare professionals to respectfully compromise their physical privacy in the patients' best interests – it is reasonable to assume government counter-fraud professionals will be similarly trusted to compromise citizens' virtual privacy, given appropriate safeguards and adequate explanation.

- **Retaining information separation whilst enabling information brokerage:** As reflected in recent research (e.g. the Wellcome Foundation's "One-Way Mirror" report) much of the public assumes that data sharing happens by default across government (rather than being tightly contained via the complexity of prior legislation).

Given this assumption, the ability for government to provide an information brokerage service across departments (without needing to pool data) through a registry-based service would, we presume, be welcomed by those keen to have a personal balance statement from government – akin to the single view of debt the consultation paper advances.

Elegant, performant, secure solutions, where data resides in "Heads of Duty" systems and referenced via a registry index on a real time, case-by-case basis are possible and would help "good personas" (e.g. those working their way out of debt) as well as hinder "bad personas" (e.g. perpetrators of fraud).

- **Keeping up with new technologies:** We are encouraged by government interest in emergent technologies to transform citizen engagement, particularly regarding "Blockchain". We also anticipate that independent, secure, trusted ledgers can be used to strengthen trust and certainty in the relationship between the individual and the state for matters of identity.

Responses to questions:

10. Are there other measures which could be set out in the Code of Practice covering the proposed new power to combat fraud to strengthen the safeguards around access to data by specified public authorities?

The establishment of pre-accredited environments would encourage innovation (e.g. by opening up the market to organisations unfamiliar with these steps of the development process) as well as reducing the time to productivity.

11. It is proposed that the power to improve access to information by public authorities to combat fraud will be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the Fraud gateway be operational for before it is reviewed?

Three years is an appropriate review period although the time required to establish pilots should not be underestimated (although data matching can be technically problematic overcoming legal, data protection and data sharing concerns can, in our experience, be more so and take longer to resolve).

Allowing use of data for research purposes and for official statistics

Publically-acceptable use of data for research purposes depends on confidence in the safeguards in place and in the organisations given access as well as the nature and scope of the research.

Where the public data includes information regarding individuals, the rights of the individual must be considered and appropriate protection, controls and monitoring be implemented before the data are made public. Clearly, controls around re-identification and certain activities will be required to ensure privacy is protected whilst data are being used for research and statistics.

Our views here are closely related to the views on anonymisation we provided in response to the Information Commissioner's consultation on the current code of practice for anonymisation (this response is attached for reference). The move in the GDPR to include pseudonymisation as well as anonymisation may provide additional depth or scope of data for use in research and statistics through defence in depth which controls ability to re-engineer data and re-identify privacy regulated data.

Our observations:

- **Providing framework transparency:** Given that the strength of the protection of individual identities is dependent on mathematics, uni-directional information flows and access control we suggest promoting understanding of this set-up to encourage confidence;
- **Promoting analytics understanding:** Similarly, we advocate publication of standard "release notes for analytics" alongside data sets made available so that data analysts quickly understand data provenance, structures that need to be used in analysis, caveats to be aware of, codes of conduct, etc. and the consumers of subsequent analysis thereby gain greater confidence in insights derived;
- **Pre-empting re-identification risk concerns:** Advances in big data analysis often discourage data sharing in case re-identification becomes possible as more open data sets are combined. Current guidance is clear that such re-identification will be obtaining personal data unlawfully and could result in enforcement action by the ICO. This safeguard should be emphasised when increased data sharing is publicised.

Responses to questions:

15. Should fees be charged by public authorities for providing data for research purposes, and if so should there be a maximum fee permitted which is monitored by the UK Statistics Authority?

The use of fees in respect of public data has been a topic of debate for decades. Freedom of Information requests used by campaigners to research information to support their cause has been a subject of challenge from firms whose cost recovery is limited by the law.

Fees need to reflect the effort and value of the data being provided whilst not preventing or excluding the wider research community from having access to it.

Ideally, fees should not be charged because they can raise a barrier (not just in the cost themselves but also in the delays caused by the production of business cases to justify investment). Whilst pay per use might seem attractive this may discourage innovation, as the exploratory flow of inquisitive thinking is checked by commercial concerns. Conversely, paying centrally based on consumption tends to result in lower data quality and inappropriate gamification (whereby consumption is encouraged over the quality of insight derived and/or resultant downstream benefits achieved) due to the separation of payer and recipient.

There are good examples in the UK of "free" data provision – e.g. the TfL open data store - which may be candidate models for replication and the US approach to making public data available free of charge by default merits scrutiny. Clearly costs still need to be apportioned both to ensure quality of data made available and to provide governance and controls essential to protect the use of public data against unintentional, inappropriate use. Whilst not proposing a model for this we do suggest adoption of a standard model across government to make budgeting easier.

Privitar response to Cabinet Office consultation on Better Use of Data

21.4.16

Summary

1. We are concerned about the privacy plans outlined on pages 27-29 of the consultation. We suggest that the plans would be improved through alignment with the new General Data Protection Regulation (GDPR) and do not sufficiently address the question of data privacy and the safe release of anonymised data. In addition, we recommend the consideration of a restricted query interface based on differential privacy for some use cases.
2. We agree with the consultation response submitted by the Royal Statistical Society, which as one of its five recommendations stated: "*We would like to see a clearer articulation of how privacy concerns would be met for the new proposals*".

Recommendation

3. We recommend that CO consider three points:
 - i. Whether the stated privacy plan incorporates the privacy by design principles underlying the GDPR sufficiently with respect to minimisation;
 - ii. Whether their current proposed plans would be vulnerable to linkage attacks;
 - iii. Whether they could optimise their data utility and data risk by implementing a variety of privacy solutions, including differential privacy.

Background

4. Privitar is an early stage software company based in London's Southbank. The company's mission is to promote and facilitate the ethical and safe use of valuable data assets. We design and implement privacy preserving software solutions for Tier 1 banks and telecommunication companies.
5. Privitar was founded based on the patented ideas of John Taysom, which he developed when a visiting professor at Harvard University. Privitar continues to work in close collaboration with world leading researchers at Harvard, UCL and Cambridge universities in order to take leading academic privacy techniques and make them available as a robust and practical software product.

The GDPR and privacy by design

6. We recommend aligning the CO's position with the recently passed GDPR, both to align with the privacy by design principles, and to improve clarity. For instance, the consultation describes personal information as:

"information that could be used to identify, or help to identify, an individual (e.g. names, date of birth and postcode)".

Whereas the GDPR states that:

"'personal data' means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;"

The wider definition used by the GDPR is relevant to the categorisation of which fields may have identifying properties and the subsequent actions which can be taken to anonymise effectively whilst minimising the impact on data utility.

7. Privitar recently published a white paper exploring some of the key aspects of the GDPR, which we would be happy to discuss with you if you would find it helpful.

De-identification and generalisation

8. The pseudonymisation process described in the consultation paper did not make mention of its vulnerability to linkage attacks, whereby fields such as date of birth, postcode, gender etc., which when taken in combination can uniquely identify an individual and are known as quasi-identifiers, are used to re-identify individuals in a data-set. There is a growing body of academic research, and examples from journalism, where data-sets which have been anonymised in this way have have been victims of these linkage attacks, for instance:

- i. Uniqueness of Simple Demographics in the U.S. Population, Sweeney, 2000
- ii. A Face Is Exposed for AOL Searcher No. 4417749, Barbaro & Zeller, 2006
- iii. Resolving individuals contributing trace amounts of DNA to highly complex mixtures using high-density SNP genotyping microarrays, Homer et al, 2008
- iv. Robust De-anonymization of Large Sparse Datasets, Narayanan, Shmatikov, 2008
- v. On the Anonymity of Home/Work Location Pairs, Goelle and Partridge

9. As the President's Council of Advisors on Science and Technology wrote to President Obama: *"Anonymization of a data record might seem easy to implement. Unfortunately, it is increasingly easy to defeat anonymization by the very techniques that are being developed for many legitimate applications of big data. In general, as the size and diversity of available data grows, the*

likelihood of being able to re-identify individuals (that is, re-associate their records with their names) grows substantially” – Big Data and Privacy: A Technological Perspective, P38

10. Our concern at the lack of expressed consideration is that the result may be for information to be released which appears to be anonymised, but in fact can be re-identified through linkage attacks, or where the response to this risk is to obscure all quasi-identifiers, which would reduce the data utility unnecessarily.
11. We would recommend consideration of generalisation techniques which allows for quasi-identifiers to be blurred to the point where individuals cannot be identified, but where some of the data utility still remains. An example of this would be not to remove all location data, but instead to generalise individual's addresses to a local area, such as a borough.

Balancing utility and risk with alternative techniques, including differential privacy

12. We believe it is important to protect privacy while optimising data utility for a particular study or application, and that means different techniques are desirable in different situations. In a situation where row level data are required, but blurring is acceptable, then the generalisation techniques alluded to above may be the best way to balance risk and utility. Alternatively, there may be situations where there is a very low risk appetite for a certain data-set, and all that is needed is aggregate results. In these instances, we recommend considering query interfaces and differential privacy techniques,
13. It is possible to eliminate the risk of re-identification by implementing a privacy-preserving query interface. Query interfaces do not grant access to the raw data in databases, but rather allow only aggregate queries (such as counts, averages, sums, and measures of statistical significance) and further anonymise the results as necessary through noise addition or data suppression. An example privacy-preserving query interface is the Harvard Privacy Tools group's "Differentially Private Statistical Exploration" tool, which allows researchers to explore aggregate statistics (such as means and histograms of attributes) about sensitive social science databases. Differentially private query interfaces are a subset of query interfaces which have been mathematically proven to be privacy preserving.

Conclusion

14. Our data are a valuable resource, but are also a varied resource, and so are the types of analysis we use on them. In order to maximise the benefit we get from data, whilst preserving privacy, a range of privacy solutions should be considered and used. To do this effectively it is necessary to understand what makes data personal, what the intended outcome of the analysis is, what privacy solutions are available and the governance of those data.

Responding to the consultation

Your details

To evaluate responses properly, we need to know who is responding to the consultation and in what capacity.

We will publish our evaluation of responses. Please note that we may publish all or part of your response unless you tell us (in your answer to the confidentiality question) that you want us to treat your response as confidential. If you tell us you wish your response to be treated as confidential, we will not include your details in any published list of respondents, although we may quote from your response anonymously.

Name (optional):

Guy Cohen

Position (optional):

Strategic Relationships Manager

Organisation name:

Privitar

Address:

22 Upper Ground, London, SE1 9PD

Email:

[REDACTED]

Telephone (optional):

[REDACTED]

Would you like us to treat your response as confidential?*

If you answer yes, we will not include your details in any list of people or organisations that responded to the consultation.

Yes No

Is this a personal response or an official response on behalf of your organisation?

- Personal response
 - Official response
-

If you ticked “Official response”, please respond accordingly:

Type of responding organisation*

- Business
 - Charity
 - Local authority
 - Central government
 - Wider public sector (e.g. health bodies, schools and emergency services)
 - University or other higher education institution
 - Other representative or interest group (please answer the question below)
-

Type of representative group or interest group

- Union
 - Employer or business representative group
 - Subject association or learned society
 - Equality organisation or group
 - School, college or teacher representative group
 - Other (please state below)
-

Nation*

- England

Wales

Northern Ireland

Scotland

Other EU country: _____

Non-EU country: _____

How did you find out about this consultation?

Gov.uk website

Internet search

Other

Word of mouth _____

May we contact you for further information?

Yes No

Questions

Improving public service delivery

Question one: Are there any objectives that you believe should be included in this power that would not meet these criteria?

No

Yes

If yes, please explain your reasons.

.....
.....
.....

Question two: Are there any public authorities that you consider would not fit under this definition?

No

Yes

If yes, please explain your reasons:

.....
.....
.....

Question three: Should non-public authorities (such as private companies and charities) that fulfil a public service function to a public authority be included in the scope of the delivering public services power?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Please explain your reasons:

.....
.....
.....

Question four: Are these the correct principles that should be set out in the Code of Practice for this power?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

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.....
.....

Providing assistance to citizens living in fuel poverty

Question five: Should the government share information with non-public sector organisations as proposed for the sole purpose of providing assistance to citizens living in fuel poverty?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

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.....

Question six: Would the provision of energy bill rebates, alongside information about energy efficiency support, be appropriate forms of assistance to citizens living in fuel poverty?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

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Question seven: Are there other forms of fuel poverty assistance that should be considered for inclusion in the proposed power?

- Yes
- No

If yes, please explain your reasons:

.....
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.....

Access to civil registration information to improve public service delivery

Question eight: Should a government department be able to access birth details electronically for the purpose of providing a public service, e.g. an application for child benefit?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

.....

.....

.....

Question nine: Do you think bulk registration information, such as details of all deaths, should be shared between civil registration officials and specified public authorities to ensure records are kept up to date (e.g. to prevent correspondence being sent to a deceased person)?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

.....

.....

.....

Combating fraud against the public sector through faster and simpler access to data

Question ten: Are there other measures which could be set out in the Code of Practice covering the proposed new power to combat fraud to strengthen the safeguards around access to data by specified public authorities?

Yes

No

Please explain your reasons:

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.....

Question eleven: It is proposed that the power to improve access to information by public authorities to combat fraud would be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the fraud gateway be operational for before it is reviewed?

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Improving access to data to enable better management of debt owed to the public sector

Question twelve: Which organisations should government work with to ensure fairness is paramount when making decisions about affordability for vulnerable debtor who owe multiple debts?

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Question thirteen: How can Government ensure the appropriate scrutiny so pilots under the power are effectively designed and deliver against the objectives of the power?

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Question fourteen: It is proposed that the power to improve access to information by public authorities to combat fraud would be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the fraud gateway be operational for before it is reviewed??

.....
.....
.....

Access to data which must be linked and de-identified using defined processes for research purposes

Question fifteen: Should fees be charged by public authorities for providing data for research purposes, and if so should there be a maximum fee permitted which is monitored by the UK Statistics Authority?

- Yes
 - No
-
.....
.....

Question sixteen: To ensure a consistent approach towards departments accepting or declining requests for disclosing information for research projects, should the UK Statistics Authority as the accreditation body publish details of rejected applications and the reasons for their rejection?

- Yes No
-
.....

.....
Question seventeen: What principles or criteria do you think should be used to identify research that has the potential for public benefit, or research that will not be in the public benefit?
.....
.....
.....

Access by UK Statistics Authority to identified data for the purpose of producing official statistics and research

Question eighteen: Is two years a reasonable maximum period of time for the duration of a notice for the supply of data to the UK Statistics Authority for the purposes of producing National and official statistics and statistical research?

Yes

No
.....
.....
.....

Question nineteen: If your business has provided a survey return to the ONS in the past we would welcome your views on:

a) the administration burden experienced and the costs incurred in completing the survey
.....
.....
.....

b) ways in which the UK Statistics Authority should seek to use the new powers to further reduce the administrative burdens on businesses who provide data to the ONS for the purposes of producing National and other official statistics
.....
.....

.....
.....

Question twenty: What principles and factors should be considered in preparing the Code of Practice on matters to be considered before making changes to the processes that collect, store, organise or retrieve data?

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Better Use of Data Consultation

Oldham Council welcomes the opportunity to comment on the proposed extension of data sharing legislation outlined in the 'Better Use of Data' consultation publication.

We recognise the challenges in balancing the public service and financial benefits which stem from effective data sharing against the desire to protect personal information. The proposed legislation and associated Codes of Practice will be a step in the right direction but whether they go far enough, to a large extent depends on the spirit to which participants seek to achieve the aims of Government

It also depends on whether proven methods of securely and proportionally sharing data piloted via this proposed legislation lead to further progress in balancing these potentially challenging goals through opening up further areas of activity. The ease and speed by which new objectives can be added, especially from public bodies outside of core government departments will be a critical factor in enabling newly devolved arrangements to flourish

Public sector organisation need to work in partnership to deliver the improvements in service delivery and associated reductions in public spending which will be derived from effective data sharing. To achieve this aim the legislation and associated guidance must be constructed to avoid this progressive development from generating a risk averse culture. This is particularly important when considering the permissive nature of the proposals and the references to criminal sanctions.

The consultation questions are quite specific and before providing specific responses to them, there are some wider comments we would like to make.

Intended Use

The legislation is intended for use where

- The objective could not be met without data sharing;
- It is not realistic and practicable to use consent to achieve the intended outcome or use of consent would not meet the criteria of free and informed decision making; and
- Sharing and analysis of de-identified data would not achieve the intended outcome.

Arguably, any objective can be met without data sharing if enough resource is deployed, up to and including the sharing of paper records using couriers. The point is that data sharing reduces the resource commitment. There is a danger that this criterion could be a focus to prevent data sharing. We would like to see this criterion reference that "The objective could not be met cost effectively without data sharing"

The Permissive Approach

The proposed gateway is 'permissive' in that the provider agency (e.g. DWP) can decide whether or not to provide the data and there is no reference to a mechanism outlined to appeal the decision. There has been a significant reluctance within some public sector

Response on Behalf of Oldham Council

organisation to share data and while the rationale for a permissive approach is understood, this could be used, unreasonably, to stifle data sharing.

There should be a presumption to share and at the very least there should be reasons given for the rejection of data sharing. The proposed code could outline classifications of acceptable reasons and, better still, there could be an independent review.

The Code could laid down clearly emphasise that every endeavour should be made to achieve data sharing and that rejection of the proposals needs to be a rare exception rather than the default setting.

Safeguarding

The draft legislation is specifically structured to say that nothing in these proposed provisions prevents the use of information for (amongst other things) safeguarding vulnerable adults or children. The implication being that existing legislation is already sufficient for safeguarding purposes.

While it could be considered adequate, it is based around being reactive because the test of "proportionality" is vague and subjective and leads to a risk-averse approach when matters have escalated and there already is a potential safeguarding problem.

Emphasis needs to shift to being much more preventative in nature and data sharing would assist in highlighting emerging problems and situations which could be dealt with early. Either this proposed legislation needs to enable this or the position of accessing data for safeguarding needs to be clearer.

Purpose

In outlining the purposes of the legislation (para 39) it refers to three purposes including (c) the improvement of the well-being of individuals.

In drafting the legislation, however, the reference to well-being in (c) above has been combined with the reference to fuel poverty.

Was it the intention to limit this objective to fuel poverty because the interpretation 'of improvement of well-being' could be wide ranging and would enable public bodies to approach data sharing from a wider context? We would welcome specific inclusion of this as an objective.

Health and Social Care Data

The commentary outlines that health and care data plays a critical role in the design and delivery of public services but a specific initial objective in this area is precluded because it is believed additional safeguards will be needed and these need to be in line with the findings of the Dame Caldicott's review due in early 2016.

We cannot emphasise enough how critical it is to include an objective in this area. A major plank of the devolution deal for Greater Manchester and, in reality, a pathfinder for the whole of the country is the integration of health and social care.

Response on Behalf of Oldham Council

While the sensitivities surrounding health records are appreciated, basic operational data needs to be shared to enable services to be integrated. Moreover, the key factor is to move much further towards prevention rather than reactive treatment and this will be facilitated by effective predictive data analysis.

While it is accepted that additional safeguards are required around medical data, the data which drives efficient coordination of care between health and social care is not concerned with detailed medical histories.

Additionally, health and social care data needs to encompass community safety. The blue light services play an active part in people's lives where health and social care matters are at the heart of their intervention. There is a need to be much clearer view about the definitions of and bodies involved with health and social care data which facilitates rather than inhibits joined up service delivery, early intervention and prevention.

Finally it is noted that health and social care data is specifically excluded in the proposals for commissioning research by clause 8 (3) which excludes health and social care bodies. Surely research into prevention will be a critical factor in lowering costs in this area. It is understood that this is also based on a need to consider the outcome of the Caldicott review so may be amended once the position is clarified.

Reducing Debt

It is not at all clear if these proposals will add value. There would need to be clarity about how arrangements could fairly address debt across public bodies on a pro rata basis. They also need to address the fundamental difference between someone who cannot pay the debt and those who won't pay it.

The proposals are too narrow and do not address some practical issues which surround dealing with debt. For example, currently Council Tax services may well cause an individual to become bankrupt but cannot share this likely outcome with social care services to protect vulnerable adults and avoid escalation.

In a second context, Council Tax services are precluded from establishing the true income of charge payers via HMRC data to set up an accurate attachment to earning order.

The proposals ought to extend to or focus on the efficient and accurate processing of debt which seeks to avoid escalation which increases cost to public bodies and the individuals.

Codes of Practice

The detailed arrangements which will underpin the legislation will be governed by statutory Codes of Practice. These would set out:

- Details of when the power is intended to be used
- Guidance for successful implementation e.g. what is required in a business case
- Additional safeguards e.g. privacy impact assessments

There is the potential for this to become costly and time consuming in establishing agreement to data sharing. The circumstances surrounding data sharing for troubled

families, for example, will not effectively differ across all Councils but this approach seems to suggest that DWP would need separate agreements with each local authority.

While it could be accepted that leading edge Councils might clear a path for others by establishing principles it surely must be possible to recognise that there are some consistent needs which cover multiple organisations which could be covered by overarching arrangements.

The Combined Authority is developing arrangements for health and social care involving 37 organisations. In other areas of activity 10 different Councils will be involved. It is essential that the processes outlined in the Codes enable, in fact facilitate, global agreements to ensure efficient achievements of the benefits enshrined within the proposals.

Other General Considerations

Data Matching is facilitated by matching common data fields. The current restrictions on access to National Insurance numbers and, to a lesser extent National Health numbers inhibits data matching. Consideration should be given to proactively using these unique identifiers, together with Unique Property Reference Numbers (UPRN's) across the public sector.

The construction and format of data fields held within administrative data system is also a critical point if ONS are to be able to rely of these sources as an alternative to conducting a Census and to widen the use of admin data in producing national statistics. In this context, public bodies need to work in partnership to build arrangements for the longer term and, indeed, ONS ought to be able to commission the capture of key data from source bodies where this can deliver efficiencies and significant benefits.

The proposed Codes of Practice should have regard to existing arrangements where possible rather than impose extra burdens on public bodies. For example, security in relation to data transfer and storage is already dealt with under the banner of the Public Sector Network (PSN).

It is understood that not clear whether internal research involving data matching within an organisation is permitted without the accreditation processes outlined in the proposals

Improving public service delivery

1. Are there any objectives that you believe should be included in this power that would not meet these criteria?

In overall terms the objectives would provide more flexibility if the words 'including but not limited to' were included to future proof the ability to add new objectives where clarity emerges or circumstance change in understanding impacts on public services and the needs of individuals.

See previous comments on the vital need to include Health and Social Care and in regard to safeguarding

Early intervention and prevention should feature as a focus for improving services delivery to individuals as, at the same time, driving down overall costs.

Efficiency improvements would ensue from data sharing which do not directly lead to the offer of a service. For example the avoidance of error in ensuring accurate address data is maintained and address changes are consistent across public service bodies (social care home address differs from that held by the GP). The objectives need to clarify this point

Monitoring and evaluation of programmes and initiatives such as troubled families is a requirement which needs to be reflected in the objective criteria.

2. Are there any public authorities that you consider would not fit under this definition?

- The Combined Authority (and presumably other emerging devolution arrangements) together with fire and transport authorities
- The reference to district council's implies two tier authorities. For the avoidance of doubt Metropolitan Districts and Unitary Authorities should be listed separately to avoid confusion

3. Should non-public authorities (such as private companies and charities) that fulfil a public service function to a public authority be included in the scope of the delivering public services power?

The scope of public authorities currently specified in the schedule also excludes some public authorities (such as Registered Social Landlords) who assist in the identification process for Troubled Families. Though implied in clauses 8 and 9, there is currently no provision made for non-public authorities acting as service providers (data processors) on behalf of a specified public authority (e.g. Working Well Programme). The role of service providers is increasingly specified in statutory information sharing gateways and some examples of where legislation expressly does this are given below:

- Sections 68 & 76A, Employment & Skills Act 2008
- Section 122, Apprenticeships, Skills, Children and Learning Act 2009
- Section 72, Welfare Reform and Pensions Act 1999
- Section 131, Welfare Reform Act 2012

It will also be beneficial to incorporate charities and reliance on the Third Sector will continue to grow, not only by public authorities but also by communities. Having the ability to share data between these organisations will have a significant impact for all organisations delivery of services.

4. Are these the correct principles that should be set out in the Code of Practice for this power?

5. Should the Government share information with non-public sector organisations as proposed for the sole purpose of providing assistance to citizens living in fuel poverty?

Yes this would be a positive step. However unless the sharing is restricted to the actual energy supplier for that specific household this could lead to another national direct marketing scandal.

6. Would the provision of energy bill rebates, alongside information about energy efficiency support, be appropriate forms of assistance to citizens living in fuel poverty?

This would be the same as above in that unless this is restricted to the actual energy supplier for that specific household

7. Are there other forms of fuel poverty assistance for citizens that should be considered for inclusion in the proposed power?

The ability to share the data regarding those identified suffering with fuel poverty with public authorities would enable the targeting of specific services, especially around health and safety in the home. Has some thought been given to the flag being shared with local authorities, many of whom have 'warm homes' schemes?

Access to civil registration to improve public service delivery

8. Should a government department be able to access birth details electronically for the purpose of providing a public service, e.g. an application for child benefit?

Yes, this would provide the ability for organisations to make the process more effective and efficient, not only for themselves but also for applicants. It would further make the obtaining of these public services more accessible to those who need it.

9. Do you think bulk registration information, such as details of all deaths, should be shared between civil registration officials and specified public authorities to ensure records are kept up to date (e.g. to prevent correspondence being sent to families of a deceased person)?

Yes, however, this list does not currently include Combined Authorities so either these would need to be added to the list. Nor are Transport bodies included or a facility for organisations like them to be included.

Combating fraud against the public sector through faster and simpler access to data

10. Are there other measures which could be set out in the Code of Practice covering the proposed new power to combat fraud to strengthen the safeguards around access to data by specified public authorities?

A specified person means a person listed in the Schedule and this includes a person providing services to a specified person. Although specified persons include District Councils they do not include Combined Authorities or transport authorities. The inclusion of organisations like these will be necessary to ensure the full effectiveness of the legislation

11. It is proposed that the power to improve access to information by public authorities to combat fraud will be reviewed by the Minister after a defined period of

time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the Fraud gateway be operational for before it is reviewed?

Improving access to data to enable better management of debt owed to the public sector

12. Which organisations should Government work with to ensure fairness is paramount when making decisions about affordability for vulnerable debtors who owe multiple debts?

13. How can Government ensure the appropriate scrutiny so pilots under the power are effectively designed and deliver against the objectives of the power?

14. It is proposed that the power to improve access to information by public authorities for the purpose of better managing debt owed to government will be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the debt power be operational for before it is reviewed?

Access to data which must be linked and de-identified using defined processes for research purposes

15. Should fees be charged by public authorities for providing data for research purposes, and if so should there be a maximum fee permitted which is monitored by the UK Statistics Authority?

If a public authority charges a fee this must not exceed the cost to the person doing the work for which the fee is charged.

16. To ensure a consistent approach towards departments accepting or declining requests for disclosing information for research projects, should the UK Statistics Authority as the accreditation body publish details of rejected applications and the reasons for their rejection?

Yes, this would aid transparency and would also provide an insight in to which organisations are considering their data protection obligations.

We would strongly encourage the UKSA to accredit organisations rather than accept or decline information for individual research projects. UKSA should make clear to organisations that accreditation is the passport to granting access to information. Furthermore those organisations that carry out inappropriate research projects will be liable to removal of their accreditation status. It would appear ambitious for the UKSA to be responsible for approving or rejecting all research projects public authorities covered by this power may wish to carry out.

17. What principles or criteria do you think should be used to identify research that has the potential for public benefit, or research that will not be in the public benefit?

Similar to other responders, the proposed criteria appear to be sound. However, there is no specific mention of aggregated data with the implication that this is already covered. There

is nevertheless sometimes resistance even to provide this for research purposes. The arrangements should make it clear that aggregated data can be shared.

Access by UK Statistics Authority to identified data for the purpose of producing official statistics and research

18. Is two years a reasonable maximum period of time for the duration of a notice for the supply of data to the UK Statistics Authority for the purposes of producing National and official statistics and statistical research?

19. If your business has provided a survey return to the ONS in the past we would welcome your views on:

- a) the administration burden experienced and the costs incurred in completing the survey, and
- b) ways in which the UK Statistics Authority should seek to use the new powers to further reduce the administrative burdens on businesses who provide data to the ONS for the purposes of producing National and other official statistics.

20. What principles and factors should be considered in preparing the Code of Practice on matters to be considered before making changes to processes that collect, store, organise or retrieve data?

- Public bodies should be required to implement common data standards which facilitate data sharing.
- Public bodies should be required to implement minimum IT security standards as prescribed by the government. Exceeding in Information technology security can be prohibitive to sharing information or being innovative in technical solutions to enable sharing. The code should address this.
- Public bodies should demonstrate a standard level of information governance maturity.

Better use of data in government

Responding to the consultation

Your details

To evaluate responses properly, we need to know who is responding to the consultation and in what capacity.

We will publish our evaluation of responses. Please note that we may publish all or part of your response unless you tell us (in your answer to the confidentiality question) that you want us to treat your response as confidential. If you tell us you wish your response to be treated as confidential, we will not include your details in any published list of respondents, although we may quote from your response anonymously.

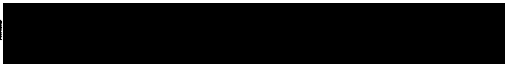
Name (optional): Tom MacInnes

Position (optional): Head of Analysis

Organisation name: Citizens Advice

Address: 3rd Floor North, 200 Aldersgate, London,

Email



Telephone (optional):

Would you like us to treat your response as confidential?*

If you answer yes, we will not include your details in any list of people or organisations that responded to the consultation.

Yes No

Is this a personal response or an official response on behalf of your organisation?

Personal response

Official response

If you ticked "Official response", please respond accordingly:

Type of responding organisation*

Business

Charity

- Local authority
- Central government
- Wider public sector (e.g. health bodies, schools and emergency services)
- University or other higher education institution
- Other representative or interest group (please answer the question below)

Type of representative group or interest group

- Union
- Employer or business representative group
- Subject association or learned society
- Equality organisation or group
- School, college or teacher representative group
- Other (please state below)

Nation*

- England
- Wales
- Northern Ireland
- Scotland
- Other EU country: _____
- Non-EU country: _____

How did you find out about this consultation?

- Gov.uk website
- Internet search
- Other

May we contact you for further information?

- Yes No

Introduction:

Citizens Advice recognises the role that data can play in empowering consumers towards better individual and collective outcomes. However, making this a reality requires careful handling given the potential risks to security and privacy that could occur. Building a trusted and safe system in which citizens experience a clear benefit must be a prerequisite for any data sharing proposals, and must be given as much attention as the potential efficiencies to be gained.

Citizens Advice very much welcomes the effort and consideration that has gone into the development of these proposals through the Open Policy Making process. We would like to add our insights to the dialogue which will help develop policy that can address some of the sensitive issues around data sharing from a citizen and consumer point of view.

Our 'Personal Data Empowerment'¹ report set out a vision and principles for a fairer system for data

sharing and use by organisations. This was followed up by original qualitative research² with consumers who told us what they expect to see from organisations wishing to make more use of their data. We have also explored the potential for intelligence drawn from user data aggregated across public services to feed into key service improvements.³ This research, coupled with our practical expertise in managing 2.5m cases annually where we see first hand the impact of having inconsistent or out of date information between organisations, and the need for people to repeatedly prove identity or circumstances to access services or entitlements, has informed our response to this consultation.

Citizens Advice guiding principles:

- Consumers have an appetite for greater personal data sharing and aggregation but they want a fair value exchange – they should be able to get a clear benefit from sharing their personal data.
- The ability and means to gain a benefit from sharing personal data should be accessible to all consumers, and contribute towards challenging wider detriment
- Consumers want to control how their data is used and by whom – these choices should be organised around an individual's personal preferences, not the organisation's needs.
- Organisations should be transparent in their use of data - information should be accessible and clear so consumers can easily understand what is happening with their data
- Organisations should recognise the importance of transparency in showing they can be trusted to handle personal data – their business model, security standards and lines of accountability should be obvious so that consumers can easily establish whether they meet their trust requirements.
- Consumers' information and data protection rights must be properly enforced and upheld
- Mechanisms to manage privacy and consent should be designed to reflect actual behaviours, not those of the legislators' and regulators' idealised consumer, or data gatherers' convenience.

General remarks on citizen trust and the need for organisational accountability

Trust in organisational collection and use of data is low across all sectors, including government.⁴ This is due in part to direct experience (such as unwanted marketing, experiencing a data breach, or poor information being used as a basis for decisions) but are also influenced by a more general sense of technology and data use running out of control, given our increasing dependency on digital devices and services.⁵ Trust is diminished by a lack of transparency over how and why data is used, the difficulty in establishing what exactly has happened with one's data over time, and a lack of choice and control over such use. Trust can be improved by improved transparency, evidence of institutional safeguards and adherence to recognised codes of practice. Accountability is also very

¹<https://www.citizensadvice.org.uk/Global/Public/Corporate%20content/Publications/Personal%20data%20empowerment%20report.pdf>

² Forthcoming

³ <https://www.citizensadvice.org.uk/learning-from-mistakes/>

⁴ Royal Statistical Society (2014). Public Attitudes Towards The Use And Sharing Of Their Data. July 2014. Available at: <https://www.ipsosmori.com/researchpublications/researcharchive/3422/New-research-finds-data-trust-deficitwith-lessons-for-policymakers.aspx>

⁵ Forthcoming

important - demonstrating that high standards of privacy, security and respect for people's wishes are being met and that there will be consequences if they are not, and easily available redress.

The proposals as set out include many mechanisms which seek to reassure people against misuse, however given their reliance on seeking consent upfront, without ongoing engagement in subsequent data use suggests a limited role for individuals in the process. In the case of where consent is deemed not to be necessary we would advocate for extra caution and safeguards to ensure that use of data is entirely proportionate to the task and that consumers do not experience unnecessary detriment or invasions of privacy or unintended consequences.

As any government data sharing initiative will inevitably start from a low base of trust, we feel that measures to reassure trust and accountability should be strengthened to take account of citizen's concerns and requirements. Compliance with the letter of data protection law (as experienced through tick boxes and lengthy and confusing terms and conditions) has not led to consumer confidence in data handling and so these proposals from government should seek to exemplify the spirit of information laws and set a high standard for data sharing and relevant safeguards.

Recommendations for strengthening trust and addressing data sharing sensitivities:

- **Make data use more transparent**

We welcome the transparency of decision making processes under the proposals, but would like to see similar commitment to transparency of information and decisions made for individuals.

This could be achieved through ensuring citizens have a right to see and review who has had access to their data and for what purpose.

- **Make it easy to understand**

We would like to see the way in which data use is communicated to people share the same 'person focus' as that proposed by the tailoring of public services.

Better information does not necessarily mean more detailed information, but required the presentation of intended and actual usage in a way that a citizen can easily engage with, preferably all in one place.

- **Give consumers more control and choice**

To engage effectively with information on data sharing intentions, people need to have choices over what data is used, by whom and how. We think it is important that citizens fully understand what they are consenting to and we would like to have more information about the implications of them not agreeing to their data being shared. This idea of 'considered consent' is important as it will avoid consent becoming a simple 'box ticking' exercise which has played a role in undermining trust.

Ideally these choices should be part of an ongoing process and not limited to giving consent at the initial point of engagement and then relying solely on the public authorities' intentions around use. It should be easy for an individual, or a trusted intermediary working in their interests, to spot when something has gone wrong, and get it put right; there should be opportunities to both set and revoke sharing preferences over time.

Any mechanisms to manage privacy and consent should be designed to reflect actual behaviours, not those of the legislators' and regulators' idealised citizen, behaving within a rational choice framework.⁶ We recommend different ways of providing for considered consent, and real choice be given high priority in the proposed pilot process.

Join up to other government digital initiatives:

This government and its predecessor have pursued an ambitious agenda on opening up information, content and data to improve digital engagement, make services more efficient and increase consumer choice. We would like to see the learning from best practice elements of other digital initiatives incorporated into this policy process, to avoid duplication and strengthen application, for example:

- Making use of Government Digital Services' 'discovery, alpha, beta' approach to projects when implementing pilots
- Exploring the potential of the Gov.uk Verify scheme to provide identity verification for matching entitlements and tailoring services in the case of proposals to improve public services, and making use of Gov.uk Verify privacy principles to guide data use and process
- Learning from the dynamic consent ideas being explored as part of care.data by which consumers can track and adjust their sharing and privacy settings

Learning from when things haven't gone well is also critical and the care.data scheme is a useful case study here. Exercising choice over participation was made cumbersome for people, communication about its goals for such a large scale and potentially significant programme was felt to be poor and an excellent opportunity to engage people in the benefits of data sharing was missed.

Legislative safeguards:

Data collection and analysis methods move fast, and it will always be challenging to make policy in this area future proof. With this in mind, very careful attention must be given to designing adequate safeguards to ensure that new use cases and extensions are discussed fully with a range of stakeholders, drawing on evidence from application. Opportunities for review should be built in at regular intervals and sunset clauses applied. Our research found many people are concerned about where the current raft of data sharing will end, and there is apprehension about what further uses it may be put to. Strong review mechanisms can go some way to ensuring 'mission creep' is kept in check.

Properly resourced scrutiny and enforcement

Citizens Advice would like to see more evidence that the bodies with responsibility for auditing and upholding accountability have the resources and capacity to fully deliver on the safeguards necessary for safe and proportionate data sharing across departments.

Questions

⁶ See for example our forthcoming work on behavioural insights into consumer behaviour, and <https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/consumer-policy-research/consumer-policy-research/consumer-engagement-with-the-market/>

Improving public service delivery

Question one: Are there any objectives that you believe should be included in this power that would not meet these criteria?

- No
 Yes

If yes, please explain your reasons.

Whilst it is clear that there may be circumstances where the 'use of consent would not meet the criteria of free and informed decision making', Citizens Advice would like further clarity on what is meant by a situation where it is 'not realistic and practicable to use consent to achieve the intended outcome'. Given that the purpose of the public service proposal is to improve welfare, and be non-punitive in nature, we would like an illustration of circumstances where, to achieve this intention, consent not be required.

Any proposal to share identified data without prior considered consent is of concern, and so proposals to do so will require more deliberation.

Question two: Are there any public authorities that you consider would not fit under this definition?

- No
 Yes

If yes, please explain your reasons:

With the broad intention to 'improve individual welfare' it is likely that the range of public authorities will be wide and so it is difficult to think of who would not fit under this definition. What therefore becomes critical then is to ensure that any authority on the schedule is:

- Admitted if can demonstrate they are essential to the proposed intention
- Able to demonstrate a strong track record in data handling
- Subject to probationary measures to ensure data handling meets required standard

We welcome the ability of a minister to remove any public authority, and would like to see bodies working in the consumer interest have the ability to make the case for removing a body which does not meet the standards of the code.

Question three: Should non-public authorities (such as private companies and charities) that fulfil a public service function to a public authority be included in the scope of the delivering public services power?

- Strongly agree
 Agree
 Neither agree nor disagree
 Disagree
 Strongly disagree

The Citizens Advice Service is highly regarded and trusted by the public. Our values of independence and confidentiality are key to that trust and for clients to feel able to use our services. We will need to ensure that information to the public about data sharing does not undermine this trust, cause alarm or discourage anyone from using our services.

We think that if there is the potential to expand the range of partners that data is shared with in the future appropriate checks should be made to ensure standards are in place to manage data securely. There should also be consideration of any conflicts of interest that could arise from sharing with new partners (eg credit referencing agencies, private sector landlords).

To return to the general point on building trust, the commitment to share data between public authorities is easy for a citizen to understand. Any further sharing or the ability of other bodies to enter into such arrangements may well raise questions about intentions, and erode trust, particularly with private bodies. At a minimum, companies should be prevented from making secondary use of data in any such arrangement.

This could be addressed by increasing transparency by ensuring that it is easy to understand just who sees it but why, and what limitations are in place. Without such transparency and limitations, data sharing is likely to fall into disrepute, particularly if consumers perceive that companies accrue commercial advantages from the sharing of their data

Question four: Are these the correct principles that should be set out in the Code of Practice for this power?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

Without clarity on the number of codes of practice, or seeing the code in its entirety it is difficult to comment on the principles (also see question 10). As stands, they appear sound but could be strengthened as follows:

(b) Guidance could be strengthened by adding a requirement for evidence of effectiveness, and including citizen representation in devising person-centered use cases

(c) Make rights to consent and control last through lifetime of process - so contextual information on how data is being used, ability to review and update preferences etc are all open to people throughout the process

Other additions could include:

Greater transparency of who has data for what purpose, for how long and what outcome was.

Greater visible accountability for departments if errors are made, trust breached, or data use outside of agreed purposes.

Providing assistance to citizens living in fuel poverty

Question five: Should the government share information with non-public sector organisations as proposed for the sole purpose of providing assistance to citizens living in fuel poverty?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

Citizens Advice has long called for data sharing between government and fuel companies for the purpose of providing assistance to fuel poor consumers. A DECC survey of beneficiaries of the pilot predecessor scheme to the Warm Home Discount (WHD) scheme found that nearly 100% of beneficiaries supported data sharing to allow automatic payment of the WHD.

We consider the obligation to provide the WHD to eligible consumers should apply to all energy companies regardless of size. Suppliers below a certain threshold are not currently obliged to provide the WHD - this distorts competition and adds complexity to consumer decision-making.

However, we are concerned that the proposal could reduce the size of the discount provided to recipients (currently worth £140 per year). Automatic extension - in effect combining the core and broader groups - could mean a smaller discount going to the combined group, unless the Treasury raises the cap on expenditure under the levy control framework. We consider the Treasury should do this. Research carried out for Citizens Advice found that this would raise the average consumer bill by about £5 per consumer⁷.

If Treasury is not willing to raise the cap, we do not support purported proposals (Guardian, 16/4/16) that the current core group gets a higher rate than the non-pensioner households brought into the core group. Support should be based on need, not demographic proxies.

⁷ Bridgeman et al, 2015, *Energy tariff options for consumers in vulnerable situations*, Citizens Advice

Question six: Would the provision of energy bill rebates, alongside information about energy efficiency support, be appropriate forms of assistance to citizens living in fuel poverty?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Please explain your reasons:

Citizens Advice has similarly long called for suppliers to provide information about energy efficiency support, as well as energy bill rebates, to fuel poor households. By bringing together information on WHD eligibility and information on poor energy efficiency standards, such as Valuation Office, off-gas and EPC data (about 50% of domestic properties now have EPC ratings), suppliers can target energy efficiency help at low income consumers living in low efficiency homes. These consumers are likely to experience particularly severe fuel poverty.

Under the current ECO scheme many low income consumers are required to contribute towards the cost of energy efficiency measures. We are about to publish research on the extent of this problem. For example, we find that many low income consumers are either dropping out from the scheme or foregoing expenditure on other essential items. If data sharing is to be extended to the EPC ratings etc, we consider it essential that there is transparency and clear limits on the extent to which suppliers can charge eligible consumers for the installation of energy efficiency measures or are able to refuse to install reasonable measures on the grounds of, for example, insufficient carbon savings or remote locations. As addressed in question three, without such transparency and limitations, data sharing is likely to fall into disrepute, particularly if consumers perceive that companies accrue commercial advantages from the sharing of their data.

We consider:

1. Companies should be obliged to provide help to all those entitled if suitable measures can be installed - the government already has a reserve power that it could implement to oblige companies to do this.
2. Companies should not exclude eligible consumers because there are insufficient carbon savings or because they live in 'expensive to serve' areas (rural, inner city).
3. We would prefer companies to provide measures free of charge to eligible consumers. If the government insists that clients make a contribution to measures installed under the successor scheme to ECO, contributions should be capped according to the expense of measures installed.

4. If client contributions are to continue, companies should provide data to Ofgem on the size of the client contribution and the number of clients dropping out because they could not pay the client contribution.

Question seven: Are there other forms of fuel poverty assistance that should be considered for inclusion in the proposed power?

Yes

No

If yes, please explain your reasons:

We suggest the following forms of fuel poverty assistance could be considered for inclusion in the proposed power:

1. Provide a higher rate WHD to those in homes with low energy efficiency or an equivalent proxy such as homes without mains gas
2. Make proactive referrals to Home Improvement Agencies to make sure ancillary works are carried out, e.g. repairs to electrical systems, installation of loft hatches, loft clearance

Access to civil registration information to improve public service delivery

Question eight: Should a government department be able to access birth details electronically for the purpose of providing a public service, e.g. an application for child benefit?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Please explain your reasons:

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Question nine: Do you think bulk registration information, such as details of all deaths, should be shared between civil registration officials and specified public authorities to ensure records are kept up to date (e.g. to prevent correspondence being sent to a deceased person)?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Please explain your reasons:

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Combating fraud against the public sector through faster and simpler access to data

Question ten: Are there other measures which could be set out in the Code of Practice covering the proposed new power to combat fraud to strengthen the safeguards around access to data by specified public authorities?

Yes

No

Please explain your reasons:

As stated in question four, without seeing the proposed code of practice in its entirety and without confirmation of how many codes will be produced, it is difficult to make substantive comments. Contradictions may emerge however, in having a code of practice which covers both punitive (combating fraud) and beneficial (tailoring better public services), particularly with regards to gaining or not gaining consent.

In terms of the proposed objectives under point 69 of the consultation. We would be very wary of the implications of 'threat profiling potentially fraudulent individuals', in that there may be many unintended consequences of such a process. We have already seen punitive decisions based on inferences made about people's circumstances based on an inaccurate

interpretation of data (for example HMRC inferring that a couple are cohabiting and adjusting tax credits accordingly) . There is a risk of poor interpretation of available data (which may not be as informative as presumed) and unnecessary invasions into people's privacy. We would like to see more safeguards, including allowing due process to respond to any allegations of fraud, and the option to easily rectify inaccurate data, as well as fair and easy access to dispute resolution.

Guidance could be strengthened by adding a requirement for evidence of effectiveness in terms of costs invested, and including citizen representation in assessment of pilots and schemes.

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Question eleven: It is proposed that the power to improve access to information by public authorities to combat fraud would be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the fraud gateway be operational for before it is reviewed?

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Improving access to data to enable better management of debt owed to the public sector

Question twelve: Which organisations should government work with to ensure fairness is paramount when making decisions about affordability for vulnerable debtor who owe multiple debts?

Government should work with a range of organisations in order to help make decisions about affordability for vulnerable debtors. Debt charities, like Citizens Advice, can give Government insight into people's experience of financial difficulty, managing multiple debts and good practice in debt collections. Clients with debt problems frequently have other problems as well that can affect their ability to manage their financial difficulties, 45 per cent of our debt clients also seek help with another non-debt issue.

Government should work with firms, such as those in the financial services and energy sectors who have changed their debt collection practices to take greater account of affordability and vulnerability. It would also be useful to speak to the regulators that have overseen these changes - particularly the FCA, which regulates debt collectors used by Government - and trade bodies such as the Lending Standards Board and the British Bankers Association.

The Financial Ombudsman Service would be useful for Government to consult to better understand handling of complaints about creditors.

Question thirteen: How can Government ensure the appropriate scrutiny so pilots under the power are effectively designed and deliver against the objectives of the power?

Data about how the debts (or alleged debt) owed to government by consumers arose, and about the circumstances that affect a consumer's ability to pay can include highly sensitive legal, medical, domestic and financial information. Sharing of this data is especially risky because of the potential vulnerability of the people that this data concerns, and the potentially highly sensitive nature of the data.

Government should ensure that these pilots exercise extra caution and create safeguards to ensure that sharing (and re-sharing) of data is at least consistent with best practice, proportionate to the task, proportionate to the sensitivity of the data being shared. An explicit aim of the pilots should be to establish that consumers do not experience unnecessary detriment or invasions of privacy or unintended consequences.

Government should involve consumer organisations and debt charities in the design and the evaluation of the pilots. The evaluation of the pilots should include independently conducted research into the consequences of the data sharing for consumer. The pilots should include reviews so that practices and policies can be changed if there are clear grounds to believe they may be causing detriment before the planned end of the pilot.

Question fourteen: It is proposed that the power to improve access to information by public authorities to combat fraud would be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the fraud gateway be operational for before it is reviewed?

1 year.

Access to data which must be linked and de-identified using defined processes for research purposes

Question fifteen: Should fees be charged by public authorities for providing data for research purposes, and if so should there be a maximum fee permitted which is monitored by the UK Statistics Authority?

Yes

No

The preference would be for such data to be available for free. If the alternative is that the data were unavailable, a small charge is preferable. But by extension, it should imply that all such data is available by request, subject to that charge. If the data is paid for, there is no argument on the grounds of costs or resources not to provide it.

Question sixteen: To ensure a consistent approach towards departments accepting or declining requests for disclosing information for research projects, should the UK Statistics Authority as the accreditation body publish details of rejected applications and the reasons for their rejection?

Yes No

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Question seventeen: What principles or criteria do you think should be used to identify research that has the potential for public benefit, or research that will not be in the public benefit?

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Access by UK Statistics Authority to identified data for the purpose of producing official statistics and research

Question eighteen: Is two years a reasonable maximum period of time for the duration of a notice for the supply of data to the UK Statistics Authority for the purposes of producing National and official statistics and statistical research?

Yes

No

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Question nineteen: If your business has provided a survey return to the ONS in the past we would welcome your views on:

a) the administration burden experienced and the costs incurred in completing the survey

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b) ways in which the UK Statistics Authority should seek to use the new powers to further reduce the administrative burdens on businesses who provide data to the ONS for the purposes of producing National and other official statistics

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Question twenty: What principles and factors should be considered in preparing the Code of Practice on matters to be considered before making changes to the processes that collect, store, organise or retrieve data?

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Responding to the consultation

Your details

To evaluate responses properly, we need to know who is responding to the consultation and in what capacity.

We will publish our evaluation of responses. Please note that we may publish all or part of your response unless you tell us (in your answer to the confidentiality question) that you want us to treat your response as confidential. If you tell us you wish your response to be treated as confidential, we will not include your details in any published list of respondents, although we may quote from your response anonymously.

Name (optional): Robert Ellam

Position (optional): Business Intelligence Manager

Organisation name: Suffolk County Council

Address: Endeavour House, Russell Road, Ipswich, Suffolk, IP1 2BX

Email: 

Telephone (optional):

Would you like us to treat your response as confidential?*

If you answer yes, we will not include your details in any list of people or organisations that responded to the consultation.

Yes No

Is this a personal response or an official response on behalf of your organisation?

Personal response

Official response

If you ticked “Official response”, please respond accordingly:

Type of responding organisation*

- Business
- Charity
- Local authority
- Central government
- Wider public sector (e.g. health bodies, schools and emergency services)
- University or other higher education institution
- Other representative or interest group (please answer the question below)

Type of representative group or interest group

- Union
- Employer or business representative group
- Subject association or learned society
- Equality organisation or group
- School, college or teacher representative group
- Other (please state below)

Nation*

- England
- Wales
- Northern Ireland
- Scotland

() Other EU country: _____

() Non-EU country: _____

How did you find out about this consultation?

() Gov.uk website

() Internet search

Other

 Email from the Families Team at DCLG, as part of the national Troubled Families programme

May we contact you for further information?

Yes () No

Questions

Improving public service delivery

Question one: Are there any objectives that you believe should be included in this power that would not meet these criteria?

No

Yes

If yes, please explain your reasons.

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.....

Question two: Are there any public authorities that you consider would not fit under this definition?

No

Yes

If yes, please explain your reasons:

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.....

Question three: Should non-public authorities (such as private companies and charities) that fulfil a public service function to a public authority be included in the scope of the delivering public services power?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Please explain your reasons:

We need to ensure that non-public authorities who are contracted by public authorities to fulfil a public service function are within scope, and included in data sharing. Examples include housing stock transferred from public authority to and held by social landlords, commissioned drug and alcohol services, commissioned domestic abuse services, particularly as we push towards more community-led and preventative services. Library services in Suffolk (delivered by an industrial and provident society) are an example of a front-line provider of advice, information and in some cases universal support for Mental Health and other issues, and it is therefore important that such issues are considered.

Question four: Are these the correct principles that should be set out in the Code of Practice for this power?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

The principles seem sensible.....
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Providing assistance to citizens living in fuel poverty

Question five: Should the government share information with non-public sector organisations as proposed for the sole purpose of providing assistance to citizens living in fuel poverty?

- Strongly agree
- Agree
- Neither agree nor disagree

Disagree

Strongly disagree

Please explain your reasons:

Relying on people to make themselves known and claim is very patchy, and probably disadvantages those who are already amongst the most disadvantaged and vulnerable in our society. Extending the assistance to families as well as pensioners would improve child & family health and wellbeing. We already provide support, advice and data to other departments within the organisation (such as Fire and Rescue Services) to enable them to perform fire safety and 'warm home' checks for older people. Preventative functions such as this could be greatly improved by considering the abilities of voluntary organisations, such as the Red Cross, Age UK and others.

Question six: Would the provision of energy bill rebates, alongside information about energy efficiency support, be appropriate forms of assistance to citizens living in fuel poverty?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Please explain your reasons:

This would operate well in conjunction with the other support already offered, e.g. grant funding for hearing repairs, referrals for insulation etc. Some of this does already take place at a local level via our Fire and Rescue Services and district councils (particularly for housing association and LA stock tenants).

Question seven: Are there other forms of fuel poverty assistance that should be considered for inclusion in the proposed power?

Yes

No

If yes, please explain your reasons:

Could this be identified as part of a wider, more holistic personal budget?

Access to civil registration information to improve public service delivery

Question eight: Should a government department be able to access birth details electronically for the purpose of providing a public service, e.g. an application for child benefit?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

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Question nine: Do you think bulk registration information, such as details of all deaths, should be shared between civil registration officials and specified public authorities to ensure records are kept up to date (e.g. to prevent correspondence being sent to a deceased person)?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

This would form an important part of shared health and care records (part of our vision 2020 piece). There may also be wider potential uses for this data than just correspondence (e.g. improvement of “Tell us once”).

Combating fraud against the public sector through faster and simpler access to data

Question ten: Are there other measures which could be set out in the Code of Practice covering the proposed new power to combat fraud to strengthen the safeguards around access to data by specified public authorities?

Yes

No

Please explain your reasons:

Not that we know of.....
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Question eleven: It is proposed that the power to improve access to information by public authorities to combat fraud would be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the fraud gateway be operational for before it is reviewed?

Six to twelve months for our adult care services – this would enable a reasonable tracking of the customer journey for some of our more complex service users, with needs that cross a range of agencies. No opinion was expressed by our other departments.

Improving access to data to enable better management of debt owed to the public sector

Question twelve: Which organisations should government work with to ensure fairness is paramount when making decisions about affordability for vulnerable debtor who owe multiple debts?

Local advocacy services, voluntary sector infrastructure organisations (such as Community Action Suffolk).

Question thirteen: How can Government ensure the appropriate scrutiny so pilots under the power are effectively designed and deliver against the objectives of the power?

Not known.....

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Question fourteen: It is proposed that the power to improve access to information by public authorities to combat fraud would be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the fraud gateway be operational for before it is reviewed??

Not known.....

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Access to data which must be linked and de-identified using defined processes for research purposes

Question fifteen: Should fees be charged by public authorities for providing data for research purposes, and if so should there be a maximum fee permitted which is monitored by the UK Statistics Authority?

Yes

No

This would enable authorities to more effectively staff analytical functions and to promote such specialisms. It may also act as a deterrent for large and time consuming data requests that are not FOI related. We suggest fees should be on cost recovery basis or only match direct costs. There should be no maximum, as the public sector can not afford to subsidise private research

Question sixteen: To ensure a consistent approach towards departments accepting or declining requests for disclosing information for research

projects, should the UK Statistics Authority as the accreditation body publish details of rejected applications and the reasons for their rejection?

Yes () No

This would help the research sector to refine future applications so that they are more likely to be successful

Question seventeen: What principles or criteria do you think should be used to identify research that has the potential for public benefit, or research that will not be in the public benefit?

There are many definitions of this already in use, ranging from legal to ones imposed by grant making bodies. This is an enormous question which is difficult to address in this context. Suggest overarching philosophy would be 'the potential to benefit society and contribute to the achievement of specific, desired societal outcomes'. Consideration of the intended product and its market may be appropriate, especially where the stated aim is to sell the product back to public authorities at profit. The same principles employed by the Care Act around services being driven by the needs and wishes of customers would be a useful addition.

Access by UK Statistics Authority to identified data for the purpose of producing official statistics and research

Question eighteen: Is two years a reasonable maximum period of time for the duration of a notice for the supply of data to the UK Statistics Authority for the purposes of producing National and official statistics and statistical research?

Yes

() No

Two years seems fair, although more for data currency purposes than for enforcement. Currencies are complex, as demonstrated by regional performance arrangements via the Association of Directors of Adult Social Services (ADASS). Business process alignment may also be necessary in some cases, and this too takes time.

Question nineteen: If your business has provided a survey return to the ONS in the past we would welcome your views on:

a) the administration burden experienced and the costs incurred in completing the survey

N/A.....
.....
.....

b) ways in which the UK Statistics Authority should seek to use the new powers to further reduce the administrative burdens on businesses who provide data to the ONS for the purposes of producing National and other official statistics

N/A.....
.....
.....

Question twenty: What principles and factors should be considered in preparing the Code of Practice on matters to be considered before making changes to the processes that collect, store, organise or retrieve data?

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.....
.....

Responding to the consultation

Your details

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We will publish our evaluation of responses. Please note that we may publish all or part of your response unless you tell us (in your answer to the confidentiality question) that you want us to treat your response as confidential. If you tell us you wish your response to be treated as confidential, we will not include your details in any published list of respondents, although we may quote from your response anonymously.

Name (optional): Jonathan Radcliffe

Position (optional): Research officer

Organisation name: Sport Wales

Address:

Sport Wales, Sophia Gardens, Cardiff CF11 9SW.

Email 

Telephone (optional):

Would you like us to treat your response as confidential?*

If you answer yes, we will not include your details in any list of people or organisations that responded to the consultation.

Yes No

Is this a personal response or an official response on behalf of your organisation?

Personal response

Official response

If you ticked “Official response”, please respond accordingly:

Type of responding organisation*

Business

Charity

Local authority

Central government

Wider public sector (e.g. health bodies, schools and emergency services)

University or other higher education institution

Other representative or interest group (please answer the question below)

Type of representative group or interest group

Union

Employer or business representative group

Subject association or learned society

Equality organisation or group

School, college or teacher representative group

Other (please state below)

Nation*

England

Wales

Northern Ireland

Scotland

Other EU country: _____

Non-EU country: _____

How did you find out about this consultation?

Gov.uk website

Internet search

Other

___Word of mouth_____

May we contact you for further information?

Yes No

Questions

Improving public service delivery

Question one: Are there any objectives that you believe should be included in this power that would not meet these criteria?

No

Yes

If yes, please explain your reasons.

It is not clear what the criteria is in this question against which objectives should be assessed. Nevertheless it would be useful if the powers within this proposal enabled Sport Wales to identify individuals who demonstrate low levels of participation in sport or physical activity and offer them an opportunity to participate.

There are well known hard to reach groups in Wales that demonstrate low levels of participation in sport (e.g. BME groups, people with a disability, and the less affluent) and this could be an efficient way of directing and targeting funding towards their local needs. Building motivation, confidence, awareness, opportunity and resources, and improving quality experiences in sport improves the wellbeing of individuals and their families, and perhaps more importantly helps to break negative habits passed to future generations within that family and to their friends.

Providing a suitable opportunity to participate in sport offers a quick win by facilitating multiple opportunities for individuals to develop physically, mentally and socially whilst doing something that is seen as fun. Hence sport offers a new way of working with the whole family whilst addressing multiple potential disadvantages enabling big problems such as obesity, mental health issues and their associated conditions to be tackled. Moreover sport can help build qualities that contribute to development and learning, contributing to a skilled workforce.

Therefore improving the ability to identify links between participation in sport, health, education and income at the individual level should be an objective included in this power. This will enable us to explore casual links and demonstrate the benefits of sport to people's well-being.

Question two: Are there any public authorities that you consider would not fit under this definition?

No

Yes

If yes, please explain your reasons:

It remains unclear if Welsh Government sponsored bodies fit under this definition. The current list of public bodies appears limited. Sport Wales is not directly named within the list but, as a producer of Official Statistics, we have an important role in providing statistics on sport in Wales. Our statistics are also one of the indicators that measure the wellbeing of Wales as part of the Wellbeing of Future Generations (Wales) Act 2015. This should be acknowledged and made explicit.

Sport Wales is the national organisation responsible for developing and promoting sport and physical activity in Wales. We are the main adviser on sporting matters to the Welsh Government and are responsible for distributing National Lottery funds to both elite and grassroots sport in Wales. We aim to not only improve the level of sports participation at grassroots level but also provide our aspiring athletes with the support required to compete successfully on the world stage. We are one of the public bodies named in the Wellbeing of Future Generations (Wales) Act 2015 and as a producer of official statistics have an important public function in providing statistics on sport in Wales. So not only does Sport Wales develop sport for Wales it also uses evidence to allocate lottery funding and works closely with many other sectors such as education and health. Therefore Sport Wales as an organization should sit within the definition.

Question three: Should non-public authorities (such as private companies and charities) that fulfil a public service function to a public authority be included in the scope of the delivering public services power?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

Public services are now often delivered or supported by non-public sector bodies such as private companies and civil society organisations. For example much of the spatial data available, against which public information is linked, has been influenced by commercial activity. Google maps for example is increasingly used to link spatial and social data. Hence activity is increasingly indistinguishable between sectors.

If the objective is to improve the lives of citizens and the case is made clear for doing so then the legislation should allow for all parties to work together to bring about a positive change. In Wales, the Wellbeing of Future Generations (Wales) Act 2015 actively encourages everyone to play their part in creating a sustainable nation. A

Wales with a shared purpose to achieve a better and lasting quality of life for us all. A Wales where we work differently so we all make better decisions, transform services, tackle root problems, and use scarce public money to maximum effect. We believe therefore that non-public sector bodies that fulfil a public service function to a public authority should be included in the scope of the public service delivery power.

Question four: Are these the correct principles that should be set out in the Code of Practice for this power?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

It is not clear what the principles are that are set out in the Code of Practice for this power. If the principles in the code of practice for this power enable automatic targeting of resources to those who are most vulnerable without relying on these citizens to step forward and request assistance, then this is welcome. In principle there is no reason why this code of practice should not be extended to a sport or health context. It would be useful to have the principles for using the power made clear and a simple step by step guide for sharing data provided. This would contain clear best practice examples whilst demonstrating how issues within the process of sharing data could be resolved. Privacy Impact Assessments should be kept concise and not be burdensome on the smaller organisations.

Providing assistance to citizens living in fuel poverty

Question five: Should the government share information with non-public sector organisations as proposed for the sole purpose of providing assistance to citizens living in fuel poverty?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree

Strongly disagree

Please explain your reasons:

It should not just be for the sole purpose of fuel poverty. It should be extended to other topics because of the important role the non-public sector has in society.

For example, if we know of a physically inactive group in society, and these people also want to participate in sport, why shouldn't data be shared so that the resources from multiple sectors are harnessed to provide opportunities to participate? Especially as in doing so these individuals improve their physical and mental health.

Evidence suggests that people living in low income households also participate less in sport. HMRC and DWP data could identify those living low incomes and this could be linked to location to offer eligible households assistance in participating in sport. The information about eligible households could then be shared with the local authority of leisure services in the local area. Using this knowledge childcare assistance or discounted leisure services could be offered. It is important however those citizens have the option to opt out to save unwanted invasions of privacy.

Question six: Would the provision of energy bill rebates, alongside information about energy efficiency support, be appropriate forms of assistance to citizens living in fuel poverty?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Please explain your reasons:

Cannot really contribute much to this debate.

Question seven: Are there other forms of fuel poverty assistance that should be considered for inclusion in the proposed power?

Yes

No

If yes, please explain your reasons:

Cannot really contribute much to this debate.

Access to civil registration information to improve public service delivery

Question eight: Should a government department be able to access birth details electronically for the purpose of providing a public service, e.g. an application for child benefit?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Please explain your reasons:

We support the proposal for bulk registration information be shared between civil registration officials and specified public authorities. This will enable better informed decisions, resource allocation and service delivery.

Question nine: Do you think bulk registration information, such as details of all deaths, should be shared between civil registration officials and specified public authorities to ensure records are kept up to date (e.g. to prevent correspondence being sent to a deceased person)?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Please explain your reasons:

We support the proposal for bulk registration information be shared between civil registration officials and specified public authorities. This will enable better informed decisions, resource allocation and service delivery.

Combating fraud against the public sector through faster and simpler access to data

Question ten: Are there other measures which could be set out in the Code of Practice covering the proposed new power to combat fraud to strengthen the safeguards around access to data by specified public authorities?

Yes

No

Please explain your reasons:

Cannot really contribute much to this debate.

Question eleven: It is proposed that the power to improve access to information by public authorities to combat fraud would be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the fraud gateway be operational for before it is reviewed?

Cannot really contribute much to this debate.

Improving access to data to enable better management of debt owed to the public sector

Question twelve: Which organisations should government work with to ensure fairness is paramount when making decisions about affordability for vulnerable debtor who owe multiple debts?

Cannot really contribute much to this debate.

Question thirteen: How can Government ensure the appropriate scrutiny so pilots under the power are effectively designed and deliver against the objectives of the power?

Cannot really contribute much to this debate.

Question fourteen: It is proposed that the power to improve access to information by public authorities to combat fraud would be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the fraud gateway be operational for before it is reviewed??

Cannot really contribute much to this debate.

Access to data which must be linked and de-identified using defined processes for research purposes

Question fifteen: Should fees be charged by public authorities for providing data for research purposes, and if so should there be a maximum fee permitted which is monitored by the UK Statistics Authority?

Yes

No

It doesn't seem appropriate, in the spirit of sharing, working together (thinking about the principles of sustainable development – collaboration, integration; and the increasing drive to produce open data) that fees should then be charged.

The question of fees largely depends on the subject matter, size and frequency of requests. It takes time, effort and resources to provide information. If this becomes excessive then it is only fair that public authorities are reimbursed, however, this should not be done in a way that excludes access to smaller organisations. So some form of capping is needed. Perhaps free training could be provided for staff in smaller organisations to help offset costs.

Setting fees is unlikely to be the best mechanism for encouraging data sharing but it seems unrealistic to think that it will happen without some form of compensation, especially when public sector budgets are being squeezed.

We recommend that other options are explored for offsetting costs that do not involve charging direct fees. At present there appears to be an awkward juxtaposition between policy principles and practice.

Question sixteen: To ensure a consistent approach towards departments accepting or declining requests for disclosing information for research projects, should the UK Statistics Authority as the accreditation body publish details of rejected applications and the reasons for their rejection?

Yes No

Yes, it would be good practice in terms of transparency and openness to publish details of rejected applications and the reasons for rejection. In return those that have been rejected should be offered guidance in terms of the next steps before further submission.

Question seventeen: What principles or criteria do you think should be used to identify research that has the potential for public benefit, or research that will not be in the public benefit?

The Wellbeing of Future Generations (Wales) Act 2015 sets out a shared vision for the wellbeing of Wales. This should form the basis from which research should be identified in Wales.

Access by UK Statistics Authority to identified data for the purpose of producing official statistics and research

Question eighteen: Is two years a reasonable maximum period of time for the duration of a notice for the supply of data to the UK Statistics Authority for the purposes of producing National and official statistics and statistical research?

Yes

No

Two years seems to be a reasonable period. It is not clear how this period has been derived and how different types of organizations will be respond within this timescale. For some it may be straightforward for others it may be difficult especially if demands are made of staff when their organization is in the process of transition (e.g. making changes to the relevant processes for collecting, organising, storing or retrieving information). Unclear if the organization would be compensated by UK Statistics Authority.

Question nineteen: If your business has provided a survey return to the ONS in the past we would welcome your views on:

a) the administration burden experienced and the costs incurred in completing the survey

N/A

b) ways in which the UK Statistics Authority should seek to use the new powers to further reduce the administrative burdens on businesses who

provide data to the ONS for the purposes of producing National and other official statistics

N/A

Question twenty: What principles and factors should be considered in preparing the Code of Practice on matters to be considered before making changes to the processes that collect, store, organise or retrieve data?

When preparing the Code of Practice it is important to remember that variation between organisations in term of capacity, resource or expertise. This is particularly pertinent with diminishing public sector funding and competing priorities. A one size fits all approach may not be realistic. To help mitigate some of this, and in the spirit of the Wellbeing of Future Generations (Wales) Act 2015 in Wales, it might be appropriate to look at a collaborative response.

NCVO response to Better Use of Data in Government consultation

22nd April 2016

Nick Ockenden
Head of Research, NCVO

It is evident that considerable thinking has been done on this and this is something we welcome. We are keen to support the better use of data across Government and the voluntary sector, providing there are adequate safeguards in place. We have responded to those questions that are most relevant to our area of work.

Question fifteen: Should fees be charged by public authorities for providing data for research purposes, and if so should there be a maximum fee permitted which is monitored by the UK Statistics Authority?

A modest payment could help to ensure that applications for data are for genuine research purposes and do not unnecessarily waste resources. However, we would favour no charge being in place to ensure maximum access from voluntary sector organisations, many of whom would be put off from accessing data and the benefits it could bring if there was (even a small) charge in place.

Question sixteen: To ensure a consistent approach towards departments accepting or declining requests for disclosing information for research projects, should the UK Statistics Authority as the accreditation body publish details of rejected applications and the reasons for their rejection?

We feel that they should be published. This is to help ensure: evaluation/learning regarding criteria for decisions to either accept or decline applications and how these may change and develop over time; wider transparency; and to help enhance public trust.

Question seventeen: What principles or criteria do you think should be used to identify research that has the potential for public benefit, or research that will not be in the public benefit?

We are content for the Statistics Authority to define these criteria, in line with the definition of public good in the 2007 Act. We would, however, like the Authority to consult with relevant bodies (including NCVO) when they have drawn up more detailed draft criteria or guidance.

We think that all research should be exempt from the anti-advocacy clause in Government grant agreements, but that there is a particularly strong argument for research that is of public benefit.

Question eighteen: Is two years a reasonable maximum period of time for the duration of a notice for the supply of data to the UK Statistics Authority for the purpose of producing National and official statistics and statistical research?

It may be too long a maximum in some cases where relatively easy to provide the data, but quite reasonable in others where it requires a lot of work or notice. We feel it should not be more than two years and there could perhaps be value in having several time periods/limits, depending on the type of data, work involved etc.

Question nineteen: If your business has provided a survey return to the ONS in the past we would welcome your views on:

- a. the administration burden experienced and the costs incurred in completing the survey, and
- b. ways in which the UK Statistics Authority should seek to use the new powers to further reduce the administrative burdens on businesses who provide data to ONS for the purposes of producing National and other official statistics.

Some charities are on the ONS business register (IDBR) and thus are asked to provide survey returns. Official returns are important and it is reasonable to expect companies and charities to provide information in this way – indeed we conduct surveys of charities and of member organisations ourselves. So in principle it would be helpful to consider whether the new powers allow for a reduction in respondent burden, but we would recommend that Government and ONS should wait to be sure that the new/alternative methods provide good quality data before stopping or changing existing surveys.

Response to the Cabinet Office Consultation on Better Use of Data in Government.
Dr Mary Hawking

There is no feedback form for this consultation, so I have not attempted to follow the questions – which appear to be related to very specific and limited areas: my response concerns the wider issues which do not fit well with the questions.

In general, the section of this consultation concerning improvement in services to individuals appears to be about departments acquiring data from other departments and authorities without much consideration of ethics, consent or privacy, and it is difficult to see how much of this would provide benefit above that which could be obtained by consented sharing. (identification of individuals in fuel poverty – if there were adequate safe-guards - could be an exception).

The descriptions of how the proposed legislation and safeguards in all sections would be managed is not clear: how would the Codes of Practice be developed and enforced, and applications/Business Cases be approved and by whom? Would it be necessary to have different oversight organisations for different sectors or one to cover all areas?

There is an expressed intent to include Health and Social Care in the proposed legislation, with no further comment apart from additional safeguards – unspecified – and consideration of Dame Fiona Caldicott's Review – publication of which has been delayed until after the EU Referendum. Surely, if this section – improving services to individuals – is confined to individuals rather than service planning, explicit consent would be quicker and easier?

It is stated that there has been open policy consultation involving 50 organisations during the development of this proposal and consultation: unfortunately, as a member of the public, I have been unable to find a list of these organisations or its TOR, and I feel that, in the interests of Transparency, it would be useful to know who has been involved.

More detailed comments below

1. It is not clear from the introduction whether this Consultation is about use of data of all sorts (e.g. service usage/uptake/supply and aggregated individual data – as used in QOF) or use of individual and identifiable data. While individual data might be necessary for service delivery to an identified individual – e.g. fuel poverty discounts – it is not clear how these individuals would be identified or how the individuals not entitled would be identified as not in need of that service or benefit without use of their identified information as well.
2. The questions of ethics, privacy and consent are not considered or addressed
3. In many of the scenarios described, the option of consent to sharing is not addressed, e.g. the DWP informing the Student Loan Company when an individual with a student loan is receiving out of work or low income supplementary benefits: has this option been considered? (My understanding is that if the individual is paying income tax, HRMC will already have a mechanism for informing the SLC)

4. In the case of Troubled Families, at present the individuals and families have to give consent for referral and management. It is not clear how using data matching to identify families who might be "troubled" within the terms of the service would improve identification of such families above the knowledge of case-workers from social and crime services involved with one or more members of the family – and might well lead to identification/labelling of families where the intervention was not required while missing others: is there an evidence base for the algorithm being considered, and how might this impact on the families and individuals concerned?
5. One of the stated objectives is to simplify the legal framework surrounding sharing of identifiable (and potentially re-identifiable?) personal data – but the development of individual Codes of Practice for each data sharing scenario would appear to add a further layer of complexity. It is not clear who or what organisation would be tasked with developing and enforcing Codes of Practice and the TOR – including the approval of applications for data sharing (when individual explicit consent has not been obtained), evaluating the Business Case (and having access to the expertise needed to make that evaluation) and public good involved, and monitoring the agreement once approved, including audit.
6. What body would be empowered to and accountable for enforcement of the Codes of Practice and pursuing department/public bodies deemed to have abused them?
7. The stated intention is to legislate to allow widespread use of individual data: it is not clear how this is intended to relate to existing legislation incorporating data protection requirements, nor to the upcoming EU data directives.
8. P28 specifically states that health and social care data is included, but will require additional protection over and above that provided by Codes of Practice – and that there is a dependency on the recommendations of the Dame Fiona Caldicott Review: release of this has now been delayed until after the EU Referendum. It looks as though the proposed legislation to enable data sharing in this consultation would require changes to both the DPA and HSCA 2012. Will opt-outs from sharing health data for secondary purposes be honoured and incorporated in the proposed legislation and will there be any similar provision for non-health related opt-outs?
9. There is provision for Bulk Data Transfer: how would this affect individual data otherwise protected from being shared e.g. individual opt-outs from sharing of identifiable personal health data for secondary purposes, either Type 1 – preventing data leaving the GP record or Type 2 preventing it being shared outside the HSCIC (Now renamed NHS Digital)? In the case of an individual with a Type 1 opt out, the required information would not be available except in the GP electronic patient record: that being the case, how would information be accessed?
10. National Statistics and Research are treated as a single item: I'd suggest that while both are important they are not identical, and governance of each needs to be considered separately.
11. It is suggested that the UK Statistics Authority should evaluate and approve applications for research access: it is not clear that the UKSA necessarily has the ethical expertise to evaluate whether the proposed research is "in the public interest": would this be considered in the proposed primary legislation

or be part of Ministerial (which minister?) secondary legislation unlikely to receive much consideration?

I would be grateful for feedback – or a link to the response to this consultation when released.

K M Hawking

Responding to the consultation

Your details

To evaluate responses properly, we need to know who is responding to the consultation and in what capacity.

We will publish our evaluation of responses. Please note that we may publish all or part of your response unless you tell us (in your answer to the confidentiality question) that you want us to treat your response as confidential. If you tell us you wish your response to be treated as confidential, we will not include your details in any published list of respondents, although we may quote from your response anonymously.

Name (optional):

Naureen Khan

Position (optional):

Associate Director for Public Sector

Organisation name:

techUK

Address:

10 St Bride Street

London EC4A 4AD

Email:

[REDACTED]

Telephone (optional):

[REDACTED]

Would you like us to treat your response as confidential?*

If you answer yes, we will not include your details in any list of people or organisations that responded to the consultation.

Yes No

Is this a personal response or an official response on behalf of your organisation?

Personal response

Official response

If you ticked “Official response”, please respond accordingly:

Type of responding organisation*

Business

Charity

Local authority

Central government

Wider public sector (e.g. health bodies, schools and emergency services)

University or other higher education institution

Other representative or interest group (please answer the question below)

Type of representative group or interest group

Union

Employer or business representative group

Subject association or learned society

Equality organisation or group

School, college or teacher representative group

Other (please state below)

Nation*

England

Wales

Northern Ireland

Scotland

Other EU country: _____

Non-EU country: _____

How did you find out about this consultation?

Gov.uk website

Internet search

Other

May we contact you for further information?

Yes No

techUK response to the Better Use of Data Consultation

April 2016

For more information, please contact:

Naureen Khan
Associate Director, Public Sector



techUK response to the Better Use of Data Consultation

April 2016

About techUK

techUK is the industry voice of the UK tech sector, representing more than 900 companies who collectively employ over 800,000 people, about half of all tech jobs in the UK. These companies range from innovative start-ups to leading FTSE 100 companies. The majority of our members are small and medium sized businesses.

techUK's public sector programme¹ focuses on using tech to deliver better public services for less. We believe that the focus for Government over the next four years should be on accelerating the transformation of public services and the better utilisation of data will be critical to achieving the wholesale end to end transformation that is urgently required.

Introduction

The UK Government is a recognised global leader in its approach to using data to improve public services. The Government was recently ranked first² out of 92 in the third edition of the Open Data Barometer, a global study that ranks governments across the world on their readiness for and implementation of open data.

techUK fully supports the Government's objectives to both open up public sector data and enable data sharing to improve public service delivery whilst addressing citizens' concerns around privacy and security. The proposals set out in the consultation rightly aim to modernise current legislation to both meet citizens' expectations as well as keep pace with technology. The consultation specifically proposes six new data sharing powers, underpinned by legislation.

We have set out five principles that should guide the development of policy and associated new legislation. The task now is for all parties to work together to enable organisations across all sectors to unlock, explore and gain value from data:

- 1. Achieving the outcomes sought: delivering targeted and efficient public services to citizens**
- 2. A clear, consistent and robust approach to data sharing that addresses data privacy and security concerns**
- 3. Ensuring a clear legal framework**
- 4. Building robust safeguards are in place for Health and Social Care data sharing**
- 5. Early and effective engagement with the tech industry**

These principles build on recent techUK submissions to UK Government, including *techUK's Top Four Priorities for the Government: Delivering better public services through tech*³ and *Securing*

¹ techUK is active in Central Government, Local Government, Health & Social Care, Justice and Emergency Services and Defence and Security. techUK's wider activities also include programmes on data protection and privacy, big data and more.

² <http://opendatabarometer.org/3rdEdition/report/#rankings>

³ techUK (2015) *Top Four Priorities for Government: Delivering better public services through tech*

our *Digital Future: the techUK Manifesto for Growth and Jobs 2015-2020*⁴. techUK also recently submitted a number priority areas for the forthcoming UK Digital Strategy⁵, due for publication in Summer 2016, and we encourage Government to ensure any proposals on better use of data in Government are well aligned to the broader objectives of the forthcoming strategy.

Better Use of Data consultation

1. Achieving the outcomes sought: delivering targeted and efficient public services to citizens

techUK warmly endorses the aims of this consultation, which proposes new powers that will enable the public sector to operate more efficiently and provide better access to data.

However, careful thought needs to be given to the processes required to ensure that the legislative changes are effective in enabling and empowering civil servants. There is a risk of processes being burdensome and consideration needs to be given to how the proposals would work in practice. Providing clear guidance on the necessary steps in order to share data is to achieving the outcomes sought.

Codes of Practice

The Government is recommending that the proposals will be supported by a statutory Code of Practice. The Code of Practice must strike a balance between enabling data sharing and innovation, while ensuring security and trust. This is particularly important if Government is to achieve its goal of keeping pace with a fast moving tech sector, and exploit the full operational insights and knowledge offered by the ability to conduct real time data analysis.

The Code of Practice also needs to take account of likely future developments in the market such as in machine learning and automation which have the potential to enable data to be collected, shared and analysed without human intervention. Ensuring the public understand how their data is being used by machine learning and automated technologies, and what their rights are in relation to providing or withholding consent, or questioning or challenging decisions taken by automated systems, will be essential to ensure transparency and trust.

Developing a Business Case

Civil servants will need significant support and guidance to help them build a robust business case that is required under the new powers. Training and support should be provided to help officials develop the key components of a business case. Civil servants should also engage with all relevant stakeholders including industry to submit a relevant response.

2. A clear, consistent and robust approach to data sharing that addresses data privacy and security concerns

The consultation paper recognises that, as the volume of data being created, processed, shared and managed increases, ensuring data is protected and secured against possible security threats is vital. This requires policies and procedures put in place ensure the integrity, confidentiality, availability, privacy and security of data. It is also important to have in place

⁴ techUK (2014) *Securing our Digital Future: the techUK Manifesto for Growth and Jobs 2015-2020*.

www.techuk.org/techukmanifesto

⁵ techUK (2015) techUK outlines where UK Government should focus in forthcoming Digital Strategy

<https://www.techuk.org/insights/news/item/7224-techuk-outlines-where-uk-government-should-focus-in-forthcoming-digital-strategy>

proactive policies and procedures to deal with unexpected incidents relating to data such as a data breach or data loss.

Any Code of Practice for data sharing should include a requirement to have data security policies and procedures in place. These would need to be consistent and in line with the wider data governance requirements across Government, which would ensure the ongoing management of data throughout its lifecycle. This should include provisions to address issues surrounding data's availability (including data access levels), integrity, confidentiality and the security of data at rest and on the move. This can be achieved by developing and deploying appropriate data governance strategies, policies and procedures whilst taking advantage of existing measures and tools, including industry standards, Government schemes (e.g. Cyber Essentials), privacy impact assessments and privacy policies.

3. Ensuring a clear legal framework

Having a clear data protection legal framework is key to ensuring public trust and confidence in the handling of their data by government and third parties. It is therefore important that this debate adapts to upcoming changes to the wider regulatory and legal obligations around data over the next few years. The Government recognises this, with the consultation document stating that the proposed package of legislative proposals have been designed to sit alongside rather than override existing legislation.

The forthcoming EU General Data Protection Regulation (GDPR) is set to enter into force in 2018, after a two year implementation period. The GDPR will have a significant impact on data protection in the private sector, and will have far-reaching implications for personal data use in the public sector. Citizens and consumers will look for consistency in data protection rules, and the public sector therefore needs to be aligned with the significant changes in the private sector.

We understand that the UK is still determining how it will implement the GDPR in relation to the public sector, and there are a number of derogations which we encourage the Government pay close attention to with regard to the delivery of this strategy in a way that harnesses the best of the private sector working in partnership with the public sector. There is now a clear opportunity to improve citizen trust, create a high standard for protection and facilitate interoperability and data sharing. This can be achieved through both the private and public sector working towards similar expectations, processes and standards as enabled by the GDPR.

Whilst the consultation does not cover data sharing to protect national security, part of the **Investigatory Powers Bill** (on which techUK has laid out a number of concerns including on privacy, third party data retention, equipment interference and encryption⁶), the Government should give consideration to the implications of this Bill apply for public service delivery, particularly when the private sector is playing a role in the delivery of those services in settings such as healthcare or smart cities.

4. Building robust safeguards for Health and Social Care data sharing

The consultation recognises that 'health and care data is particularly sensitive and rightly needs additional protections'. We also welcome the acknowledgement that any proposals needs to be in line with Dame Fiona Caldicott's review due later this year. techUK has published a detailed paper 'Achieving safe and effective information sharing in health and social care: techUK's Guiding Principles'. The paper sets out techUK's guiding principles for safe and effective information sharing. It is designed to inform existing national discourse,

⁶ See <http://www.techuk.org/investigatory-powers>

including Dame Fiona Caldicott's review into standards of data security and the wording for a new model of consents and opt-outs⁷, as well as the development of a Data Services Platform⁸ by the Health and Social Care Information Centre.

The principles include:

- 1) Clear, consistent and practical consent model(s) for citizens and HCPs;
- 2) Data should be linked and shared across the care continuum for citizen benefit;
- 3) A clear and consistent approach to information governance and data security standards;
- 4) Practical and usable information governance guidance that is proportionate to risk;
- 5) Closer collaboration between the technology industry and government.

5. Early and effective engagement with the tech industry

The consultation makes reference to a 'Strategic Steering Group' in relation to the proposals set out under 'tackling fraud and debt' and references civil society organisations and independent observers. We would strongly urge Government to work with all parties, including industry, as it develops its Code of Practice to ensure it is fully harnessing the expertise available from all sector to help them achieve the outcomes sought. techUK has developed a Three Point Plan⁹ on better engagement which will ensure government officials and ministers are in a strong position for developing robust legislations, the right processes and mechanisms to cater for safe and effective information sharing now, but also for and in the future.

⁷ Health Secretary outlines vision for use of technology across NHS, GOV.uk,

<https://www.gov.uk/government/news/health-secretary-outlines-vision-for-use-of-technology-across-nhs>

⁸ Data Services Platform Market Engagement event, techUK, <https://www.techuk.org/events/briefing/item/6056-data-services-platform-market-engagement-event-with-hscic>

⁹ 'Achieving safe and effective information sharing in health and social care: techUK's Guiding Principles'

⁹ One year on from the Three Point Plan, techUK, <http://www.techuk.org/insights/news/item/6020-one-year-on-from-the-three-point-plan-3pointplan>

FINAL. This consultation is closed for comment. If you'd like to know our next steps, email policy@theodi.org

Enabling better use of data inside and outside government, to benefit everyone

The Open Data Institute's response to UK Government's consultation on better use of data in government.

Executive Summary

The Minister for the Cabinet Office's ambition to modernise data use in government is one the ODI wholeheartedly supports. The benefits of this work are succinctly put in the Minister for the Cabinet Office's opening remarks accompanying this consultation:

“When data is used effectively, everyone benefits from better services that can be delivered at lower cost to taxpayers.”

The ODI's mission is to connect, equip and inspire people around the world to innovate with data. How organisations and people can make better use of data in ways that benefit everyone, is fundamental to our mission.

Data is infrastructure. Infrastructure not only for the public sector, but wider economy. It underpins innovation, transparency, accountability, businesses, public services, and civil society. The ODI is in the process of developing its design principles for strengthening the data infrastructure we rely on to build tools, products and services that benefit everyone. Sometimes we talk about our data infrastructure like we talk about our road infrastructure. Roads help you get from A to B. Data helps you get to a decision. Sometimes we need a super highway or a motorway. At other times a country lane is enough.

The data landscape and data infrastructure in government is confused. For example, there are at least eighty-six different legal 'gateways' to share data between Departments. This data sharing consultation, which aims to modernise the data landscape for government, needs to approach reform as part of designing and implementing the public data infrastructure that will allow government to deliver services for citizens well into the future, and enable the wider economy and society to function better.

The ODI commends the open policy making approach taken by Cabinet Office as part of laying the groundwork for this consultation. However, what seems to be missing is a strong view from government, a sense of how this all fits together. At the moment its approach is piecemeal and the ODI fears it will not result in improved data sharing within government in ways that maximise value inside and outside the public sector. It's not clear how the proposals in the consultation fit within a wider government data strategy. Infrastructure, whether it be data or roads, requires long-term strategic decision making.

The ODI's response contains specific recommendations and questions with respect to each proposed power. At a high level, the ODI recommends that the next iteration of these proposals:

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1. **Clarify the existing landscape for data sharing in government.** Publish as open data what is known about the existing legal gateways across government. This will inform responses to the consultation and further analysis.
2. **Set out a clear vision for data across government, how the data sharing proposals fit within it.** What is the vision for the future of data collection, access and use across the public sector?
3. **Design for trust.**
 - a. **Open data about what data government holds, and about data sharing powers**
 - b. **Transparency about how government is sharing data, with who, and for what purpose**
 - c. **Openness about how government is keeping data secure**
 - d. **Open APIs, open standards, open source**

With mechanisms that encourage feedback and being held to account.
4. **Design for everyone.**
 - a. **Government**
 - b. **Businesses**
 - c. **Charities**
 - d. **Academia**
 - e. **Media**
 - f. **Citizens**
5. **Make things simpler.** The data sharing consultation proposes adding six new data sharing gateways, each with their own unique code of practice, to an already complex landscape. Make simplification a design goal.

General comments - what's missing from the consultation?

1. **Fixing the existing landscape for data sharing**
2. **Access to government data by non-public bodies**
3. **Open data and open APIs as mechanisms to improve trust in how data is shared**
4. **Open data as a means to improve the discoverability of data held by government**
5. **Reference to existing government policy, including a data science ethics framework**
6. **Support for government departments sharing data**

Fixing the existing landscape for data sharing

The consultation paper and the recommendations it puts forward present a piecemeal approach to modernising data use in government. The existing complexity of legal gateways for data sharing in government is the starting off point for the data sharing consultation paper:

A complex patchwork of data sharing laws has grown over time. In some instances there are clear legal barriers to sharing data. The process of identifying and then understanding legal barriers and obtaining the required powers to share data can be

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painstakingly slow and demanding on the limited resources available to departments...

This existing 'patchwork' system for data sharing, and how that might be tackled, isn't mentioned again. Instead, the consultation proposes adding six new legal gateways for data sharing. The Cabinet Office estimates that around eighty-six legal gateways for data sharing within government currently exist.

A 2014 [data sharing report](#) from the Law Commission indicates that there may be even more than these identified gateways, noting that no authoritative list of data sharing gateways exists. The first recommendation of the Law Commission in that report included mapping these existing gateways [as well as simplifying them]. Has this been done, as part of the preparation for this consultation? An authoritative list of data sharing gateways that already exist across government would be an essential aid for departments using and sharing data. The lack of an authoritative list (which should be published openly) acts as a barrier to increasing transparency and trust in how government shares data, reduces opportunities for government to take advantage of the gateways that already exist, and limits the ability of government to rationalise the legal framework for data sharing.

Recommendation: Immediately publish a register of all known existing data sharing gateways as open data, including who can take advantage of them and what data is shared, to inform consultation responses as well as beginning the process of being more transparent about data sharing within government.

Access to government data by non-public bodies

Government departments, agencies and local authorities are increasingly looking to collaborate with businesses and third-sector organisations to help deliver public services. The ODI has incubated three generations of UK-based startups, many of whom have partnered with teams across government - central and local- to deliver pieces of work that require data sharing. Some startups have fed back to us that uncertainties around whether data held by the public sector body they're collaborating with can be shared has on occasion led to projects falling over.

Thomson Reuters and the Open Data Institute will be publishing a paper shortly outlining best practices for data sharing within an organisation and across networks, to make data as consumable and reusable as possible. Increasing collaboration - between teams, organisations and public and non-public bodies - is core to building robust data infrastructure.

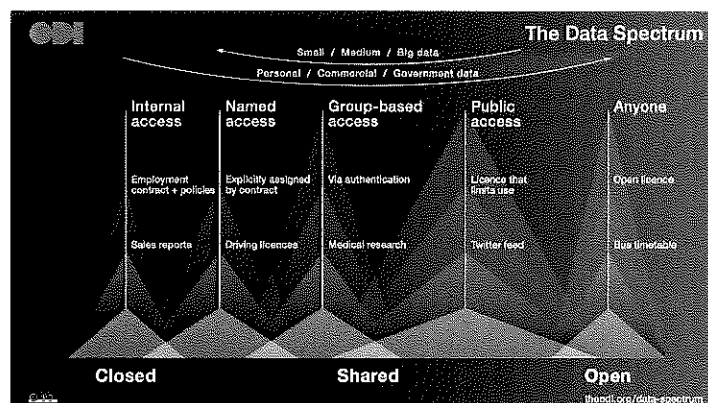
The data sharing proposals don't clearly outline how data sharing with organisations and people outside government (who don't qualify as 'approved researchers') might take place. The focus on specific legislative gateways makes it unclear how public sector organisations could engage with and request new data sharing agreements without a comprehensive picture of where legislative gateways exist and how they impact them. Exactly how organisations and people outside government can support government making better use of data needs to be articulated.

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Recommendation: in the next iteration of data sharing proposals, clearly articulate and facilitate how data might be shared with non-public bodies.

Open data and open APIs as a mechanism for accessing data within government

The data in our national data infrastructure sits on a spectrum.



Some data will be closed; some data will be shared with specific organisations or teams (e.g. via data sharing agreements or legal gateways), or special groups of people (approved researchers); and some data will be openly licensed. As producers and owners of data, we choose where data sits on this spectrum, and how we would like it to be accessed. We might change our minds.

We also create new data from the data that we hold that can be accessed more widely: our mobile geolocation data, for example, might be **closed** and only accessible to our mobile service providers in its raw form; have some anonymization applied to create data that can be **shared** with specific organisations for marketing/research purposes; and aggregated and anonymised into statistics that are safe to release as **open data**. We need ways of explaining and using data in government that work with this fluidity.

The data sharing consultation is focused on mechanisms for government sharing highly sensitive, identifiable data amongst its various departments and authorities, which may never be open data. But there may also be opportunities for aggregate, non-personal data derived from such datasets to be published as open data.

Similarly, open APIs can provide a more secure and efficient means for sharing data within government than the bulk transfer of records, and facilitate the creation of third-party services for citizens based on government-held data. Only bulk transfers of or access to data seem to be considered by the consultation. Open APIs provide secure access to an individual's data by those individuals and by products and services those individuals trust. More efficient data sharing via APIs are being experimented with by UK departments (e.g. the Ministry of Justice's [Justice Lab](#)).

Open APIs as a means of enabling more efficient data sharing have been the focus of the [Open Banking Working Group](#), co-chaired by the ODI and Barclays and convened at the request of HM Treasury. That group, which includes all major consumer banks,

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recommended the creation of an Open Banking Standard, to enable customers to get hold of and use data held by banks, and promote third-party applications that could help those customers make better use of that data. The same approach could be used to data held about citizens by government, giving us greater visibility of what data is held about us, enabling us to benefit from it, and promoting innovative products and services that take advantage of government-held data.

Recommendation: that government use existing experiences of open APIs inside government to frame the legislative powers provided to departments for the creation of open/shared/closed APIs for use inside and outside government.

Open data as a mechanism to improve trust in how data is shared

The ODI was pleased to see the inclusion of publication of privacy impact assessments (PIAs), as part of codes of practice proposed for each new data sharing power. PIAs enable citizens some insight into the decisions a department or authority makes, and the steps they have taken to safeguard privacy, in using and sharing personal data. As public information, they provide a body of knowledge and best practice for other departments looking to share personal data in a responsible and safe way. The discoverability and usability of PIAs can still be improved. For example, a standard template for PIAs could be introduced, that enables easier analysis of PIAs across government and a register created that enables PIAs to be easily located and analysed. There is more that government can do to improve trust in how data is collected, used and shared.

In March 2016 the Open Data Institute published its draft [personal data principles](#), which place openness about who has access to personal data, how it is used and for what purpose, at the heart of how organisations manage personal data. There is some precedent for this in government already. DfE, for example, has published data about reuse requests for [the National Pupil Database](#) (although it has not regularly updated).

 **Owen Boswarva** @owenboswarva · Jan 9
#DfE are a year behind on disclosing #pupildata access requests. I'm trying to gee them up a bit. bit.ly/1UFRKRG #datasharing #FOI

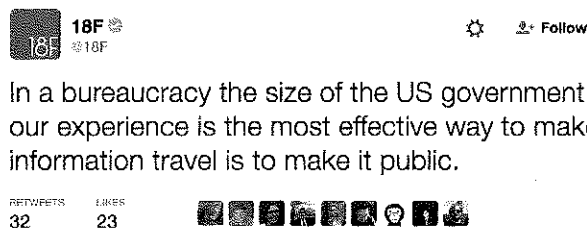
 **Owen Boswarva** @owenboswarva 
#DfE will updated its list of National Pupil Database re-use requests by next month. bit.ly/241btAl | #FOI | cc @TheABB @KatHall42
LIKE 1
5:29 PM · 12 Feb 2016

Recommendation: the Information Commissioner's Office build on its existing guidance for PIAs, and produce a standard document template. The Cabinet Office explore options for creating a register of PIAs to make them discoverable across government.

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Open data as a means to improve discoverability of personal data held by government

The Government Data Programme is committed to improving the discoverability and accessibility of data across government. While there will always be datasets that cannot be made available as open data, openly sharing metadata about personal datasets departments and authorities do hold - the variables they include, the format it is in, how it is shared and with whom - would greatly improve the findability of data for teams across government, for researchers and the public. This is not a new idea. In 2013, the White House issued a requirement that federal agencies publish public, machine-readable inventories, to a prescribed metadata specification of their data holdings - closed, shared and open.



Having open, annotated, metadata rich catalogues of what data government has would:

- Drive discoverability efficiencies in government, as data producers would be pressed to annotate their data with universal concepts
- Improve public trust in how data is collected, used and shared by government, and
- Allow researchers and other groups to identify data held by government that they could request access to.

Open principles, standards and methodologies would enable sensitive data to be 'findable', even if access has to requested through specific gateways.

Recommendation: that alongside the data sharing consultation, the Government Data Programme invest in making metadata about personal datasets government holds, which parts of government have access and how individuals can access requests, available as open data.

Connecting data owed to *and* owed from government

The data sharing consultation strives to enable more effective data sharing in government, so that everyone benefits from better services delivered at lower cost to taxpayers. As drafted, the benefits for taxpayers under some of the proposals are predominantly indirect. The proposed power to establish a single debtor view - which would require linking debtor information, to assist with better debt management - should help government recover lost income. Any integrated debt portal should include data about money owed or coming from government, whether payments or benefits. Has providing citizens with a single view of the benefits they receive, or are entitled to, as well as debts, been explored?

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Ethics framework

It's not clear how the proposed data sharing powers will interact with the [data science ethics framework](#) that has been developed by the Cabinet Office. Codes of practice, for example, that are to be administered by different departments across Government, might be better served by a common data ethics framework, and data ethics steering board, who can review instances of data sharing within government and offer recommendations on best practice.

Support for departments sharing data

The existing data sharing landscape is complex, with piecemeal guidance available to departments navigating legal gateways. The complexity of the landscape and rules around data sharing under each gateway foster a culture of uncertainty and risk aversion for civil servants, making data sharing harder to enable. In part this might stem from a lack of clarity about who - which department or agency - in government has clear oversight of data sharing gateways, knows which exist, can hold departments accountable for how they share data and provide clear guidance. Does this coordination and education responsibility currently sit somewhere? The Information Commissioner's Office provides an oversight and best practice development role for collection and processing of personal data. A new data sharing coordinating function may be created, working closely with ICO and UKSA who exercise similar oversight and best practice setting responsibilities, or this function could be more clearly articulated as part of the role of an existing body.

Responding to the consultation

New powers to improve public service delivery

The proposed new powers to improve public service delivery are narrowly prescribed. Personal data can only be shared where it is to target a service, to provide a benefit to, or improve the wellbeing of individual citizens. Data sharing to improve the wellbeing of or provide benefits to the wider community, or to target a service, is explicitly outside scope. Two objectives are proposed for inclusion under this new power - alleviating fuel poverty, and providing support for troubled families. Any additional objectives would need to be added via regulations. Data provided to a public authority under these objectives could only be used for the purpose it was provided to them for.

The ODI strongly supports improved data sharing between public authorities, **and** between government and organisations in the private sector and third sector who provide public functions, where the purpose is to improve people's day-to-day lives. The individuals, families and groups who stand to benefit from improved data sharing for public service delivery are often those who need public services most. It could be anything from finding a job to finding a home, getting the right health and social care, financial support, education assistance, language assistance and transport. Often support will be needed in more than one area. The privacy and security of people's personal data needs to be protected in delivering services for them. And information needs to flow efficiently and accurately between the services they need.

The proposed data sharing objectives lack cohesion

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The proposed restrictions around data sharing in this context make no sense. The two objectives - alleviating fuel poverty and providing support for troubled families - have been agreed on through the open policy making sessions. Why only these two? Because policy officials from public sector bodies working on these issues were most frequently represented in the discussions? Or as a result of a strategic review of services for individuals across government? There are other public services that could potentially benefit individuals who are fuel poor, for example. They might need job assistance, they might need special healthcare. Not being able to use the information you have at your fingertips for alleviating fuel poverty, and share it with public authorities who could support these kinds of problems, seems nonsensical. That at least seems to be the way the illustrative clauses are currently drafted.

The proposed list of public authorities is not comprehensive

The list of proposed public authorities in Schedule One of this illustrative clause does not include the Secretary of State for Health, and it's not clear whether it includes executive agencies and other non-departmental public bodies. While the ODI understands that health and social care data sharing has been explicitly excluded from this consultation while we await the outcome of the Caldicott Review, it doesn't make sense to introduce new data sharing legislation that excludes this key personal data. It's also not clear whether the list of public authorities provided in Schedule 1 includes front-line public services like police forces and schools.

A data sharing ethics board may be a better route for new data sharing objectives than amendments to regulations

Throughout the consultation paper, despite reference to 'simplifying' and 'streamlining' data sharing within government, the illustrative clauses and prescribed nature of the powers seem to add greater complexity. It's clear that the reasons behind the proposed restrictions on the new powers for improving public service delivery, for example, are to stop government doing punitive things with people's data, or breaching privacy, or otherwise doing things with personal data that they shouldn't. But there are other ways to place safeguards around people's data, and their experience of government, that still enable information to flow efficiently as needed. A clearly defined and enforceable ethics framework, for example. A data sharing ethics board able to make decisions about new instances of personal data sharing between departments, coupled with transparency of the data ethics board decision making process.

A data sharing ethics board is well placed to make decisions about new data sharing objectives, as an informed, expert body. And making their decision-making process open arguably enables greater accountability and transparency, as well as agility, than updates to legislation.

Recommendation: If a new power for improved public service delivery is to be introduced - specifically for improving the lives of individual citizens - the ODI recommends:

- 1. Approval of new precedents for personal data sharing within government be provided by a data sharing ethics board, rather than via updates to regulation**

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- 2. That the list of bodies carrying out a public function included within scope of this data sharing power at the very least include NHS and its associated bodies, and clarify whether executive agencies, non-departmental bodies and other public services (e.g. schools) are within scope.**

Increasing access to civil registration information to improve public service delivery

As citizens increasingly expect more joined-up, digitally enabled services from government, more efficient sharing of civil registration information will be a part of this. What is unclear is how this power would interact with the proposed new powers to improve public service delivery for specific individuals. If a service provider required civil registration information as part of providing support for troubled families, for example, which gateway would they use? The illustrative clauses for both powers include Codes of Practice, responsibility for which lies with different Ministers/the Registrar. Health and social care government bodies are within the definition of a 'public authority' prescribed by the illustrative clause (ss2(1)). Before any legislation is tabled, these aspects of the proposed data sharing gateways **must be standardised**.

The consultation only seems to envisage this information being transferred as bulk downloads, which is not the most efficient or secure method for sharing this kind of data. However civil registration data is accessed within government, open data about who has access to it, and how it is being used and shared, may improve trust in government using this data.

Practically, if this proposal does move forward it should account for movements of people around the UK. In its current form, the proposal is restricted to England and Wales alone. If the aim is connecting civil registration information to deliver better services for citizens, then collaboration with the rest of the UK will be essential.

Recommendation: prior to moving forward with the data sharing proposals, the Cabinet Office must identify who in government/which public body will have responsibility for oversight of and standardisation of Codes of Practice regarding data sharing.

Combating fraud and debt against the public sector

Again, these proposed new powers introduce Codes of Practice that differ from the content of Codes of Practice proposed for sharing of civil registration data, and sharing of data for improved public services. Various elements of the code of practice for fraud are to be prescribed in primary legislation, but not for debt.

For the love of god, standardise proposed Codes of Practice for each power

The Code of Practice proposed for combatting fraud has some positive, proactive measures to improve the transparency of data sharing, including requirements that:

- Public authorities sharing data under this power submit themselves to regular audits by the Information Commissioner

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- A Steering Group, comprising government and non-government representatives, oversee the power and publish any recommendations online
- PIAs be published by any projects operating within this power.

It's also lengthy and complex. It's not unforeseeable that public bodies undertaking projects within the scope of this power find themselves in conflict with other powers.

The proposed review period for these powers is 3 years after it has come into force. This is the only power within the consultation that includes a review power. These powers will underpin improved data sharing, and tools to enable this, as well as services derived from improved access to data. In this context, 3 years is too long. The GDS Service Manual and service design principles emphasise iterative, agile delivery. Those principles need to be reflected in the policies that will shape the services and tools government will need to better use data. This could be labelled as a discovery phase, which might last 12 months before being reviewed.

Finally, the Schedule of public sector bodies included in the illustrative clauses for debt and fraud is strangely narrow. It doesn't include some public sector bodies who arguably deal with fraud and late payments e.g. environmental and agriculture fraud, non-payment of permits (Defra) or healthcare supplier fraud (Health).

The consultation paper indicates that a number of legal gateways already exist for combatting various kinds of fraud and debt against the public sector (for debt alone, this section of the consultation paper references 86 gateways that currently exist). While a new data sharing power for debt is proposed, how these existing 86 gateways would be streamlined or revoked isn't clear.

Data sharing for research

The ODI supports the Government's aim to improve access to more varied and better quality data for researchers. There are some aspects of the proposed new gateway for research that require clarification.

The relationship between common law powers that enable data sharing, and prescribed legal gateways

A number of explicit data sharing gateways for research and general ancillary powers already exist. Local authorities, for example, have on occasion relied on Section 2 of the Local Government Act 2000, a general power to promote or improve social, economic or environmental well-being, to facilitate greater access to the data they hold for purposes that would benefit everyone. The impact of a further proposed data sharing gateway for accredited researchers on existing legislative and common law powers isn't fleshed out, although the Impact Assessment does note:

Most crucially DWP have told us that its ability of to rely on these common law powers in respect of DWP data has been eroded by the passing of legislation that governs the same area. The number of gateways for DWP data is claimed by DWP as the reason its powers under Ram doctrine have been eroded.

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It may be that the proposed specific data sharing gateway is hoped to alleviate uncertainty with general powers in the Local Government Act and common law powers. But care must be taken that the ability of departments and local authorities to share data with researchers where there would be public benefit isn't unduly restricted or eroded by this new gateway.

The proposed approach may disincentivise data sharing for research by public bodies

The proposed power makes access to public sector data for research purposes *possible*, not mandatory. Access is still dependent on the wishes of the public sector body maintaining that data asset. The ODI agrees with the submission put forward by the Royal Statistical Society, that stronger incentives may be required for public bodies to facilitate access to data via such a gateway.

The 'trusted third party' model requires a degree of anonymization sophistication, and cooperation from public bodies prior to the involvement of the 'trusted third party' that may pose a greater administrative burden on some public bodies than others - depending on the kind of data being shared, and the size and nature of the public body in question. The proposal that researchers be charged for accessing data to recoup some of these administrative costs adds an additional administrative burden. Indeed, the illustrative clause seems to foresee public authorities, accredited indexers **and** accredited access facilities being able to charge researchers for their part in the data access process (s2(4)).

How this ability to recover fees for providing data intersects with the *Regulations for the Reuse of Public Sector Information* is also unclear.

Requirements of any 'trusted third party'

The proposed power envisages a number of third parties enabling access by researchers to de-identified data, referring to both 'accredited access facilities' and 'accredited indexers'. It's not clear whether public authorities sharing personal data would have to utilise the Third Party Model - for some kinds of projects, it may be onerous/unnecessary.

The trusted third party roles could potentially be carried out by private or third sector organisations. The responsibilities of these third parties handling and providing access to personal data is to be defined by the UKSA, as accrediting body. The ODI echoes RSS's note that if UKSA is to carry out this function, they must be properly resourced to do so.

As part of the responsibilities of these third parties, the ODI recommends including:

- **A requirement that where de-identified data is being provided to researchers via accredited access facilities, a derived dataset is published as open data. This would be of value for further research projects, and help researchers identify and explore the value of data assets held by government prior to requesting access via such a model.**
- **A requirement that accredited access facilities and indexers publish information about data sets they are linking, and providing to whom and for what purpose, as open data.**

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The de-identification process

The ODI strongly urges against setting out the de-identification process in primary legislation (paragraph 107). As the consultation paper itself acknowledges, de-identification practices and tools may change over time, as well as the methods we use to store and share data. A more flexible approach would be to empower the accrediting body with the ability to set out a de-identification process, in primary legislation, but not specify methods.

Data sharing for official statistics and research

The ODI supports the consultation paper's goal of improving access to a wide range of administrative and other data - held by the private and public sector - to improve official statistics and research. The current framework is unwieldy and cumbersome. The transition to using existing data sources for statistics and research wherever possible, rather than via purpose specific survey collection, is being discussed in statistical offices around the world.

Some aspects of the proposed power for data sharing for official statistics require clarification, however. These include:

Sharing of aggregate data derived from data accessed under this power with other public authorities, researchers and the public.

The proposed power will bring great value for ONS. Frequently, data collected and used by ONS has value for others across the Government Statistical Service, policy makers generally, researchers and the wider public. Will aggregated, anonymised data derived from data accessed by ONS for the purpose of official statistics be shared more widely, including as open data? Where data is safe to use, we should be trying to maximise its use as widely as possible.

Requirements on businesses, charities and public bodies providing UKSA with access to data for statistical purposes.

Increasingly, data that could be of value for official statistics, and for other government purposes, is collected and maintained by organisations in the private and third sectors. We support mechanisms that enable greater access to data held both inside and outside government where it's going to be used in ways that benefit society - and where there are effective privacy safeguards.

Nonetheless, the ODI was concerned by the extent of the proposed power to access data from private and public bodies, which includes:

- A requirement that bodies providing access to data consult with the Statistics Board before *making changes to processes for collecting, organising, storing or retrieving information* that has been the subject of a notice for access
- An ability of the Statistics Board to compel changes by bodies to these processes.

It's unclear how these requirements are intended to work in practice. Lots of data is collected and used by organisations inside and outside government for purposes other than statistical purposes, and the format in which it is collected, how it is structured, what is collected and how/for how long it is stored is based on the needs of that organisation.

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One business, in response to feedback we sought for this consultation, commented that they would hope that if data is requested from them for the purpose of research or official statistics, that the outputs of that research, including data, be made available openly to them.

The ODI supports improved access to data held by public and private sector bodies for the purposes of official statistics and research, but not where it may impose a greater administrative burden on those bodies, or result in a distorting of their own functions. It's unclear whether under this proposed power, organisations would be able to make decisions in their own interests to cease collecting/maintaining data assets - e.g. a government department choosing to cease administration of certain surveys.

Provision of consent for sharing of personal data maintained by an organisation with UKSA

The illustrative clause foresees consent for further use and sharing of personal data provided to UKSA given by public authorities and private sector bodies (see e.g. s(2)(7, 8)). In some cases, while organisations might maintain personal data, they are not the producers or owners of this data. Individuals to whom the data relates are not part of this consent process. For private sector organisations in particular, this may be a burden of consent that the conditions of their terms of service to their users don't allow them to make. Concerns around circumstances in which private sector businesses might be expected to share identifiable personal data with UKSA, rather than aggregate, anonymised data, have been raised with us and in particular how this would interact with the new requirements on businesses that from the new General Data Protection Regulations.

Recommendation: clarify, in the event that a business is asked to share personally identifiable information with UKSA, how data protection regulations and the requirement to share data with UKSA would interact.

Data sharing for 'official statistics and research', and to 'fulfill its functions'

These phrases are used interchangeably in the illustrative clause and consultation paper. A data sharing power for the UKSA to 'fulfill its functions' may be wider than one for the production of 'official statistics and research'. The scope of the proposed power requires clarification.

Recommendation: prior to moving forward with the proposed power for data sharing for official statistics and research, Cabinet Office clarify the extent to which the Statistics Board will be able to influence private sector (and public sector) data management, and whether aggregate data accessed and used under this power might be made available as open data.

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Name (optional):

Position (optional):

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Would you like us to treat your response as confidential?*

If you answer yes, we will not include your details in any list of people or organisations that responded to the consultation.

() Yes (X) No

Is this a personal response or an official response on behalf of your organisation?

() Personal response

(X) Official response

If you ticked "Official response", please respond accordingly:

Type of responding organisation*

() Business

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- Charity
- Local authority
- Central government
- Wider public sector (e.g. health bodies, schools and emergency services)
- University or other higher education institution
- Other representative or interest group (please answer the question below)

Type of representative group or interest group

- Union
- Employer or business representative group
- Subject association or learned society
- Equality organisation or group
- School, college or teacher representative group
- Other (please state below)

Nation*

- England
- Wales
- Northern Ireland
- Scotland
- Other EU country: _____
- Non-EU country: _____

How did you find out about this consultation?

- Gov.uk website
- Internet search
- Other

May we contact you for further information?

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Yes No

Consultation Response Data Sharing Open Rights Group

Name (optional): Javier Ruiz

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Telephone (optional)



Would you like us to treat your response as confidential?*

If you answer yes, we will not include your details in any list of people or organisations that responded to the consultation.

Yes No

Is this a personal response or an official response on behalf of your organisation?

Personal response

Official response

If you ticked "Official response", please respond accordingly:

Type of responding organisation*

Business

- Charity
- Local authority
- Central government
- Wider public sector (e.g. health bodies, schools and emergency services)
- University or other higher education institution
- Other representative or interest group (please answer the question below)

___ Non profit campaign group, not registered charity _____

Type of representative group or interest group

- Union
- Employer or business representative group
- Subject association or learned society
- Equality organisation or group
- School, college or teacher representative group
- Other (please state below)

___ Digital rights campaigners _____

Nation*

- England
- Wales
- Northern Ireland
- Scotland
- Other EU country: _____
- Non-EU country: _____

How did you find out about this consultation?

- Gov.uk website
- Internet search

Other

Participating in open policy making _____

May we contact you for further information?

Yes No

Introduction

Open Rights Group is the UK's leading digital campaigning organisation, working to protect the rights to privacy and free speech online. With 3,200 active supporters, we are a grassroots organisation with local groups across the UK. We believe people have the right to control their technology, and oppose the use of technology to control people.

Digital technology has transformed the way we live and opened up limitless new ways to communicate, connect, share and learn across the world. But for all the benefits, technological developments have created new threats to our human rights. We raise awareness of these threats and challenge them through public campaigns, legal actions, policy interventions and technical projects.

ORG has engaged extensively in the open policy making process for more than two years, since we were first approached in December 2013.

We disclose that our policy director, Javier Ruiz, is also a member of the Quality Assurance group that will examine the responses to the consultation.

The Cabinet Office is embarked on an attempt to redesign public administration, a new digital revolution led by a belief in the power of data to solve every problem. We've often heard arguments that if Google can do this or that, why can't the government. This needs some pause. At ORG we also believe that we are at the gates of a data revolution, but unless we put people squarely at the helm this may not lead to the positive outcomes data evangelists expect. This is a highly sensitive area for privacy campaigners.

We have listened carefully for the arguments as to why the government wants make data sharing between public bodies - and a few private entities - easier and faster. Our instinctive response as privacy advocates is that removing friction and barriers could also remove controls and enable the proliferation of invasive databases. For example, removing the need for Parliament to approve new data flows - a key plank of the proposals - speeds up the process considerably. It also removes public accountability.

The critical question in this process is whether it is possible to have agile and fast data flows within government to quickly match policy developments while providing adequate protections and avoiding a free for all. It may be possible to make some improvements, but this cannot involve removing all democratic controls.

We know that despite our best efforts in the Open Policy Making process the end result will not be exactly what we would have liked. We remain positive about the engagement though, as it has sharpened our capacity to constructively intervene in policy making, and many details in the proposals have been improved. We expect that wider scrutiny under the consultation will find loopholes we may have missed.

As many of our specific objections and concerns have already been dealt with, this makes it all the more important to explain very clearly our remaining reservations about the overall approach and specific areas.

One difficult issue for us throughout the process has been to focus our engagement on privacy and data aspects, not straying too far from our core issues. At the same time, as part of civil society representing a public interest position, we've had to raise broader points on the fairness of the underlying policies. Where possible we've brought along other organisations with expertise in particular areas such as debt. This approach should continue and be expanded to other strands such as public service delivery.

Our principles

ORG's minimal criteria are that data sharing agreements should not lead to a widespread intrusion on people's privacy; should be proportionate, limited in scope and enshrine fundamental rights; and carry strong safeguards against wilful abuse and unintended consequences.

It would be fair to say that these aspects have been taken very seriously by the Cabinet Office team and particularly the scope of proposals has been tightened. We are concerned however that in cases safeguards are placed in codes of practice, which are no substitute for primary legislation.

One concern around safeguards is the tendency throughout the process to see compliance with data protection laws as a safeguard. We have stressed that this is not necessarily the case. This is particularly problematic with the new EU General Data Protection Regulation (GDPR), which is set to replace the Data Protection Act as the backbone of privacy protections in the UK. The recently approved GDPR is a much needed update and an overall improvement, but during a long and convoluted negotiation process European governments carved out many exceptions in the GDPR that give public administrations plenty of room to manoeuvre around privacy restrictions. Data sharing legislation needs to provide specific safeguards closing any potential loopholes.

More proactively, ORG engaged in this process as an opportunity to consider the expectations and relationships between citizens and government. Putting citizens at the centre of a new data-driven administration should include devolving much higher levels of control to individuals. It is disappointing that these aspects have not been explored.

Where devolving control is not possible - e.g. taxation or justice - new information governance models need to accompany any increase in data sharing. We have concerns that simply creating a legal powers without a shift on how we see personal information could end up taking us to widespread data sharing without any consent.

At the very least this legislative drive could be an opportunity to streamline the vast number of data gateways currently in existence and improve transparency. Where the Cabinet Office sees an administration hamstrung by restrictive privacy regulations, we refer them back to the Joseph Rowntree sponsored report from

2009, which found large numbers of government databases had problems and some may well be in breach of human rights laws.

The proposals contain some improvements on transparency, and a rationalisation of data flows has been a subtext to much of the discussions, but we believe these are not enough. We would like to see mandatory central registers of data transfers and the closure of “zombie” sharing agreements when new ones are started. Use it or lose it sunset clauses should become the norm in any new data agreement.

Accountability is also paramount. If Parliament is not to have a role in authorising data sharing we need to have mechanisms for challenging any new agreements without the need to go to court for a judicial review.

Safeguards should be included on the face of the bill if possible and only in codes of practice if they need detail or may need to be modified frequently. There is no reason not to include almost any safeguards in the bill itself.

It is unclear what legal obligations public bodies will have with regards to the codes and in most cases non-compliance does not even lead to automatic disqualification from data agreements.

Increasing data sharing may bring some improvements to government efficiency and the quality of public policy, but the case for these positive outcomes, given the other costs, must be clearly made. The criteria for success must be clear. Ultimately government must demonstrate that from a human rights perspective the privacy intrusion is proportionate to the public interest objectives.

Throughout the discussions we also found a healthy scepticism among some civil servants, who believed that there were other issues that would need to be tackled besides legal powers, such as technical capacity and organisational culture. These issues are barely mentioned in the consultation but came up repeatedly during the open policy making discussions.

The proposed strands and overall concerns

We will go in more detail below but here we want to give a quick summary of our views on the concrete proposals included in the legislation.

The proposals around research and statistics are the least problematic from our perspective. If safeguards are applied properly sharing data for these purposes could lead to better policies and insights without causing disproportionate privacy intrusions.

The proposals on fraud are sensitive because there is a thin line separating it from errors. Indeed, during the discussions with the Cabinet Office we looked at the use of data to reduce administrative errors and prevent fraud as part of the same processes. Here our main concern is on the review and the removal of the sunset clause.

The third strand on profiling for public services is one area where we see very high risks. There are dangers of discrimination, stigma, and risk aversion leading to oversensitive reactions. Safeguards and ensuring the non punitive character of the measures needs to be very tight and the proposals can be improved.

One common thread is the central role of HMRC's data, with many of the provisions in the proposals designed to remove statutory limitations on access. The wider implications of these changes should be debated more widely. It is true that there was a previous consultation, but we would like to see a summary of all the changes proposed around HMRC to get the full picture.

Health data will not be part of this process until the Caldecott review. We will expect a high degree of engagement when proposals are added to the contents of this consultation.

Our main concerns centre on the two proposals that have been brought into the process very late and we think should be simply removed. These are very controversial, and go against the grain of the process, which was designed to find the areas where agreement could be found.

We are worried about proposals to share data on debt that were removed and then brought back at the end of the Open Policy Making process. The proposals to enable widespread data sharing to tackle government debt have not been supported by a clear case, and could have huge implications for vulnerable people facing economic hardship. Creating a "single view of debtors" requires a broader strategy on public debt management that is currently missing. As such we think it would be best to leave these proposals out of the current process and take more time to consider the issue of debt as a whole, not just the data angle.

Another last minute addition is the plan for the sharing across government of data from the General Registry Office. We can see the case for making it easier to for citizens to send certificates electronically instead of having to apply and send a paper copy by post. In contrast we have severe concerns about proposals for bulk sharing of the whole registry database across government to improve identification. Despite repeated reassurance to the contrary, the sharing of these common identifiers across government has a whiff of ID Cards lite. In cases where bulk registry data might be useful, such as fraud prevention, specific agreements should be explicitly mandated by Parliament, instead of creating a broad power.

In any case, bringing such proposals into this process late runs against the spirit and intention of the open policy process. Government should remove them, if only to retain the credibility of future processes. If they are retained, then civil society will take note, and be far less willing to engage in such processes in the future. There is, in short, an element of good faith which is being sacrificed here.

Improving public service delivery

General comments

The proposals ask for flexibility in exchange of safeguards. The safeguards need to be as strong as the powers of the ministers to act without Parliament.

Our general concern in this section is that safeguards need to be made more explicit in the bill itself.

Changes to the objectives covered in the bill should allow for proper discussion and modifications by Parliament.

1. Are there any objectives that you believe should be included in this power that would not meet these criteria?

YES

Our concern is that while the intention is good, the wording "individuals of a particular description" may not reflect the dynamic nature of the proposed measures. The data may well define whether individuals are in or out of the programme, e.g. they are "troubled families", and it is about the criteria being used, not an intrinsic quality of the individuals affected. Our understanding is that it should not be about labelling people.

2. Are there any public authorities that you consider would not fit under this definition?

YES

The inclusion of police forces appears to counter the stated objectives of focusing on welfare. Combined with the clauses allowing for the use of data for criminal investigations this is concerning.

In general the proposed schedule is very broad. E.g. It is unclear why the Duchy of Lancaster needs the power.

3. Should non-public authorities (such as private companies and charities) that fulfil a public service function to a public authority be included in the scope of the delivering public services power?

Strongly disagree

Private entities should not be included by default in the schedule. There are other mechanisms for data sharing, for example as part of the delivery of a contract, that would allow the required information to be accessed if needed.

4. Are these the correct principles that should be set out in the Code of Practice for this power?

Disagree

Codes of Practice have to be explicitly consistent with GDPR requirements.

There is need to explain the need to have a specific voluntary Codes of Practice when there are Statutory Code of Practice on data sharing. How will these interact?

There is a risk that the Codes of Practice are modified to be made too weak; the ICO should be able to veto any Code of Practice.

The principles for the code of practice should be included on the face of the bill: the need to provide a case, safeguards, transparency. (See below form consultation document). The code needs to spell these out in detail.

"It is proposed that the Code for the public service delivery power will specifically include the following sections:

- a. Principles for use of the power. This would include details on when the power is intended to be used;*
- b. Guidance for successful implementation. This would include details such as what a business case for data sharing under the power should cover and best practice examples; and*
- c. Additional safeguards. This would include details of additional safeguards, such as the requirement to publish Privacy Impact Assessments. These supplement the safeguards which have been built into the in the power itself (such as the permissive nature of the power) as well as those in existing legislation, such as the DPA."*

Basic safeguards, such as restrictions on the reuse of the data for other purposes under statutory powers of the body involved, should be mentioned in the bill and fleshed out in the codes.

The basic transparency criteria is the need to keep a public record of data agreements made under the provisions . This should be in the bill, not in the code.

The bill should establish set periods of reviewing the code of practice, not "from time to time".

Additional issues not raised in the questions

The consultation document sets out clear criteria for the use of the power which have been subjected to long discussions:

"The proposed power is intended for use in situations where:

- a. The objective could not be met without data sharing;*
- b. It is not realistic and practicable to use consent to achieve the intended outcome or use of consent would not meet the criteria of free and informed decision making; and*
- c. Sharing and analysis of de-identified data would not achieve the intended outcome."*

These should be reflected in the legislation, possibly in part 7, which is not the case now. Then expanded in the code.

Even with best intentions people can be stigmatised or may simply not wish to participate. Individuals need to be able to opt out from participation and profiling as much as possible. Government should publish more details to explain why and how data sharing is consistent with A.8 ECHR when data sharing proceeds in the absence of data subject consent.

The draft clauses attempt to define "personal information", but this should probably be referred to data protection law to avoid inconsistencies.

Extending the provisions to new objectives can be done by ministers through Statutory Instruments. It is critical in order to future proof the legislation that amendments to the SI can be made as part of the affirmative resolution procedure.

Draft clauses 2(2) allowing the use of information contain provisions for criminal investigations, emergencies, safeguarding and national security that are too broad. Police and other bodies included in the schedule could use this data sharing agreement to bypass other procedures. HMRC data is exempted from these clauses, so why not other data?

The proposals do to take into account that in most cases data flows will go in one direction only. Legislation needs to set out clearer responsibilities for the originator and the receiver of the data. In some cases the legal status may be different if the receivers of data are only processing the data on behalf of other public bodies.

Providing assistance to citizens living in fuel poverty

General comments:

We support the proposals provided the principles set out in the consultation are adhered to.

5. Should the Government share information with non-public sector organisations as proposed for the sole purpose of providing assistance to citizens living in fuel poverty?

Agree

We agree that energy providers should be told about people who qualify for assistance but will not be given access to the underlying data used to do the matching.

6. Would the provision of energy bill rebates, alongside information about energy efficiency support, be appropriate forms of assistance to citizens living in fuel poverty?

N/A

7. Are there other forms of fuel poverty assistance for citizens that should be considered for inclusion in the proposed power?

Access to civil registration to improve public service delivery

N/A

Increasing access to civil registration information to improve public service delivery

General comments:

E-government access to individual certificates can be positive, but we think bulk sharing should not take place.

We are extremely concerned about the bulk sharing proposals and will campaign to oppose them.

The bulk proposals are tantamount to an ID card lite and we are certain that will be rejected by public opinion, as previous attempts have been in the past.

The Conservative Party in opposition was against ID cards and would need to explain in Parliament why they have reversed their position in Government.

The proposals do not fit the principles agreed in the open policy making process: "no indiscriminate sharing of data within Government;". Adding bulk sharing to the open policy making framework brings the whole process into disrepute.

8. Should a government department be able to access birth details electronically for the purpose of providing a public service, e.g. an application for child benefit?

Neither agree nor disagree

This could be positive in principle, but should only take place with the consent of the individual involved.

If done properly it is unclear why this could not be extended to marriage and death certificates.

Paper based alternatives should be maintained.

The relationship of this proposal with the Verify identity assurance programme needs to be explained.

Given the low costs of marginal copies of certificates fees for electronic certificates should be based on independently agreed calculations.

There are many issues with the breadth and quality of the digital General Register database that we believe should be solved before embarking on major legislative changes.

9. Do you think bulk registration information, such as details of all deaths, should be shared between civil registration officials and specified public authorities to ensure records are kept up to date (e.g. to prevent correspondence being sent to families of a deceased person)?

Strongly disagree

The consultation paper states: "During open policy-making discussions, concerns were raised that the proposed new powers would create a citizen database." The concern raised and confirmed by the consultation documents is about the generalised use of common identifiers across government. We understand that the proposals will not create a new "citizen database", but will enable widespread data matching in England and Wales, with a form of "ID card lite". The core principle of ID is not the card itself but the unicity of the number or key and the centralisation aspects.

This would be a major departure from established custom and practice in the UK. The consultation states that : "Acts of Parliament governing civil registration are outdated, primarily the Births and Deaths registration Act 1953, the Registration Service Act 1953, and the Marriage Act 1949".

If anything this shows how inimical these proposals are to the status quo and the need for broader reform and discussions, rather than attempting to sneak in the proposals at the last minute and in a different context.

The consultation goes on to say: "Where no such statutory gateway exists, information cannot be shared". The proposals would completely reverse the situation by creating a generalised and unconstrained power "to assist public authorities to fulfil their functions". Access to GR data should be clearly limited to specific purposes agreed by Parliament.

The draft legislative clauses presented do not contain any limitations or safeguards, with any such considerations referred to a future code of practice prepared by the Registrar General for England and Wales in consultation with Information Commissioner. This is not sufficient.

The security aspects of bulk sharing have not been properly explored in the consultation. There is mention of reducing identity theft through the use of electronic certificates instead of paper copies, but the risks associated with sharing the data across government are not discussed.

Combating fraud against the public sector through faster and simpler access to data

General comments:

Fraud investigations can be a legitimate use of data sharing, if done narrowly and proportionately and without wholesale data matching.

These proposals contain considerable detail and have clearly been thought through. Unfortunately, in our view they still need more work.

Our main area of concern is the review of the powers and the apparent lack of Parliamentary, abandoning the sunset approach.

Other issues:

It is positive that the proposed new power is centred on enabling pilot projects to test ways of preventing and combating fraud against the public sector. It is unclear however, how this will be enforced in the legislation.

The Government proposes to extend the power to private organisations that provide services to a public authority. As a safeguard the proposed legislation limits that these types of bodies can only use the data for the function that it exercises for a public authority. We are not sure why the general power needs to be extended in such a manner and these situations cannot be dealt with as part of the contracts for service delivery. This needs to be explained, as in principle we would be opposed to this.

The drafting of the powers in the clauses is too broad, potentially allowing any data to be ingested by public bodies for fraud purposes.

The draft clauses include very different activities. Our understanding was that the programme was about prevention, detection and investigation of fraud. The actual draft clauses include: "prosecuting fraud of that kind; bringing civil proceedings as a result of fraud of that kind; taking administrative action as a result of fraud of that kind". Once that fraud has been confirmed we would expect that normal procedures would take over. Extending the power to prosecutions and enforcement is very different and needs more consideration and better explanation.

The proposals on fraud are sensitive because there is a thin line separating it from errors, ultimately the intention involved. Indeed, during the discussions with the

Cabinet Office we looked at the use of data to reduce administrative errors and prevent fraud as part of the same processes. Error is now not mentioned except in passing, and Government should explain why.

More generally, there is a wider public policy debate as to the focus of fraud investigations, and whether small scale fraud by ordinary people, sole traders and small businesses is disproportionately targeted in relation to tax avoidance by high net worth individuals and corporations. In the three years since we started looking at these proposals the social climate and potential legitimacy of such measures have changed substantially.

10. Are there other measures which could be set out in the Code of Practice covering the proposed new power to combat fraud to strengthen the safeguards around access to data by specified public authorities?

Yes

More safeguards and limitations in scope should be set out in the bill, and expanded in the code.

The draft clauses have limitations on sensitive data (race, religion, trade union membership...). It would be simpler to refer to data protection law to avoid potential inconsistencies.

Draft clause 3(2)a allows for the disclosure of data "which is required or permitted by any enactment" and the next clause if it "is required by an EU obligation". These exemptions are too broad and could make any safeguards practically useless. The clause does not apply to HMRC data.

To ensure that the disclosure of data under this power is consistent with the Data Protection Act 1998, it is proposed that the legislation explicitly states that data cannot be disclosed under the new power if it contravenes the DPA or Part 1 of the Regulation of Investigatory Powers Act 2000. This may not be enough, and both legislations are in the process of being superseded. More specific safeguards should be provided.

A definition of personal information for the purpose of the power is included in the legislation, covering legal persons. The relationship to data protection - covering natural persons - needs to be clarified.

It is positive to see a proposed Strategic Steering Group which would include representatives from Government, interested Civil Society Organisations and independent observers.

We broadly support the proposed three stage process, moving from validation to light analytics, to detailed analytics. However, although it is true that at each stage the number of people under consideration would be reduced, the richness of the data would increase and new safeguards should be triggered.

The proposed principles for the Code of Practice are sound, but there is no reason not to mention some of them in primary legislation:

- a. all participating organisations must submit themselves to audit by the Information Commissioner;*
- b. all participating organisations must publish Privacy Impact Assessments in relation to their data disclosures once the power is commenced;*
- c. all participating organisations must periodically publish the measurement data coming from the data sharing arrangements; and*
- d. all recommendations of the Strategic Steering Group being published and made available online.*

Transparency over the data sharing is important, although we understand concerns about hindering enforcement by tipping off would be fraudsters. It would be important that impact assessments and other documents are detailed enough to allow proper scrutiny.

11. It is proposed that the power to improve access to information by public authorities to combat fraud will be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the Fraud gateway be operational for before it is reviewed?

It is proposed that the power be reviewed three years after it comes into force, with a decision then taken whether to amend or repeal the power. Criteria for reviewing the power would be published by the relevant Minister. It is proposed that the review itself would be carried out in consultation with the Information Commissioner's Office and other appropriate persons and the results published and laid before Parliament.

We do not have a view on the best time period but it should enable proper assessment. It would be better to have a longer period than rush an incomplete review.

We are very concerned about moving away from a sunset clause, which was the view taken during the open policy-making discussions. We do not believe that carrying out a review and then providing the relevant Minister the option to repeal the legislation is an equivalent safeguard against potential future abuse. There is very little evidence of legislation ever being repealed in such a manner.

We can see the attractiveness of avoiding the need to reintroduce the powers in primary legislation if the powers proved to be effective; but not at the cost of abandoning Parliamentary approval. We don't agree that "the approach taken in the proposed legislation is consistent with the spirit of what was agreed during the open policy-making process".

The decision to continue with the legislation should not fall to the Minister but Parliament. Interim procedures or some other solutions would need to be found to ensure that what is working is not abandoned.

Here, as in the rest of the data sharing process, we must find the balance between flexibility and protection of rights. The document makes this clear when stating that the current numerous express gateways on fraud have been designed "to be specific to ensure a smooth passage through parliament". We must be careful that the process does not appear to bypass future democratic controls.

The successful completion of the pilot period would not simply trigger the extension of the powers, but also their expansion from pilots into wider use. Surely this will need to be discussed and agreed.

Improving access to data to enable better management of debt owed to the public sector

General comments:

We are particularly worried about proposals to share data on debt that were removed and then brought back at the end of the Open Policy Making process.

The proposals to enable widespread data sharing to tackle government debt have not been supported by a clear case, and could have huge implications for vulnerable people facing economic hardship.

Creating a "single view of debtors", as recommended by the National Audit Office in its 2014 report 'Managing Debt Owed to Central Government', requires a broader strategy on public debt management that is currently missing. The proposals might enable better handling of hardship, and /or prioritisation of debt, but these processes simply do not exist and have not been openly discussed by Government as part of the process.

If Government has plans for centralising debt management, they should be more candid about them. Proposing changes to data sharing in a vacuum of related policy is not acceptable. As such we think it would be best to leave these proposals out of the current process and take more time to consider the issue of debt as a whole, not just the data angle.

The consultation complains about the 86 data gateways around debt, but there is nothing in the proposals explaining how the new powers would help rationalise this situation and not simply increase the number of available channels.

The proposals do not contain any projections of the expected reduction of debt, or any other consideration of the proportionality of the huge privacy intrusions being proposed here. This leaves them open to legal challenges.

The consultation includes various case studies of how data sharing is currently used in bilateral agreements around debt. One example involves the Student Loans Company sharing data with DWP and HMRC to establish eligibility to make repayments. This is very different from the centralised view of debt presented

elsewhere and makes it very confusing to understand what Government really wants, other than a carte blanche to try anything they wish in the future.

12. Which organisations should Government work with to ensure fairness is paramount when making decisions about affordability for vulnerable debtors who owe multiple debts?

N/A

13. How can Government ensure the appropriate scrutiny so pilots under the power are effectively designed and deliver against the objectives of the power?

The proposed clauses are almost identical to those proposed around fraud. The references to pilots are only superficially treated in the consultation document in contrast to the level of detail provided around fraud.

The powers as they stand could be used to recover private sector debt, as a "specified person" includes those providing a service to public bodies. We hope this is an unintended mistake, but as we said in relation to public services the proposals in general do not make enough distinction on the flows of data.

There are some positive ideas for the code of practice that would limit the scope of the proposals, but in this context they are not enough.

14. It is proposed that the power to improve access to information by public authorities for the purpose of better managing debt owed to government will be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the debt power be operational for before it is reviewed?

We have similar concerns as those expressed around the fraud proposals.

In this strand it would be even more critical to ensure a sunset clause is in place if a bill was presented to Parliament, given the lack of clarity.

Access to data which must be linked and de-identified using defined processes for research purposes

General comments:

We are broadly supportive of the proposals if implemented properly with adequate safeguards.

15. Should fees be charged by public authorities for providing data for research purposes, and if so should there be a maximum fee permitted which is monitored by the UK Statistics Authority?

NO

We are opposed to fees because they commercialise the exchange and undermine the principle to make research publicly accessible. If private institutions "pay" for data this destroys the quid pro quo to bring back the benefits of research to the public.

The public sector organisations that happen to hold data about citizens are not the same as "the public" and they should not be the exclusive beneficiaries.

Any fees should ensure that public interest projects with limited funding are not disadvantaged by commercial organisations.

Very strict marginal cost recovery should be applied to stop public bodies from overcharging for data they have created in the course of performing their Public Task.

16. To ensure a consistent approach towards departments accepting or declining requests for disclosing information for research projects, should the UK Statistics Authority as the accreditation body publish details of rejected applications and the reasons for their rejection?

YES

This would help future applicants and it is basic good practice.

17. What principles or criteria do you think should be used to identify research that has the potential for public benefit, or research that will not be in the public benefit?

As discussed during the open policy making process it would be important to ensure that the results of research that relies on public data are openly accessible.

Access by UK Statistics Authority to identified data for the purpose of producing official statistics and research

General comments:

We are broadly supportive of the proposals if implemented properly with adequate safeguards.

18. Is two years a reasonable maximum period of time for the duration of a notice for the supply of data to the UK Statistics Authority for the purposes of producing National and official statistics and statistical research?

N/A

19. If your business has provided a survey return to the ONS in the past we would welcome your views on:

- (a) the administration burden experienced and the costs incurred in completing the survey, and**
- (b) ways in which the UK Statistics Authority should seek to use the new powers to further reduce the administrative burdens on businesses who provide data to the ONS for the purposes of producing National and other official statistics.**

N/A

20. What principles and factors should be considered in preparing the Code of Practice on matters to be considered before making changes to processes that collect, store, organise or retrieve data?

Given the attention given to these legislative proposals it is surprising how little the consultation contains on safeguards and the code of practice.

While we generally trust the Statistics Authority to handle data properly, it would be good to see more detail, particularly on data requested from the private sector.

In particular data from mobile companies, social media or other such sources such as smart meters or sensors in smart cities need special consideration, with data subjects affected being given enough information.

In some cases, the Statistical Authority will be able to combine data sources and re-identify databases that have previously been declared non-personal information and out of data protection.

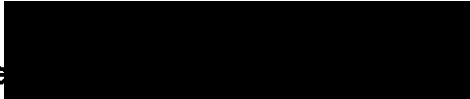
SHEFFIELD CITY COUCIL

Cabinet Office - Better use of data – consultation paper

Queries on this consultation response to:

John L Curtis
Head of Information and Knowledge Management
Business Change and Information Solutions
Sheffield City Council

Email
Phone



Sheffield City Council is committed to more effective use of data which underpins both operational and strategic decision making. Data, and the Information we derive from a number of relevant datasets, as well as our local Knowledge of Sheffield, supports our business processes, policies, strategic plan and the services we provide.

It is crucial that data (and information) is able to flow appropriately, safely and securely within Sheffield City Council and between our partners across the Sheffield City Region and beyond. This will support officers in providing effective and efficient public services and ensure we are offering the best possible service to our citizens.

The 'better use of data' is a journey, in how that data is collected (ideally once), stored, used, and linked to other relevant datasets to provide insight and understanding, as well as been shared appropriately, safely and securely.

We are committed to the better use of data and welcome these proposals to support overall public service reform, change and service delivery.

	Question	Sheffield City Council Response
	<u>Improving public service delivery</u>	
1	Are there any objectives that you believe should be included in this power that would <i>not meet</i> these criteria?	The stated criteria, as detailed below, appear to cover all potential objectives for information sharing. ie a) <i>the improvement or targeting of a public service provided to individuals of a particular description, or</i>

- b) *the facilitation of the provision of a benefit (whether or not financial) to individuals of a particular description, and*
- c) *the improvement of the well-being of individuals.*

It is important going forward that legislation is provided that enables public service reform, including areas such as devolution, so that at a local (place) level information can be shared safely, securely and appropriately, within a permissive model. (clear legal framework and definitive single source guidance).

It is understood at this stage the proposed EU DP changes may have a bearing upon this proposal. As such we would welcome clear (single source) supporting guidance to avoid any misinterpretation or confusion.

Previous experience has also shown that even with clear objectives, it is challenging within a changing public service arena to understand what data/information sources are available. We therefore suggest that any existing information asset registers be exploited in a way that helps signpost officers to relevant data sets.

Information standards are also vital so that there is a consistency in how data is collected and managed. These information standards should also support context eg what do we mean when we refer to a collection of data sets or an individual's record?. Importantly the meaning of that data set or record must not be lost in translation when shared.

Information standards would also support work relating to an individual or where

	<p>more complex services are provided around a family. We suggest that national standards boards are consulted which includes IStandUK</p> <p>We understand that the initial suggested areas will be expanded upon and as such welcome input into any roadmap.</p> <p>We also welcome a pan government approach which supports a coordinated approach around policy, information sharing and the necessary legislation. This work should include one set of definitive pan government guidance.</p> <p>It would make sense that identifies such as the place identifier UPRN (Unique Property Reference Number), and NHS Number (people identifier from birth) are mandated within schemas and systems to support interoperability.</p> <p>This would be hugely advantageous in managing more effectively and efficiently place and people records when shared. It would also reduce the risk of matching or merging records incorrectly.</p> <p>It is important that there is a secure network to share information and consideration should be given to how the public sector networks interconnect. Ideally there should be one secure network and approach. Consideration should also be given to any existing big data initiatives across the Country, and how they co-exist and support appropriate research.</p> <p>It would be invaluable to areas such as the troubled families programme if academies were included as part of the organisation's cited to share appropriate information (ie clear legal gateway). This would greatly support existing policy and</p>
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		<p>future work.</p> <p>Open data standards should be adopted where valuable data sets have been aggregated to a level which does not identify a living individual through its publication (and or through the linking to other relevant data sets). This would support our ongoing work around our change programmes, transparency and decision making.</p> <p>https://data.sheffield.gov.uk/</p> <p>An open data approach should reduce the burden of recollection as well as provide greater opportunities in research.</p> <p>We are committed to open data and how through the publication of this data we can make a difference. This link below to our video will provide greater context regarding our approach and how we are making a difference with data in Sheffield. <u>Making a difference with Data Sheffield 2015</u> (This link is available from https://data.sheffield.gov.uk/)</p> <p>Simplifying the supporting templates around information sharing and privacy should also be acknowledged. The Information Sharing gateway could provide a more joined up approach in this area http://www.info-sharing-sandpit.org.uk/About</p> <p>We appreciate the work that has been undertaken around safeguarding and protecting information, which has introduced roles such as Caldicott Guardians, and Senior Information Risk Owners (SIRO's).</p> <p>Going forward and to support safe, secure and appropriate information sharing it more than likely would be sensible to see how these existing roles</p>
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		and some form of Senior Chief Data Officer could support and champion this work across a locality. This would support any data devolution as proposed by the core city group.
2	Are there any public authorities that you consider would not fit under this definition?	No, all public authorities should fit the stated definition of "a person who exercises functions of a public nature"
3	Should non-public authorities (such as private companies and charities) that fulfil a public service function to a public authority be included in the scope of the delivering public services power?	<p>Yes, it would be short sighted and limit the benefits of information sharing if this type of body was excluded. Within the increasing number of services been commissioned this will be more and more important.</p> <p>The power should reside with the commissioning Public Sector organisation. It will be data they collect and hold, and therefore they should set the rules/ sharing processes as part of their data controller responsibilities.</p> <p>There should be scope for review of contractual obligations on data processors to share information when instructed by the data controller with appropriate safeguards.</p> <p>In terms of fuel poverty it is suggested Government legislates a statutory requirement or regulatory code for Energy Suppliers to share appropriate information.</p>
4	Are these the correct principles that should be set out in the Code of Practice for this power?	<p>The stated principles as set out below are appropriate. It is important that these principles are agile and support the delivery of public service reform, and overall change.</p> <p>Government may want to consider including a requirement for public authorities to publish their policies on Information Management (Governance and better use of Data for decision making) to support this process.</p>

		<p>a) Principles for use of the power. This would include details on when the power is intended to be used;</p> <p>b) Guidance for successful implementation. This would include details such as what a business case for data sharing under the power should cover and best practice examples; and</p> <p>c) Additional safeguards. This would include details of additional safeguards, such as the requirement to publish Privacy Impact Assessments. These supplement the safeguards which have been built into the in the power itself (such as the permissive nature of the power) as well as those in existing legislation, such as the DPA.</p>
	<u>Providing assistance to citizens living in fuel poverty</u>	
5	Should the Government share information with non-public sector organisations as proposed for the sole purpose of providing assistance to citizens living in fuel poverty?	<p>Yes, as that will support the customer.</p> <p>Clearly such an approach should be understood by the customer whose information will be shared. It's important that IG aspects eg Privacy Impact Assessments are duly completed, and that there is engagement with citizens.</p>
6	Would the provision of energy bill rebates, alongside information about energy efficiency support, be appropriate forms of assistance to citizens living in fuel poverty?	Yes, but much more could be done to support the citizen. See the response to 7 below.
7	Are there other forms of fuel poverty assistance for citizens that should be considered for inclusion in the proposed power?	<p>Yes, This seems to be a very limited view of the value of sharing what would be valuable information.</p> <p>More than likely a large proportion of</p>

		<p>citizens requiring fuel poverty assistance are isolated, (living alone) and have a wide range of needs (adult social care/ health).</p> <p>If data could be shared at an earlier stage more appropriate services, with better outcomes for both the citizen and provider, could be delivered. This would support better commissioning of services and overall public service reform.</p> <p>Sharing this type of information with other public sector bodies would allow them to target their earlier and more cost effective prevention activities. The appropriate sharing of health data is of particular importance as it generally supports earlier interventions.</p>
	<u>Access to civil registration to improve public service delivery</u>	
8	Should a government department be able to access birth details electronically for the purpose of providing a public service, e.g. an application for child benefit?	<p>Yes.</p> <p>It should be noted though that there is a time delay before registration does take place.</p> <p>More work needs to be undertaken to consider what information health collect's about the mother so that services can be offered and provided before the mother gives birth. There is ongoing digital work within health that could support the provision of such information, which currently can be in some areas only in paper based format. This should be explored.</p>
9	Do you think bulk registration information, such as details of all deaths, should be shared between civil registration officials and specified public authorities to ensure records	<p>Yes this makes common sense and should form part of the overall Tell me Once programme.</p> <p>It is important that any such data transfers are undertaken securely. Data</p>

	are kept up to date (e.g. to prevent correspondence being sent to families of a deceased person)?	standards should be adopted so that records on that deceased person are correctly managed, and not mismatched with other records. It would be invaluable if death certificates included ethnicity and disability. This would help with existing research within for example Public Health.
	<u>Combating fraud against the public sector through faster and simpler access to data</u>	
10	Are there other measures which could be set out in the Code of Practice covering the proposed new power to combat fraud to strengthen the safeguards around access to data by specified public authorities?	The measures proposed seem reasonable and should assist with combating fraud. It will be important that all appropriate agencies do have this power and that overall safeguards are in place to ensure that records are shared securely and appropriately. The retention of those records, and timeliness of the data received, as well as overall data quality will be important.
11	It is proposed that the power to improve access to information by public authorities to combat fraud will be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the Fraud gateway be operational for before it is reviewed?	Dependent upon the scope of the pilot, one financial or calendar year should provide some initial findings. Evaluation criteria should be agreed well in advance of the commencement of the pilot. There should be some flexibility at local level. With both pilots Sheffield City Council would be keen to explore our involvement and understand that there are further discussions with the cabinet office through the Core Cities group.
	<u>Improving access to data to enable better management of debt owed to the public sector</u>	
12	Which organisations should Government work with to ensure fairness is paramount	A range of public and voluntary sector partners should be consulted to ascertain factors that make individuals

	<p>when making decisions about affordability for vulnerable debtors who owe multiple debts?</p>	<p>vulnerable and those factors should be considered consistently when making decisions on how debts are pursued.</p> <p>For example, what physical or mental health issues does and individual have; or would pursuing the repayment of multiple debts at the same time have an impact on the individual's ability to feed themselves, or heat their homes safely – thus having a knock on effect for other agencies such as the Adult Social Care/ Health and other sectors, such as Fire and Rescue.</p> <p>A lot of academic research has been undertaken within this area by a number of Universities within Sheffield and Liverpool about vulnerability (isolation) and predictive modelling.</p>
13	<p>How can Government ensure the appropriate scrutiny so pilots under the power are effectively designed and deliver against the objectives of the power?</p>	<p>As with the response above, the Government should consider the broadest implications of pursuing multiple debts and engage with a wide range of partners at an early stage and during the pilot process, to ensure that the direct and indirect impacts of pursuing debt are scrutinised.</p> <p>It makes sense that as part of those pilots, an evaluation stage is clearly understood before any pilot commences.</p> <p>Social and Economic factors need to be considered within any such evaluation, and community engagement/ consultation will be key.</p> <p>Evaluation criteria should be agreed well in advance of the commencement of the pilot. There should be some flexibility at local level.</p>
14	<p>It is proposed that the power to improve access to information by public</p>	<p>Dependent upon the scope of the pilot, one financial or calendar year should provide some initial findings. Evaluation</p>

	<p>authorities for the purpose of better managing debt owed to government will be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the debt power be operational for before it is reviewed?</p>	<p>criteria should be agreed well in advance of the commencement of the pilot. There should be some flexibility at local level.</p> <p>With both pilots Sheffield City Council would be keen to explore our involvement and understand that there are further discussions with the cabinet office through the Core Cities group.</p>
	<p><u>Access to data which must be linked and de-identified using defined processes for research purposes</u></p>	
15	<p>Should fees be charged by public authorities for providing data for research purposes, and if so should there be a maximum fee permitted which is monitored by the UK Statistics Authority?</p>	<p>Most of the researchers requesting access to data will be from academic institutions will have budgets for such research work.</p> <p>A maximum fee more than likely makes sense. It should be at the discretion of that Local Authority if it wants to charge.</p> <p>It would make sense to consider promotion of more joined up working between public authorities to engage earlier on data derived research to integrate Public Authority goals into research projects therefore providing cohesive benefits</p>
16	<p>To ensure a consistent approach towards departments accepting or declining requests for disclosing information for research projects, should the UK Statistics Authority as the accreditation body publish details of rejected applications and the reasons for their rejection?</p>	<p>This could be useful to ensure that only those displaying the highest standard of research procedures gain access to information through this channel.</p>
17	<p>What principles or criteria do you think should be used to</p>	<p>We agree with the examples already given:</p>

	<p>identify research that has the potential for public benefit, or research that will not be in the public benefit?</p>	<ul style="list-style-type: none"> • <i>Informing the public about social and economic matters</i> • <i>Assisting in the development and evaluation of public policy; with the addition of;</i> • <i>Research that contributes to improving health and wellbeing</i> <p>Overall it's key that such work supports local policies, partnerships and public service reform.</p> <p>This should also support devolution powers that have been provided to support better local delivery of services.</p>
	<p><u>Access by UK Statistics Authority to identified data for the purpose of producing official statistics and research</u></p>	
18	<p>Is two years a reasonable maximum period of time for the duration of a notice for the supply of data to the UK Statistics Authority for the purposes of producing National and official statistics and statistical research?</p>	<p>Yes.</p>
19	<p>If your business has provided a survey return to the ONS in the past we would welcome your views on: the administration burden experienced and the costs incurred in completing the survey, and ways in which the UK Statistics Authority should seek to use the new powers to further reduce the administrative burdens on businesses who provide data to the ONS for the purposes of producing National and other official statistics.</p>	<p>We support proposed changes that simplify this process so that it becomes less administratively burdensome. We will provide more information directly to the cabinet office regarding this.</p>

20	<p>What principles and factors should be considered in preparing the Code of Practice on matters to be considered before making changes to processes that collect, store, organise or retrieve data</p>	<p>Data quality and information standards to ensure consistency across organisations should be considered.</p> <p>Each organisation should have an Information Asset Register which is underpinned by an Information Management Strategy. This should aim to ensure that the right information is provided at the right time, in the right format for operational and strategic decision making.</p> <p>Importantly and as part of the digital programme secure access should also be provided to the citizen so that they can eg access and update their own records.</p> <p>As detailed above we suggest that you work with existing national standards boards, including IStandUK.</p> <p>It is important that these standards focus on three key areas around data management; these being People, Property (place) and risk/needs. In essence this would then provide insight into that person's needs, as well as locational/place factors which generally have a bearing on how services are delivered. Earlier identification of needs is vital so that services can be provided at an earlier stage.</p> <p>Consistent recording around areas such as ethnicity as well as other data items is important for research purposes.</p>
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Responding to the consultation

Your details

To evaluate responses properly, we need to know who is responding to the consultation and in what capacity.

We will publish our evaluation of responses. Please note that we may publish all or part of your response unless you tell us (in your answer to the confidentiality question) that you want us to treat your response as confidential. If you tell us you wish your response to be treated as confidential, we will not include your details in any published list of respondents, although we may quote from your response anonymously.

Name (optional): Dr Catrin Tudur Smith

Position (optional): Reader in Medical Statistics

Organisation name: University of Liverpool

Address: Department of Biostatistics, University of Liverpool, Block F Waterhouse Building, 1-5 Brownlow Street, Liverpool L69 3GL

Email: 

Telephone (optional):

Would you like us to treat your response as confidential?*

If you answer yes, we will not include your details in any list of people or organisations that responded to the consultation.

Yes No

Is this a personal response or an official response on behalf of your organisation?

- Personal response
 - Official response
-

If you ticked “Official response”, please respond accordingly:

Type of responding organisation*

- Business
 - Charity
 - Local authority
 - Central government
 - Wider public sector (e.g. health bodies, schools and emergency services)
 - University or other higher education institution
 - Other representative or interest group (please answer the question below)
-

Type of representative group or interest group

- Union
- Employer or business representative group
- Subject association or learned society
- Equality organisation or group
- School, college or teacher representative group
- Other (please state below)

Hubs for Trials Methodology Research Health Informatics Group

Nation*

England

Wales

Northern Ireland

Scotland

Other EU country: _____

Non-EU country: _____

How did you find out about this consultation?

Gov.uk website

Internet search

Other

May we contact you for further information?

Yes No

Questions

Improving public service delivery

Question one: Are there any objectives that you believe should be included in this power that would not meet these criteria?

No

Yes

If yes, please explain your reasons.

The research community have experienced very frustrating delays and senseless obstacles when attempting to access valuable data that could be used in research to improve people's lives and increase efficiency. This proposal, to improve the responsible sharing and use of data, would be very welcome by the research community. Of importance is that any such framework for sharing data should provide a streamlined, transparent access approach and that the data are well documented and explained.

However, the main criticism we have is that the proposed power currently excludes health and social care data. This is an enormous missed opportunity to address an urgent demand for the establishment of safe and effective measures of sharing important and informative health data. Current systems that are in place for sharing health data for research are inadequate, costly and inhibit progress being made that could benefit the public. It is difficult to justify how the measures being proposed within this power could be acceptable and adequate for certain data held by government but not to be acceptable and adequate for health and social care data.

We are very concerned that this proposal could be inappropriately misinterpreted as a directive to withhold health and social care data from being shared for research.

Question two: Are there any public authorities that you consider would not fit under this definition?

No

Yes

If yes, please explain your reasons:

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Question three: Should non-public authorities (such as private companies and charities) that fulfil a public service function to a public authority be included in the scope of the delivering public services power?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

This is essential for a framework to be transparent, efficient, respected and trusted.

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Question four: Are these the correct principles that should be set out in the Code of Practice for this power?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

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Providing assistance to citizens living in fuel poverty

Question five: Should the government share information with non-public

sector organisations as proposed for the sole purpose of providing assistance to citizens living in fuel poverty?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

Insufficient experience in this area to comment

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Question six: Would the provision of energy bill rebates, alongside information about energy efficiency support, be appropriate forms of assistance to citizens living in fuel poverty?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

Insufficient experience in this area to comment

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Question seven: Are there other forms of fuel poverty assistance that should be considered for inclusion in the proposed power?

Yes

No

If yes, please explain your reasons:

Insufficient experience in this area to comment

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Access to civil registration information to improve public service delivery

Question eight: Should a government department be able to access birth details electronically for the purpose of providing a public service, e.g. an application for child benefit?

Strongly agree

Agree

Neither agree nor disagree

Disagree

Strongly disagree

Please explain your reasons:

This would seem to be a sensible and pragmatic proposal that most of the public would assume is already happening.

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Question nine: Do you think bulk registration information, such as details of all deaths, should be shared between civil registration officials and specified public authorities to ensure records are kept up to date (e.g. to prevent correspondence being sent to a deceased person)?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

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Combating fraud against the public sector through faster and simpler access to data

Question ten: Are there other measures which could be set out in the Code of Practice covering the proposed new power to combat fraud to strengthen the safeguards around access to data by specified public authorities?

- Yes
- No

Please explain your reasons:

Secure safe havens for data analyses, an audit trail of access to datasets, and regular assessments to ensure that access is being provided and data is being processed under the terms intended

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Question eleven: It is proposed that the power to improve access to information by public authorities to combat fraud would be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the fraud gateway be operational for before it is reviewed?

Unable to comment

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Improving access to data to enable better management of debt owed to the public sector

Question twelve: Which organisations should government work with to ensure fairness is paramount when making decisions about affordability for vulnerable debtor who owe multiple debts?

Unable to comment

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Question thirteen: How can Government ensure the appropriate scrutiny so pilots under the power are effectively designed and deliver against the objectives of the power?

Unable to comment

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Question fourteen: It is proposed that the power to improve access to information by public authorities to combat fraud would be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the fraud gateway be operational for before it is reviewed??

Unable to comment

.....
.....
Access to data which must be linked and de-identified using defined processes for research purposes

Question fifteen: Should fees be charged by public authorities for providing data for research purposes, and if so should there be a maximum fee permitted which is monitored by the UK Statistics Authority?

Yes

No

Although there are inevitable costs associated with preparing and distributing data for research purposes, there is a real danger that charging fees will damage public perception of how their data are handled. Furthermore, the provision of data for research purposes should be in the public interest and could well generate results to inform changes in process, increase efficiency and revenue for the government.

The UK Statistics Authority should collect data about requests for data, the costs associated with the preparation and distribution of these data for research purposes, the outcome of the research using the requested data, and any impact those results may have had on government and the public purse. These results should be made publicly available so that future decisions may be informed by evidence.

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Question sixteen: To ensure a consistent approach towards departments accepting or declining requests for disclosing information for research projects, should the UK Statistics Authority as the accreditation body publish details of rejected applications and the reasons for their rejection?

Yes No

This is critical for a transparent system that will be accepted by the public, but also to provide researchers with information about why requests have been rejected and to prevent time and energy being wasted submitting future similar proposals.

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Question seventeen: What principles or criteria do you think should be used to identify research that has the potential for public benefit, or research that will not be in the public benefit?

Why not include members of the public and members of the research community in this assessment? The involvement of patients and public during the development and conduct of research projects, ethical review, funding decisions, dissemination and implementation, has become routine practice in medical research.

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Access by UK Statistics Authority to identified data for the purpose of producing official statistics and research

Question eighteen: Is two years a reasonable maximum period of time for the duration of a notice for the supply of data to the UK Statistics Authority for the purposes of producing National and official statistics and statistical research?

- Yes
- No

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Question nineteen: If your business has provided a survey return to the ONS in the past we would welcome your views on:

a) the administration burden experienced and the costs incurred in completing the survey

Unable to comment

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b) ways in which the UK Statistics Authority should seek to use the new powers to further reduce the administrative burdens on businesses who provide data to the ONS for the purposes of producing National and other official statistics

Unable to comment

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Question twenty: What principles and factors should be considered in preparing the Code of Practice on matters to be considered before making changes to the processes that collect, store, organise or retrieve data?

Any proposed framework should streamline paperwork and minimise bureaucracy. The data should be well documented and explained to enable research to be conducted effectively, efficiently and with minimal errors. Methods of data de-identification (if applicable), data access and transfer should consider a reasonable balance between confidentiality and the utility of data to enable research progress.

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Better use of data in government – consultation

Responding to the consultation

Your details

To evaluate responses properly, we need to know who is responding to the consultation and in what capacity.

We will publish our evaluation of responses. Please note that we may publish all or part of your response unless you tell us (in your answer to the confidentiality question) that you want us to treat your response as confidential. If you tell us you wish your response to be treated as confidential, we will not include your details in any published list of respondents, although we may quote from your response anonymously.

Name (optional):

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Position (optional):

Director

Organisation name:

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Address:

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Horsforth

West Yorkshire LS18 4TJ

Email:

[REDACTED]

Telephone (optional):

[REDACTED]



Better use of data in government – consultation

Would you like us to treat your response as confidential?*

If you answer yes, we will not include your details in any list of people or organisations that responded to the consultation.

Yes No

Is this a personal response or an official response on behalf of your organisation?

Personal response

Official response

If you ticked “Official response”, please respond accordingly:

Type of responding organisation*

Business

Charity

Local authority

Central government

Wider public sector (e.g. health bodies, schools and emergency services)

University or other higher education institution

Other representative or interest group (please answer the question below)

Type of representative group or interest group

Union

Employer or business representative group

Subject association or learned society

Equality organisation or group



Better use of data in government – consultation

School, college or teacher representative group

Other (please state below)

Specialist Training for data protection officers

Nation*

England

Wales

Northern Ireland

Scotland

Other EU country: _____

Non-EU country: _____

How did you find out about this consultation?

Gov.uk website

Internet search

Other

May we contact you for further information?

Yes No



Better use of data in government – consultation

Comments on the data sharing proposals

My comments are limited to general observations across all the data sharing proposals. If you want further details on these comments, please contact me.

I am generally supportive of efficient public sector administration; data sharing is one possible approach to this. However, the draft data sharing proposals should overcome the following deficiencies.

- a) Most of the proposed data sharing occurs without data subject consent. If data sharing is required by or under an enactment (as is proposed), then Section 35(1) of the Data Protection Act engages the exemption from the Non-Disclosure provisions. **The potential for the application of this exemption is wholly inappropriate if the purpose of data sharing is beneficial for the data subject; it should be explicitly dis-applied in the proposed draft general legislation.**
- b) Because data sharing proceeds in the absence of data subject consent, the **Government should publish details to explain why data sharing is consistent with Article 8 of the European Convention on Human Rights** (respect for private and family life).
- c) Provisions such as in the proposed clause 7(1) of the draft Public Service Bill could be a stalking horse for that “targeting” that aims to **exclude** data subjects from benefits. For example, suppose there is a benefit that is aimed at single mothers with two children. Suppose at a later time, there is a need to make savings and the benefit is changed so that it is aimed at single mothers with three children. Data sharing to target such three-children-mothers is really aimed at excluding two-children-mothers. **There should be a definition of “targeting” that is linked to a purpose whose prime objective is to include data subjects rather than exclude them.**
- d) The Government should state that any Code of Practice has to be explicitly consistent with General Data Protection Regulation (GDPR) requirements for Codes of Conduct in Articles 40&41 of the GDPR.
- e) In general, there is a no need specific **voluntary** Codes of Practice for specific data sharing as there is a general **statutory** Code of Practice on data sharing. **The proposal to have two Codes of Practice (a specific voluntary Code and a statutory Code) covering the same data sharing is a recipe for confusion.**



Better use of data in government – consultation

- f) There is a conflict of interest if the Secretary of State(SoS)/Minister is tasked with producing specific data sharing Codes of Practice. The conflict arises as the SoS can fashion a Code that suits the data controllers acting in the areas that are the political responsibility of the Secretary of State. In short, putting a Secretary of State in charge of the drafting of a Code on data sharing in is like putting Count Dracula in charge of a Code that determines who can access NHS blood banks. This reinforces the idea that such Codes are otiose given the existence of the Statutory Code of Practice on Data Sharing.
- g) **The provision that requires consultation with the Information Commissioner over the content of a Code of Practice should be replaced by a provision that allows the ICO to veto any Code of Practice if the Code that does not meet the requirements of the Data Protection Act (and from mid 2018 the GDPR).**
- h) The “Code of practice on changes to data systems” as proposed by the UK Statistics Bill should explicitly be linked to data that is not personal data (this arises as the Information Commissioner is excluded from the consultation list concerning the code’s content). If the information subject to the Code were to be personal data, then the proposal to exclude the Information Commissioner are unacceptable.
- i) If the provisions with respect to data sharing and statistics are, as stated in the consultation document limited to **“Disclosure of information to the Statistics Authority solely for its functions”** (my emphasis of the heading on page 32 of the consultation document) then Section 39(4) of the Statistics and Registration Service Act 2007 needs to be dis-applied to personal data obtained by the Statistics Authority. Section 39(4) then states that the disclosure prohibition in section 39(1) “does not apply to a disclosure which”:
- “(a) is required or permitted by any enactment,
 - (b) is required by a Community obligation,
 - (c) is necessary for the purpose of enabling or assisting the Board to exercise any of its functions,
 - (d) has already lawfully been made available to the public,
 - (e) is made in pursuance of an order of a court,
 - (f) is made for the purposes of a criminal investigation or criminal proceedings (whether or not in the United Kingdom),



Better use of data in government – consultation

- (g) is made, in the interests of national security, to an Intelligence Service,
 - (h) is made with the consent of the person to whom it relates, or
 - (i) is made to an approved researcher”.
- j) If personal data are disclosed to the Statistics Authority, I think it is astonishing that discussion of the above provision is absent from the consultation document.
- k) In relation to debt recovery provisions, why is the Minister having regard for “the systems and procedures for the secure handling of information by that person or persons of that description (clause 6(2)(a))” when security of the processing of personal data is covered by the security Articles of the GDPR or the Seventh Principle of the Data Protection Act.
- l) The Debt recovery draft Bill contains custodial offences with respect to misuse of personal data. This provision would not be needed if the custodial element of the offence in Section 55 of the Data Protection Act was commenced. The fact that the Government sees the custodial element relevant to this Bill, makes its refusal to commence the general offence (sections 77 and 78 of the 2008 Criminal Justice and Immigration Act) even more astonishing.
- m) The Government should remove the £2 cost for a data subject to extract credit status information from a credit reference agency. If there is a public interest in debt recovery, the same public interest applies to the objective of empowering data subjects concerning their credit status. If data subjects can access their credit status it might prevent them over reaching their credit in the first place. The proposal I suggest would make the Debt Recovery Bill balanced.

Responding to the consultation

Your details

To evaluate responses properly, we need to know who is responding to the consultation and in what capacity.

We will publish our evaluation of responses. Please note that we may publish all or part of your response unless you tell us (in your answer to the confidentiality question) that you want us to treat your response as confidential. If you tell us you wish your response to be treated as confidential, we will not include your details in any published list of respondents, although we may quote from your response anonymously.

Name (optional): Simon Briscoe

Position (optional): Consultant

Organisation name:

Address:

Email: 

Telephone (optional):

Would you like us to treat your response as confidential?*

If you answer yes, we will not include your details in any list of people or organisations that responded to the consultation.

Yes No

Is this a personal response or an official response on behalf of your organisation?

Personal response

Official response

If you ticked "Official response", please respond accordingly:

Type of responding organisation*

Business

Charity

Local authority

Central government

Wider public sector (e.g. health bodies, schools and emergency services)

University or other higher education institution

Other representative or interest group (please answer the question below)

Type of representative group or interest group

Union

Employer or business representative group

Subject association or learned society

Equality organisation or group

School, college or teacher representative group

Other (please state below)

Nation*

- England
- Wales
- Northern Ireland
- Scotland
- Other EU country: _____
- Non-EU country: _____

How did you find out about this consultation?

- Gov.uk website
 - Internet search
 - Other
- _____

May we contact you for further information?

- Yes No

Questions

Improving public service delivery

Question one: Are there any objectives that you believe should be included in this power that would not meet these criteria?

- No
 Yes

If yes, please explain your reasons.

The provision of better services to those interacting with the public sector should be allowed – “well-being” is likely to be defined more narrowly than this.

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Question two: Are there any public authorities that you consider would not fit under this definition?

- No
 Yes

If yes, please explain your reasons:

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.....

Question three: Should non-public authorities (such as private companies and charities) that fulfil a public service function to a public authority be included in the scope of the delivering public services power?

- Strongly agree
 Agree
 Neither agree nor disagree
 Disagree
 Strongly disagree

Please explain your reasons:

Why not? So many services are now delivered via such bodies.

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Question four: Are these the correct principles that should be set out in the Code of Practice for this power?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

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Providing assistance to citizens living in fuel poverty

Question five: Should the government share information with non-public sector organisations as proposed for the sole purpose of providing assistance to citizens living in fuel poverty?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

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Question six: Would the provision of energy bill rebates, alongside information about energy efficiency support, be appropriate forms of assistance to citizens living in fuel poverty?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

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Question seven: Are there other forms of fuel poverty assistance that should be considered for inclusion in the proposed power?

- Yes
- No

If yes, please explain your reasons:

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Access to civil registration information to improve public service delivery

Question eight: Should a government department be able to access birth details electronically for the purpose of providing a public service, e.g. an application for child benefit?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

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Question nine: Do you think bulk registration information, such as details of all deaths, should be shared between civil registration officials and specified public authorities to ensure records are kept up to date (e.g. to prevent correspondence being sent to a deceased person)?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please explain your reasons:

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Combating fraud against the public sector through faster and simpler access to data

Question ten: Are there other measures which could be set out in the Code of Practice covering the proposed new power to combat fraud to strengthen the safeguards around access to data by specified public authorities?

- Yes

() No

Please explain your reasons:

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Question eleven: It is proposed that the power to improve access to information by public authorities to combat fraud would be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the fraud gateway be operational for before it is reviewed?

Several years

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Improving access to data to enable better management of debt owed to the public sector

Question twelve: Which organisations should government work with to ensure fairness is paramount when making decisions about affordability for vulnerable debtor who owe multiple debts?

Any viewed by an appropriate body as being relevant

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Question thirteen: How can Government ensure the appropriate scrutiny so pilots under the power are effectively designed and deliver against the objectives of the power?

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Question fourteen: It is proposed that the power to improve access to information by public authorities to combat fraud would be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the fraud gateway be operational for before it is reviewed??

As above

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Access to data which must be linked and de-identified using defined processes for research purposes

Question fifteen: Should fees be charged by public authorities for providing data for research purposes, and if so should there be a maximum fee permitted which is monitored by the UK Statistics Authority?

Yes

No

Public data for use by the public so long as it is not disclosive

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Question sixteen: To ensure a consistent approach towards departments accepting or declining requests for disclosing information for research projects, should the UK Statistics Authority as the accreditation body publish details of rejected applications and the reasons for their rejection?

Yes No

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Question seventeen: What principles or criteria do you think should be used to identify research that has the potential for public benefit, or research that will not be in the public benefit?

Data given by the data holder should be in the public domain so that it can be used by anyone. There is no guarantee that anyone given data will use it for public benefit. Even public bodies might not use it for public benefit.

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Access by UK Statistics Authority to identified data for the purpose of producing official statistics and research

Question eighteen: Is two years a reasonable maximum period of time for the duration of a notice for the supply of data to the UK Statistics Authority for the purposes of producing National and official statistics and statistical research?

Yes

No

No – it needs to be indefinite.....

THE DISCLOSURE AS NOTED IN PARA 118 ONWARDS MUST NOT BE SO WEAK, IE PERMISSIVE TO THE DATA HOLDING DEPARTMENT. IF UKSA WANTS IT SHOULD HAVE THE RIGHT TO IT.

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Question nineteen: If your business has provided a survey return to the ONS in the past we would welcome your views on:

a) the administration burden experienced and the costs incurred in completing the survey

It's a necessary evil if we are to have good statistics

The new power noted in para 121 re new section 45C is a must have.

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b) ways in which the UK Statistics Authority should seek to use the new powers to further reduce the administrative burdens on businesses who provide data to the ONS for the purposes of producing National and other official statistics

The use of existing data should reduce the burden on form fillers and improve statistics quality

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Question twenty: What principles and factors should be considered in preparing the Code of Practice on matters to be considered before making changes to the processes that collect, store, organise or retrieve data?

Data given to UKSA and then UKSA trusted to keep it safe and use it appropriately

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IT IS A SHAME THAT THE FORM DOES NOT HAVE A SECTION FOR "ANY OTHER COMMENTS". YOUR QUESTIONS DO NOT COVER SOME KEY ISSUES IN THE CONSULTATION BUT DO RAISE SOME VERY MINOR ONES.