C. Allowing use of data for research and for official statistics

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

94. Access to more varied and better quality data can provide an improved evidence base for researchers both within and outside government, leading to better informed research and more accurate statistics for a range of public benefits. Linking datasets held by two or more public authorities in a controlled environment offers the opportunity to gain new insights into the social and economic challenges that citizens and businesses face. A better understanding of how people live their lives, the patterns of need and use of different services, and the resultant outcomes would support the design and delivery of better services.

95. At present researchers are often frustrated in their efforts to access public sector held data for research projects that have a potential public benefit. Current legislation causes uncertainty in public authorities as to what information can be disclosed. The issue of whether disclosing a particular dataset is lawful can lead to lengthy delays and inconsistent decisions around access. In the meantime, the possible economic or social benefit from a proposed research project could be lost.

96. In addition to and not affecting existing data sharing arrangements, new legislation is proposed to improve conditions for research in two major respects:

    a. public authorities will have much greater clarity about what data is permitted to be shared; and
    b. information linked under the proposed power will be subject to conditions on the secure disclosure of data to provide additional assurance to public authorities, researchers and the public that their data is being used correctly. It requires the use of specific safeguards to ensure that any information that could be used to identify, or help to identify, an individual (e.g. names, date of birth and postcode) is de identified through privacy enhancing processes.

97. The 2012 report of the Administrative Data Taskforce (ADT) recommended the use of an established model to allow for two or more datasets to be linked for research purposes in a way that minimises the risk of an individual or organisation being identified. A number of established models are already used by public authorities. These proposals do not intend to replace or amend existing models and arrangements in place between public authorities, but sets out that data accessed under the proposed power must be linked using the ADT's recommended model. This recommended model is referred to as the 'Trusted Third Party' model. The model was explored fully during the open policy making discussions in 2014 15, and it was agreed that access to data should be conditional on the use of such methods.

98. A Trusted Third Party model involves taking two or more different identified datasets, and removing data that could identify an individual and replacing it with a form of code or encryption. The resulting de identified data would then be available to researchers to examine and interrogate in a secure environment. There are several variants of this model, but many of the steps required to link and de identify data apply to all.

Example of how the Trusted Third Party model would work in practice

This example follows the fictitious case of an **accredited researcher** who is trying to explore whether there is a relationship between an economic issue and a social issue. In order to find the evidence necessary to support this project, it is necessary to link datasets relating to economic factors held by "Department A" with datasets relating to social factors held by "Department B." Both datasets include records about the same individuals, including a certain "John Smith." The Trusted Third Party model allows the researcher to confirm that the "John Smith" whose records are held by Department A is the same "John Smith" in the dataset held by Department B, without John Smith's name or any other **identifying information** (e.g. John Smith's name, date of birth and National Insurance Number) being disclosed to the researcher.

Step 1

Department A takes a copy of its dataset, removes the **identifying information** for John Smith and replaces this with a unique reference number, XYZ123. This record, together with any others from which identifying information has been removed and replaced with reference numbers, becomes the **de identified dataset**.

Department B does the same for its dataset and tags this second **de identified dataset** with the unique reference number ABC999 in place of John Smith's identifying information.

Step 2

Department A's **identifying information** for John Smith (e.g. John Smith's name, date of birth and National Insurance Number) is placed in a new dataset, the reference XYZ123 is added, and this dataset, the **identity dataset**, is sent to an **accredited indexer**, the 'trusted third party' who will carry out the next stage of the process.

Department B does the same with its identifying information for John Smith, adding ABC999 and sending this second identity dataset to the **accredited indexer**.

Step 3

The **accredited indexer** matches the two **identity datasets**' records, then confirms to Department A and to Department B which individual records (including those for John Smith) it has been able to match.

Step 4

Department A sends their **de identified dataset** (from Step 1) to the **accredited access facility**, as does Department B with their **de identified dataset**.

Step 5

The **accredited indexer** produces a list stating that ABC999 matches with XYZ123 and, having stripped out any **identifying information,** sends this list, the **index,** to the **accredited access facility**.

Step 6

The **accredited access facility**, using the **index** and the two **de identified datasets** that it has now received from Department A and Department B (amongst which are the de identified records relating to John Smith), now links the de identified data together and make this available to the accredited researcher under controlled conditions.

99. Whilst these proposals have been developed to facilitate the secure linking of personal data for research purposes, it is not intended that proposals should preclude the secure processing of data that does not directly identify individuals from this power, for example property reference data. Further work is being carried out on the inclusion of such data within the scope of this power.

100. As costs may be incurred by public authorities, indexers and accredited access facilities in providing data for a research project it is proposed that the new legislation allows the researcher to be charged a fee to meet the costs. The legislation will specify that any such fees charged by public authorities are charged on a costs recovery basis only.

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?

The cost recovery model will lead to uncertainties for researchers who wish to use such data.

Fixed costs of linkage may be high but then the marginal cost will be low for any future researchers using the same data. How will this be incorporated into the pricing structure? The initial one off fixed cost should not be a barrier to linkage because the benefits in the long term far outweigh the average cost.

It would be better if there was a fixed transparent cost so that researchers can incorporate these costs into funding proposals. However, this cost needs to be not so high to discourage research.

Another model would be for any compensation for upfront costs to be met by a research body. Ultimately, any costs would be borne by such research bodies anyway through funding proposals so maybe it would be better to do this directly since this is a long term investment in a public good.

We would also like to make that point all linkages should be stored securely for future research projects. This would involve another level of data security and storage issues, as would entail the third party and the individual data providers storing paired anonymised identifiers so that matches could be reproduced easily. However, a lot of effort would be saved in the long run and would keep costs down.

Protective measures specific to this proposed power

101. Through the open policy making process, it was agreed that identified data received either directly or indirectly by researchers, indexers and others delivering parts of the process under the power must not then be further disclosed. The legislation ensures that data from which a person's identity could be deduced is protected and that

disclosure against these conditions would be a criminal offence.

102. It was agreed through the open policy making discussions that all researchers and bodies involved in the handling of data under the powers meet specified criteria to show they are fit and proper to fulfil their roles. Therefore, data can only be disclosed if all the participating bodies and individuals are accredited. As a result it is also necessary to designate a body to have oversight of the accreditation process.

103. Open policy making discussions concluded that the accreditation body should accredit the indexers, the researchers, the accredited access facilities and the research itself. It is proposed that minimum accreditation requirements be set out in primary legislation. The accreditation body would develop and publish additional detailed standards and requirements for indexers, researchers and their research, and access facilities to attain and maintain this accreditation.

104. Key criteria for a suitable accreditation body were discussed as part of the open policy making process. It was agreed that the accreditation body should have expertise in statistical research and analysis and be considered fit and proper to exercise the accreditation process. The view is that the UK Statistics Authority (Statistics Authority) is the appropriate body to carry out this function.

This needs to be coordinated across all government departments and the UK Data Service so that accreditation is not duplicated. The full process should not need to be repeated frequently but refresher courses should be provided.

105. The proposed legislation sets out that the accreditation criteria must be published by the Statistics Authority together with the grounds for revoking accreditation. Open

policy making discussions concluded that a number of conditions were essential and needed to be set out in primary legislation. The first condition is that the individual must be fit and proper to exercise their functions. Secondly, the research question being explored must be in the public interest. Thirdly, the accreditation body must consult appropriate experts when establishing and publishing accreditation criteria for research, researchers, indexers, and access facilities. Finally, the accreditation body must also maintain and publish a register of accredited researchers, indexers, and access facilities.

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

106. It is proposed that the Statistics Authority can delegate any part of the accreditation function to other persons or bodies, so long as they meet the requirements set out in legislation.

Power to amend the de identification process

107. Best practices for de identifying data are likely to change over time. The proposed legislation provides the relevant Minister with a delegated power to modify the procedures by secondary legislation. Key criteria of the de identification process (such as the removal of the identity information before it is supplied) will be set out in primary legislation and sets out that any new procedure can only be made by regulation if it adheres to those criteria. Furthermore, the proposed legislation sets out that the Minister must consult the Statistics Authority, Information Commissioner, appropriate Ministers in the devolved administrations and other persons before making such regulations.

Criteria for determining whether research is in the public interest

108. As strongly recommended by the open policy making group discussions, the illustrative clauses do not attempt to define "the public interest." Instead, this would be a matter for the Statistics Authority, as the designated accreditation body to determine. Public interest will be consistent with the definition of "the public good" for the production and publication of official statistics set out in the Statistics and Registration Service Act 2007 (which determines the governance and functions of the Statistics Authority). The Act describes serving the public good as:

    (a) informing the public about social and economic matters; and
    (b) assisting in the development and evaluation of public policy.

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?

In an ideal world, the accreditation body would not be the ones to decide whether the proposed research question is good enough. It will be very difficult for such a process to be designed in fair and transparent way because it's very difficult to measure or evaluate "public benefit". Accreditation should be about whether the researcher is fit, proper and trustworthy.

However, we recognize that some kind of criteria may be necessary to evaluate the benefit of the research. We propose that a letter of support from an independent party such as a government department or a charity would be a good criterion for identifying research that has the potential for public benefit.

Any evaluation should also allow for speculative research that is typically harder to justify is in the public benefit because the outcome is much harder to predict before the researcher has even seen the data. Such speculative research has the potential to be ground breaking in the future and this should be recognized.

Sent via email to: data-sharing@cabinetoffice.gov.uk.

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22 April 2016

Cabinet Office and Government Digital Service - Better use of data in government consultation 2016

Dear Sir,

FCA Response to the Better Use of Data Consultation Paper

The Financial Conduct Authority (FCA) is the conduct regulator for financial services firms and financial markets in the UK and the prudential regulator for financial services firms not prudentially regulated by the Prudential Regulation Authority. A detailed framework relating to the performance of our statutory duties and responsibilities is set out by Parliament, primarily in the Financial Services and Markets Act 2000 (FSMA).

FSMA establishes our strategic objective, to ensure that the relevant markets work well and three operational objectives: to secure an appropriate degree of protection for consumers; to protect and enhance the integrity of the UK financial system; and to promote effective competition in the interests of consumers.

As a regulator we adhere to the principles of good regulation. These principles require us to use our resources in the most efficient and economical way and ensure that any burden imposed on regulated firms is proportionate to the benefits expected to result from that burden.

In order to undertake its functions the FCA collects and utilises a significant amount of data from a variety of sources including consumers, regulated firms, other regulators, law enforcement agencies and the Government. The FCA is also a party to several shared intelligence databases and a number of Memoranda of Understanding with other public authorities. These arrangements enable cross-authority collaboration, reduce regulatory burden and include the expectation that each party will respect the confidentiality of the information shared under the arrangements.

Good quality data and information, handled well and available quickly gives us deeper insight into the markets and firms we regulate and allows us to efficiently and effectively identify risks to our statutory objectives.

Consequently we are broadly supportive of this initiative and provide feedback on the proposals that provide:

1) a wider gateway to enable public authorities to share data with accredited researchers for research determined to be in the public interest,

2) wider gateways for specific public authorities to share data to enable better management of fraud and debt owed to the public sector, and

3) the UK Statistics Board with the power to compel specific identified data for the purposes of producing national statistics and pursuing its statutory functions.

In this response we provide both general comments about the introduction of these new provisions and feedback on some of the specific questions raised in the consultation. Whilst we support the intention behind this initiative, we wish to ensure these new powers are introduced in a manner consistent with our both our statutory objectives and the UK's wider obligations under European law. We are also concerned that the illustrative clauses as currently drafted would have a number of unintended adverse consequences, further details of which are set out below.

FCA general comments

As outlined in the FCA's Data Strategy, the FCA supports the more integrated and actionable use of data, however a significant amount of the data we hold is subject to domestic international disclosure restrictions including those established under European law.

These restrictions implement two important policy objectives. One is to promote the free-flow of information from regulated and other persons to the regulator. The other is to respect the rights and interests of the persons who provide the information and the persons to whom the information relates. Under UK law, the basic restriction is found in section 348 FSMA. Under this section the FCA is prohibited from disclosing information it has received in the course of carrying out its statutory functions and which relates to the business or other affairs of any person ("confidential information") unless relevant consents are obtained or there is a relevant gateway for disclosure. Confidential information therefore includes information about FCA regulated firms and the personal data of individuals connected with the financial services industry. Disclosure of information in contravention of section 348 FSMA is a criminal offence. Under European law, regulators such as the FCA are subject to an "obligation of professional secrecy" with respect to the information they receive when carrying out their functions. It is a feature of section 348 FSMA that anyone receiving confidential information from the FCA is required comply with the FSMA confidentiality regime for further disclosure to be lawful.

Power of the Statistics Board to Compel Disclosure

1. Comply or explain - The FCA already provides the Statistics Board (sometimes still referred to as the Office of National Statistics) with some information for the purposes of producing National and European statistics and would continue to do so under existing arrangements. Whilst we understand the benefit of widening the gateway between the Statistics Board and other public authorities, we believe that the permissive gateway established in the proposed new section 45A of the Statistics and Registration Service Act 2007 should give the Statistics Board a sufficiently wide gateway to receive information they

require from public authorities generally. We note that proposed new section 45B confers on the Statistics Board a new power to compel public authorities to supply information that;

(a) is held in connection with their functions, and

(b) is specified, or is in a kind specified in the notice

Whilst we will continue to support the Statistics Board with the provision of data, we object in principle to a particular public authority having a power of compulsion over other public authorities. We are concerned that the power of compulsion could lead the FCA to have to act in a manner that would contradict our statutory objectives or undermine our independence, as the objectives of the Statistics Board could be seen to override those set for the FCA.

The FCA often relies on intelligence provided on an informal and voluntary basis from a variety of domestic and international sources. We are also concerned that the power to compel information from public authorities may deter others concerned with 3rd party access to their data from providing the FCA with intelligence on a voluntary basis.

The breadth of this power could also result in a request for information which if provided would cause the FCA to breach the international disclosure restrictions that are embodied in section 348 FSMA. The current draft clause would make it a criminal offence not to comply with a notice to provide information to the Statistics Board unless there was a "reasonable excuse for that failure". This could leave the FCA and potentially other public authorities facing domestic criminal sanctions for non-provision of information or risk being in breach of international law.

In our experience, data sharing arrangements between different public authorities are most effective when they engender a collaborative and reciprocal approach to data sharing. Collaborative arrangements between public authorities allow the recipient to gain a more nuanced understanding of the data they might need and the partner's ability to provide it. They allow for more contrastive conversations about the data's format, quality, context and limitations.

If the existing arrangements between different authorities are deemed to need strengthening we suggest that, instead of compulsion and criminal sanctions, a "comply or explain" approach would be more effective. We believe that adopting a comply or explain approach would enable public authorities to more easily and transparently resolve any conflict between the obligation to provide information to the Statistics Board and the need to pursue their statutory objectives or comply with international disclosure obligations.

2. Onward disclosure - We also note that the illustrative clauses allow the Statistics Board to compel the provision of information to exercise one or more of its functions. Where the provision of personal information is compelled by the Statistics Board this information cannot be disclosed to an accredited researcher without the consent of the provider. We recommend that this clause is widened to require the consent of the provider for the onward disclosure of personal information to any other person not just accredited researchers.

3. Proportionality - The provision of specified data in a specific format to the Statistics Board has the potential to be a very resource intensive activity. We ask that the codes and principles that determine how this information will be collected, stored and used include the principles of

proportionality and transparency. We expect the Statistics Board to work collaboratively with public authorities to gain access to the data they require to perform their functions. This would be consistent with the principles of good regulation and would help ensure that public authorities can meet these new obligations in an economic and resource effective manner.

4. Reciprocal arrangements for data sharing – The current illustrative clauses allow for wider provision of information to the Statistics Board. We would expect that these enlarged gateways would also allow public authorities greater to access information held by the Statistics Board in pursuit of their statutory objectives. We note that this is not explicitly referenced in sections 45A or B. However we understand the clauses in *Part 1 – Sharing for research purposes* would allow public authorities themselves to become accredited researchers and as such could receive information for the purposes of accredited research from other public authorities. We would anticipate that this access would also extend to information held by the Statistics Board.

Responses to specific questions

Q12 – Which organisation should Government work with to ensure fairness is paramount when making decisions about the affordability for vulnerable debtors who owe multiple debts?

We are supportive of the specific consideration of vulnerable customers in the collection of multiple debts owed to the Government. We refer you to our recent publication about the experiences of vulnerable consumers interacting with financial services to aid your considerations. http://www.fca.org.uk/static/documents/occasional-papers/occasional-paper-8.pdf

Whilst considering how this policy may work in practice we encourage you to engage with consumer groups with specific insights into the experience of vulnerable customers such as the Money Advice Trust, the Money Advice Service and StepChange.

Q15 – 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 believe that public authorities should be able to charge a fee for the extraction and provision of data to accredited researchers and access facilities. The FCA is funded by fees and levies recovered from the firms that we regulate. We would want to ensure that the additional cost of providing data to external research institutions does not have to be passed on to our regulated firms or increase their regulatory burden.

We expect that any fees charged by public authorities would be proportionate to the cost of extracting the requested data and should not act as a barrier to smaller or less well-resourced accredited researchers accessing information.

Increasing access to our data will entail both direct costs, (for data extraction and processing) and opportunity costs in terms of how the FCA can use its resources. In discharging its function the FCA is required to have regard to the Principles of good regulation. These principles require us to use our resources in the most efficient and economical manner. Consequently we recommend that the Code of Practice includes the need for requests to be proportionate and reasonable.

Specifically we believe that there should be a cap on the cost that could be reasonably imposed on public authorities under these provisions. A useful proxy for this is established under the Freedom of Information Act, where requests to public authorities are capped at an equivalent cost of 18 working hours. The provision of data in excess of this limit would be on a voluntary basis at the discretion of the public authority.

Such a limit would ensure that the total cost for data extraction and subsequent charge for providing data is capped at a level where the provision of the data does not become unduly burdensome for public authorities or prohibitively expensive for smaller research institutions.

Q17 – What principles or criteria do you think should be used to identity research that has the potential for public benefit, or research that will not be in the public benefit?

The illustrative clauses allow for information to be shared with accredited institutions when the public authority believes that it would be in the public interest. The consultation notes that this should be consistent with the understanding of the public good. Generally we expect the criteria to respect the need maintain a "safe space" in which to formulate and develop policy and undertake our regulatory functions.

The Statistics and Registration Service Act 2007 describes serving the public good as:

(a) informing the public about social and economic matters; and
(b) assisting in the development and evaluation of public policy

We believe that the definition of public interest should include examples of situations where research and subsequent data requests would not be in the public interest. We expect that this common definition of public interest would be in consistent with the exemptions established under the Freedom of Information Act and would exempt information from being shared that;

- has the possibility to undermine the statutory functions of the public authorities,
- would prejudice commercial interests or the proper function of financial markets,

- would be in breach of international disclosure obligations,
- relates to law enforcement,
- relates to vexatious or repeated requests, and
- is reasonably accessible by other means.

Additionally, we recommend a criterion that would be specifically relevant to independent public authorities. The FCA is an independent and non-political pubic authority. We understand that the illustrative clauses would allow the Government and other independent public authorities to provide linked and de-identified data to accredited research facilities for research in the public interest.

Whilst we are supportive of the intention, we note that research may be deemed to be in the public interest but may not be a-political. As such we would wish to be able to refrain from providing data in support of research that may be in the public interest but that may inadvertently lead us to provide support to a particular political position and undermine our non-partisan status. We ask for the criteria to reflect this concern.

Yours faithfully,

David Geale

Director of Policy

Better Use of Data – Consultation Paper:

Improving public service delivery - Page 10 – 13:

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

There may need to be an objective around prevention or deterioration in the well-being of individuals, whether physical, emotional or social. Although this could be interpreted as an improvement, a specific objective around prevention would add further clarity. It could be argued that by including prevention assists in moving the delivery of public services from a reactive to more proactive footing, as part of service transformation. There is a danger information could be interpreted as being limited to a point where individuals are already exceeding thresholds or at crisis points, which is to the detriment of the individual and their families, and costly to the public purse. This would also reinforce and support the public sector's ability to respond more quickly to emerging need.

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

No.

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. A large number of Local Authorities commissioning third party organisations to deliver services, and are increasingly involved in broad multi-agency partnerships in service delivery, comprising public authorities, charities and private organisations. Local Authorities have commissioned a broad range of services from third party providers, both third sector and private organisation, to assist in delivering the national Troubled Families programme. A consistent national approach to data and information sharing would be welcomed as the current situation leaves much to the internal interpretation of various organisations. In this context including non-public authorities would also strengthen commissioning intentions around contracted third party services or delivery, and requirements on partnership working. This is also, for example, beneficial in relation to data sharing with the education sector where there has been a reduction in local authority maintained schools and an increase in academies and free schools, alongside traditionally independent schools.

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

Yes.

Access to civil registration to improve public service delivery – Page 15 -17:

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.

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. Would ensure records are up to date and accurate. For births, timely information would improve accuracy of names where individuals can remain as "unborn" for a period until new information is provided. Also this would assist public bodies in providing targeted services to sections of the community. Confirmation that certain events have occurred would lead to a reduction in errors, improved communication, improved decision making prior to contact and reduction in distress to families.

Access to data which must be linked and de-identified using defined processes for research purposes – Page 38:

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?

Yes. Often responding to requests can be resource intensive and time consuming for the data provider. Obviously this can vary based on how data is stored, ease of data extraction, de-identified, and if data needs to be manipulated to provide the dataset requested. There is also a time element involved in understanding the request specification. Although a maximum fee is reasonable, there will be variances in the cost of providing data for research as per the reasons above. A suggested compromise could be a fixed daily rate with a maximum number of days.

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 is no reason why this could not operate in the same way as the process for publishing Freedom of Information requests, which encourages transparency and openness. The reasons for declining a request should include not only why a public body has declined but also if a requestor is deemed not an accredited, or fit, by the Statistics Authority. A published list of unaccredited, or unfit, requestors would reduce the cost to public bodies, and wasted effort, in the early stages of dealing with a request from such a requestor.

---------- Forwarded message ----------
From: **J Selwyn** [redacted]
Date: 3 April 2016 at 17:01
Subject: consultation paper
To: data-sharing@cabinetoffice.gov.uk

I am emailing to support the plans for accredited researchers to access data and link databases.

I would like the proposals to go further. At present in my own area of research (children's social care) each Local Authority decides who should have access, and each has their own system of research governance and different application forms. This is very time consuming and expensive. If we are working on multiple sites we allow 6 months - 1 year just to get access.

I would like to suggest an agreed system of accreditation, the same application form to access data and more linkages between social care data and health

best wishes Julie

Professor of Child and Family Social Work
School for Policy Studies, 8 Priory Road, Bristol BS8 1TZ
[redacted]

Recent Publications

Meakings, S. & Selwyn J. (2016) "She was a foster carer who said she didn't give cuddles": The adverse early foster care experiences of children who later struggle with adoptive family life. *Clinical Child Psychology and Psychiatry*, DOI: 10.1177/1359104516631608

Selwyn J., Wood, M. and Newman T. (2016) Looked after Children and Young People in England: developing measures of subjective well-being. *Child Indicators Research*. First online DOI 10.1007/s12187-016-9375-1

Selwyn J & Meakings S (2015) She just didn't smell right!' Odour and adoptive family life. *Adoption & Fostering* December 39: 294-302,

Selwyn J & Meakings S (2015) *Adolescent-to-Parent Violence in Adoptive Families* British Journal of Social Work. doi: 10.1093/bjsw/bcv072

Selwyn J. Meakings S. & Wijedasa D. (2015) *Beyond the Adoption Order: challenges, interventions and disruption.* London BAAF .

GDS

[redacted]

Fwd: Data Sharing

[redacted]

7 July 2016 at 15:09

Subject: Data Sharing
To: data sharing@cabinetoffice.gov.uk

Data Sharing Policy Team

Although there may very well be legitimate reasons for sharing data between departments especially in crime prevention we need to ensure that all requests for data are indeed legitimate and properly audited. My concern is that in order to facilitate data sharing existing protections will be released exposing all individuals to the prospect of fraud when the Government databases are hacked or bogus requests for data are made in clever social engineering attacks. It is better to respect the privacy of the individual than take the risk but if you have to you had better make sure the controls are sufficient.

Yours faithfully

Andrew A Maggs

Yours sincerely

Andrew Maggs

[redacted]

[redacted]

GDS

Fwd: Regarding: Better Use of Data Consultation Paper

[redacted]

7 July 2016 at 15:08

Date: 11 April 2016 at 15:53
Subject: Regarding: Better Use of Data Consultation Paper
To: "data sharing@cabinetoffice.gov.uk" <data sharing@cabinetoffice.gov.uk>

Dear Data Sharing Policy Team,

I have been sent your consultation paper today as I am currently working on an interoperability project within the NHS and also working on a consultancy basis on a local Troubled Families Initiative.

I would like to make a comment, which sits outside of the consultation questions, but which I feel would be really helpful in addressing matters raised in section 28 of your paper , can you add to your definitions, a legal definition of "Confidential Personal Information" as mentioned in the Caldicott Review? In particular, how does it differ from the definition of Sensitive Personal Data as defined in the Data Protection Act 1998? I feel this already leads to misunderstanding and confusion, as does information which is personal information but which attracts a quality of confidence as considered in Common Law and also falls within the definition of "Sensitive Personal Data" as defined in the Data Protection Act 1998.

This, I feel, is a huge block to the sharing and use of personal health information, to meet Government applied targets and initiatives and finds medical professionals and information governance professionals holding opposing views about whether consent from individuals is required before data sharing can take place.

Regards

[redacted]

[redacted]

Better Use of Data – Consultation Paper Response

Improving public service delivery - improve outcomes for the public by ensuring public authorities have the data they need to deliver the right service to the right citizen at the right time			
No	**Question**	**Responsible Officer**	**Response**
1	Are there any objectives that you believe should be included in this power that would not meet these criteria?	E&H	Within Environment and Housing (E&H) it was an expectation that there may have been some reference to delivering services within available/ agreed budget.
		ASC	No other objections
		Childrens services, Legal Services	I think the objectives as proposed are too narrow and that Section 1(2)(a) of the Bill should read "identifying individuals or households who face multiple disadvantages and enabling public services to be provided to such individuals and households", rather than simply to enable those services to be "tailored to their needs".
2	Are there any public authorities that you consider would not fit under this definition?	E&H	Within E&H it was felt that all public authorities fall under this definition.
		ASC	No
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?	E&H	Respondents within E&H felt that some private companies. Housing Associations and charities could be included in the scope but with a caveat that if this comes with any additional burden, (administrative or otherwise) that a financial threshold is applied. However it was also felt that organisations would have to be really robust with their IG arrangements as there is a potential to increase data breaches if data is not shared correctly and the correct mechanisms are not in place. Respondents also felt that there potential for info sharing with RSPCA in relation to animal welfare issues and information about convictions for neglect and cruelty, which may also link to safeguarding / domestic violence issues.
		ASC	No – would weaken the Data Protection Act
4	Are these the correct principles that should be set out in the Code of Practice for this power?	E&H	It was felt that the principles are correct however they could result in a debate around the subjectivity of "right"
		ASC	Yes, agree with the Principles
		Childrens services, Legal Services	I think proposed principle A (the objective could not be met without data sharing) should reflect the usual legal test for whether disclosure is "necessary" under the fair processing conditions in the DPA. In other words, this principle should be that data sharing is "more than desirable but less than indispensable or absolute necessity", and data sharing must be the "least restrictive" means of achieving the objective.

			Also, given the proposed objectives are quite specific, why is it appropriate to permit public authorities also to use the data for the list of additional (unconnected) purposes in Section 2(2)? Also, in relation to safeguards, Section 2(7) should say that nothing in either Section 1 or Section 2 authorises the making of a disclosure which contravenes the DPA, and also given the provisions of Section 7, Section 5 should make it clear that the requirements as regards a Code of Practice apply not only to the current objectives in Section 1 but also to those objectives as added to or modified under Section 7.

Providing assistance to citizens living in fuel poverty - support the administering of fuel poverty payments			
No	**Question**	**Responsible Officer**	**Response**
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?	E&H	Within E&H it was felt that this sharing would help vulnerable and elderly people, many people face a daily choice of "heat or eat". Sharing information with non- public organisations would help speed up the process of people receiving the Warm Home Discount Scheme. But there would have to be strict controls in place so that the elderly and vulnerable were not subject to cold calling from energy companies. Additionally there may be "duty of care" measures required to ensure that information is not used inappropriately.
		ASC	Only if the information sharing is in the best interests of the citizen and consent is gained
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?	E&H	The provision in principle sounds sensible. Consideration may be required to how this is managed and the degree of rebate/ information. Information about fuel usage would be useful for fraud and non-occupancy cases (although there is some sharing already) and for safeguarding issues, eg where no usage and tenant is at risk
		ASC	Only if the information sharing is in the best interests of the citizen and consent is gained
7	Are there other forms of fuel poverty assistance for citizens that should be considered for inclusion in the proposed power?	E&H	Other forms of poverty assurance should be considered for conclusion. For example: - Refurbishment /upgrading of poor energy efficiency situations and/or goods. It was felt that education should be part of the power. For example citizens should be educated on how to save energy, what schemes are available to help such as the warm home discount.
		ASC	ASC does not have the relevant knowledge to respond

Access to civil registration to improve public service delivery - enable access to civil registration data, for example births, deaths and marriages – this prevents authorities sending letters to people who are deceased			
No	**Question**	**Responsible Officer**	**Response**
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?	E&H	E&H also feel that this would be beneficial I information to have access to. It could help to speed up processes resulting in better customer satisfaction and improved service delivery.
		ASC	Yes, as long as it is proportionate, relevant and appropriate safeguards are in place.
		Elections, Licensing and Registration	Yes. There are benefits to the public e.g. speeding up applications for passports/driving licence/child benefit for new births. Where this becomes the only route to notify these public authorities there may be other considerations which could be taken into account e.g. whether it is still necessary to issue a free short birth certificate (which is generally only accepted as part of a child benefit claim nowadays) – this would represent an efficiency saving in terms of producing, administering and issuing certificates. The proposal is not clear on how older birth records may be accessed, if at all. Any move to digitise centrally held (i.e. General Register Office) records and to make these the only route for a required verification i.e. removing the need for paper certificates would significantly impact on income levels to local authorities and needs to be addressed in any business case to introduce this. There is also likely to be a reduction in income for new births once customers realise that they no longer need birth certificates to complete transactions with government. This may have a significant additional impact which would need to be risk assessed and addressed in the business case and burdens considerations. In relation to countering fraud – whilst there is no intention to match birth and death records, where government departments receive an application for a service and additionally have access to the deaths records this will help to tackle fraudulent applications. However, applications for certificates from older records (unless digitised) will still be handled under existing arrangements i.e. a reliance on registration officers to identify fraudulent applications. It is recommended that GRO review the legislation/regulation/guidance on issuing certificates where the informant is unable to provide full details on application in order that an application can be refused. Removal of the need for other government departments to purchase certificates as part of their investigations e.g. DWP fraud investigations will also have an adverse effect on income. Where appropriate, compensatory payments should be made to the local authority, alternatively re-consider the fee structure for local authorities providing the birth and death registration service.
9	Do you think bulk registration information, such as details of all deaths, should be shared between civil registration officials and specified	E&H	E&H feel that if shared this would be beneficial. It will also help It will help citizens when dealing with a death in the family be able to close down such things as bank accounts and phone contracts quicker.

Combating fraud against the public sector through faster and simpler access to data - reduce the billions of pounds lost and cost to the taxpayer in preventing, detecting and dealing with fraud against the public sector			
No	**Question**	**Responsible Officer**	**Response**
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?	E&H	Housing Management suggested the following: • Missing data / gaps - how we get information about tenants with income over £60K – the 1% rent decrease does not apply but we have no way of determining which tenants this applies to
		ASC	ASC does not have the relevant knowledge to respond
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?	E&H	A couple of timeframes were suggested by staff in E&H. One suggestion is that this is subject to ongoing periodic (biannual) reviews and after any costly fraud detected. Other staff highlighted a period of .6 months
		ASC	ASC does not have the relevant knowledge to respond

	public authorities to ensure records are kept up to date (e.g. to prevent correspondence being sent to families of a deceased person)?		Housing Management highlighted how we are currently able to access information re deaths through the Tell us Once system, and extending this could be useful for dealing with housing applications and tenancy management.
		ASC	Yes, this is already happening in some areas of government and works well. However, it is inconsistent (e.g. not shared with the Health Service) and the LA has to help Health partners in some instances to receive up to date information. Again, the sharing of this information would have to be proportionate, relevant and appropriate safeguards in place
		Elections, Licensing and Registration	Yes. There are benefits to the public in preventing unnecessary letters to/regarding a deceased person. Providing timely access to other areas within a local authority (other than those already covered in current legislation) would also replace the need for the Tell Us Once service (and the BD8 form), which would again deliver savings. Currently the Tell Us Once service is voluntary, although take up is high but the process of "filling in the gaps" can be time-consuming. It is not clear how access to the data will be provided – approved electronic access via a secure gateway would be more efficient although may raise security concerns. Whereas the creation and dissemination of reports by the registration service may be less reliable and time-consuming. This may also require the creation of additional reports in RON? There would also be the possibility of extra work for registration officers to deal with – a fee mechanism for any additional work may be required. This will also affect how applications to access the data will be managed i.e. a request to access bulk registration data on RON may be handled by GRO whereas access to a specific report e.g. deaths in April 2016 could be provided by the local authority (on a discretionary basis). Where data is shared with other registration officers, this again may be subject to unreliability and performance issues. The code of practice on sharing data should cover security arrangements for access to/transmission of data.

Improving access to data to enable better management of debt owed to the public sector - help citizens manage their debt more effectively and reduce the estimated £24.1 billion of overdue debt owed to government			
No	**Question**	**Responsible Officer**	**Response**
		ASC	**We have an overarching comment regarding this and the question is not asked. Should we be doing this at all? Would be interested to view the PIA regarding this, as would appear to be very intrusive.**
12	Which organisations should Government work with to ensure fairness is paramount when making decisions about affordability for vulnerable debtors who owe multiple debts?	E&H	• DWP • Money Advice Service • Citizens Advice • Debt Counsellors Charitable Trust
		ASC	• Third Sector
13	How can Government ensure the appropriate scrutiny so pilots under the power are effectively designed and deliver against the objectives of the power?	E&H	Some staff within E&H did not have a view on this. However others highlighted that 6 monthly review meetings are conducted to check objectives are being met and that a dedicated project team is assigned to monitoring these objectives.
		ASC	With the use of anonymised and aggregated data
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?	E&H	Some staff within E&H did not have a view on this. Other indicated a period of 2 years. However others highlighted that 6 monthly review meetings are conducted to check objectives are being met and that a dedicated project team is assigned to monitoring these objectives.
		ASC	ASC does not have the relevant knowledge to respond

Access to data which must be linked and de-identified using defined processes for research purposes - enable the Office for National Statistics (ONS) to access detailed administrative data from across government and businesses to provide more accurate, frequent and timely statistics and to update how the census is managed, rather than using surveys			
No	**Question**	**Responsible Officer**	**Response**
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?	E&H	Within E&H it was felt that if data is open, then it is available without a fee. If however data requires manipulation or cannot be made "open" then a fee sounds reasonable. The amount would be determined by the local circumstance or time taken to respond. As such a maximum does not appear reasonable. Any research that aides health care etc should not be chargeable.
		ASC	No fee should be 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?	E&H	E&H felt that this would be helpful – it would aid the need to be open and honest and to stop other requestors from putting in the same request.
		ASC	Yes, this would be very useful
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?	E&H	E&H felt that the following could be used: Research that aims to reduce costs and/or provide environmental benefit. Is there sufficient data to investigate the research topic? Is the data up to date? Is the data accurate? Is the data related to health?
		ASC	Should be done nationally similar to the Confidentiality Advisory Group (CAG) in the Health Service

Access by UK Statistics Authority to identified data for the purpose of producing official statistics and research - support accredited researchers to access and link data to carry out research for public benefit			
No	**Question**	**Responsible Officer**	**Response**
		ASC	**We have an overarching comment regarding this and the question is not asked. Should we be doing this at all? Our response to this would be yes, but must be consent based**
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?	E&H	It is felt that it will take quite a while to collect this information. However as a notice period, 2 years seems long. Should be aiming to reduce this if possible as this sharing will prove efficiencies in the longer term.
		ASC	Yes
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.	E&H	a) N/A b) It is felt that if the UK stats Authority tapped into "open data" more effectively the need for formal returns could be eliminated.
		ASC	ASC does not have the relevant knowledge to respond
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?	E&H	E&H highlighted the following factors are considered: Security, consistency, Simplicity, Accuracy Retention Format of information Data Protection Act Freedom of Information Act
		ASC	Use the Data Protection Principles and Human Rights Act • Should be consent based • Fair, transparent, proportionate, secure, relevant etc Ethical approach

Better Use of Data – Consultation Paper:

Improving public service delivery Page 10 – 13:

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

There may need to be an objective around prevention or deterioration in the well being of individuals, whether physical, emotional or social. Although this could be interpreted as an improvement, a specific objective around prevention would add further clarity. It could be argued that by including prevention assists in moving the delivery of public services from a reactive to more proactive footing, as part of service transformation. There is a danger information could be interpreted as being limited to a point where individuals are already exceeding thresholds or at crisis points, which is to the detriment of the individual and their families, and costly to the public purse. This would also reinforce and support the public sector's ability to respond more quickly to emerging need.

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

No.

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. A large number of Local Authorities commissioning third party organisations to deliver services, and are increasingly involved in broad multi agency partnerships in service delivery, comprising public authorities, charities and private organisations. Local Authorities have commissioned a broad range of services from third party providers, both third sector and private organisation, to assist in delivering the national Troubled Families programme. A consistent national approach to data and information sharing would be welcomed as the current situation leaves much to the internal interpretation of various organisations. In this context including non public authorities would also strengthen commissioning intentions around contracted third party services or delivery, and requirements on partnership working. This is also, for example, beneficial in relation to data sharing with the education sector where there has been a reduction in local authority maintained schools and an increase in academies and free schools, alongside traditionally independent schools.

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

Yes.

Access to civil registration to improve public service delivery – Page 15 17:

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.

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. Would ensure records are up to date and accurate. For births, timely information would improve accuracy of names where individuals can remain as "unborn" for a period until new information is provided. Also this would assist public bodies in providing targeted services to sections of the community. Confirmation that certain events have occurred would lead to a reduction in errors, improved communication, improved decision making prior to contact and reduction in distress to families.

Access to data which must be linked and de identified using defined processes for research purposes – Page 38:

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?

Yes. Often responding to requests can be resource intensive and time consuming for the data provider. Obviously this can vary based on how data is stored, ease of data extraction, de identified, and if data needs to be manipulated to provide the dataset requested. There is also a time element involved in understanding the request specification. Although a maximum fee is reasonable, there will be variances in the cost of providing data for research as per the reasons above. A suggested compromise could be a fixed daily rate with a maximum number of days.

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 is no reason why this could not operate in the same way as the process for publishing Freedom of Information requests, which encourages transparency and openness. The reasons for declining a request should include not only why a public body has declined but also if a requestor is deemed not an accredited, or fit, by the Statistics Authority. A published list of unaccredited, or unfit, requestors would reduce the cost to public bodies, and wasted effort, in the early stages of dealing with a request from such a requestor.

Better use of data in government consultation

How to respond to this consultation

The closing date for responses is **22 April 2016**.

Please respond to this consultation in one of three ways:

- Complete these consultation questions and email your response to data sharing@cabinetoffice.gov.uk.
- Post your response to: Better Use of Data in Government consultation 2016, Government Digital Service, 6th Floor, Aviation House, London WC2B 6NH, making clear who you are and in what capacity you are responding

Evaluating the responses

To evaluate responses properly, we need to know who is responding to the consultation and in what capacity. We will therefore only consider your response if you complete the information page.

Any personal data (such as your name, address and any other identifying information) will be processed in accordance with the Data Protection Act 1998 and our standard terms and conditions.

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.

Please respond by **22 April 2016**.

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): **Nicholas Chang**

Position (optional): **Financial Crime Policy Lead (Acting)**

Organisation name: **NHS Protect**

Address: **4th Floor, Skipton House, London Road, SE1 6LH**

Emai[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 (**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

( ) Charity

( ) Local authority

(**X**) 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*

(**X**) England

(**X**) Wales

( ) Northern Ireland

( ) Scotland

( ) Other EU country: _____

( ) Non EU country: _____

How did you find out about this consultation?

( ) Gov.uk website

( ) Internet search

(**X**) Other

Reference by Department of Health

May we contact you for further information?

(**X**) Yes ( ) No

Commentary

NHS Protect leads on work to safeguard NHS staff and resources from crime. NHS Protect is hosted by the NHS Business Services Authority, but is directly accountable to the Department of Health for its work.

We would firstly note that the NHS Business Services Authority, whilst mentioned in the Impact Assessment as a body intended to be included in the schedule, is not included in the illustrative clauses for the fraud power. Our response to the consultation is based on the assumption that the NHS Business Services Authority will be included.

Another general point is regarding schedules, the consultation breaks down proposals into three areas, one of which is 'tackling fraud and debt'. We would recommend that there is one schedule for fraud and a separate one for debt. A separate schedule for fraud should be restricted to those organisations who have a statutory responsibility for such, such as NHS Protect. In our experience, this would reassure the NHS and prevent spurious or ill targeted exercises which confuse fraud and debt. We are concerned that without this clear delineation, the process as a whole could be undermined.

As a general statement, NHS Protect is supportive of any measures which enable efforts to reduce fraud in the public sector, especially in the area of faster and simpler access to data. In the course of our own work we operate within the strict legal boundaries of the full range of powers available to us. We would welcome this legislation as another avenue through which fraud against the NHS can be identified and tackled.

It would not be appropriate for us to comment on the consultation questions relating to service delivery, fuel poverty, debt, official statistics or research as these are not within our remit. We will therefore limit our response to specific questions.

Questions

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)?

(**X**) Strongly agree

Please explain your reasons:

We would argue that the sharing of bulk registration information should also be considered in the context of combating fraud. Some types of fraud against the NHS, and against other government bodies, are committed using the identity information of the deceased. The effective sharing of this type of information would not only directly combat fraud but also have a strong deterrent effect.

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?

(**X**) Yes

Please explain your reasons:

As mentioned previously, we would strongly argue for a separate fraud schedule for bodies with statutory responsibility for tackling fraud. It is our experience that in the past data collection or sharing proposals would be curtailed on the basis that they could be perceived as a 'fishing exercise', or an 'indiscriminate sharing of data within Government'.

We believe that the proper sharing of data within the tenets of a strict code of practice would assist in efforts to combat fraud in the NHS. We would further argue that a separate fraud schedule would also reassure that such sharing is not done for cross purposes.

As a general statement, it is the view of NHS Protect that the proposed Code of Practice provides an appropriate and transparent system of safeguards to pilot methods across different public services for the purpose of identifying possible fraud for further investigation. A pilot which identified previously undiscovered fraud affecting the public sector would in turn safeguard NHS staff and resources from crime.

[END]

Action for Warm Homes

National Energy Action (NEA) response to *Better use of data in government consultation – Cabinet Office*

Information requested in the consultation regarding respondent:

Name (optional): **Peter Smith**

Position (optional): **Head of Policy and Research**

Organisation name: **National Energy Action (NEA)**

Address: **NEA, Level 6, West One, Forth Banks, Newcastle Upon Tyne, NE1 3PA**

[redacted]

Would you like us to treat your response as confidential? **(X) No**

Is this a personal response or an official response on behalf of your organisation? **(X) Official response**

Type of responding organisation **(X) Charity**

Nations we operate: **(X) England; (X) Wales; (X) Northern Ireland**

How did you find out about this consultation? **(X) Other**

May we contact you for further information? **(X) Yes**

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

(X) Yes

If yes, please explain your reasons.

There is currently a huge variation between which personal data public sector organisations are prepared to share with each other which is often down to various individually set policies and practices. This has led to a postcode lottery where some citizens' data can be shared while others can't be, even if it's for a similar or identical purpose. A standard approach to data sharing would therefore be very welcome and could significantly help tackle some of the cross sectoral problems around providing effective support to vulnerable households and those in fuel poverty. This is not only the case nationally but equally for services provided or supported locally by public sector bodies such as local authorities or GP practices.

NEA would however highlight the need to adjust the current approach in two key regards:

1) *NEA believes the objective for public authorities to share personal data **must** explicitly state that this is for the purpose of improving the welfare of the **individual** in question. Whilst this objective is referenced in a general way within the objectives ("the improvement of the well being of individuals"), it should state explicitly that the aim of sharing the data is to enhance the welfare of the individual in question whose data is being shared.*

2) *It is very helpful that the Government have also explicitly referenced the need to set out a discrete objective for the provision of fuel poverty assistance. Whilst welcome, the wording **must** be less prescriptive and therefore remove the words "automatic" assistance and the term "most in need".*

Without adjusting these two key points there are two significant concerns that the well meaning objectives that have been set out could have a perverse impact:

1) *These powers could be used to share data to reduce support from current recipients of the GB wide Warm Homes Discount Scheme*

2) *Limit the extent of data sharing practices to current national energy discount schemes when these new powers should equally be used to improve the well being of citizens via a range of activities.*

Whilst the latter would constitute a missed opportunity, NEA would actively challenge the use any new powers to deliberately reduce support from current recipients of affordable warmth initiatives. This is particularly a concern low income families and vulnerable households (with an income under £16,190 per year) living in a household, who are currently eligible for support after being bought into the standard criteria that all participating suppliers have adopted for their Broader Group schemes.

In addition, there is a need for the UK Government to work with the energy regulator in Northern Ireland to illustrate the potential for data sharing powers to tackle fuel poverty (NB: Northern Ireland is not included within the provisions of the Pension Act).

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

() No

(X) Yes

If yes, please explain your reasons:

NEA would urge the Government to set out as soon as possible which public authorities can use these powers within a draft Schedule.

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

(X) Agree

( ) Neither agree nor disagree

( ) Disagree

( ) Strongly disagree

Please explain your reasons:

Currently low income families and vulnerable households have to approach their energy supplier to apply for help through the Warm Home Discount scheme. Many are unaware that this support exists and therefore they can't receive this support. Given these programmes are exclusively paid for by all energy consumers, those most in need can end up paying for the policy and not benefiting from it, despite being theoretically eligible. If the two issues referenced in question 1 are both resolved, NEA therefore believes the new powers can not only help these

households, but they will equally help reduce delivery costs and enable energy suppliers that provide the WHD (and potentially other forms of supplier –led assistance) to do so more cost effectively (on behalf of all their customers). This would result in a dual proportionate benefit.

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

( ) Strongly agree

( ) Agree

(X) Neither agree nor disagree

( ) Disagree

( ) Strongly disagree

Please explain your reasons:

The Government should set out the Code of Practice and consult publically on the details of its contents once additional powers have been granted by Parliament.

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

(X) Agree

( ) Neither agree nor disagree

( ) Disagree

( ) Strongly disagree

Please explain your reasons:

As noted above, currently low income families and vulnerable households have to approach their energy supplier to apply for help. Many are unaware that this support exists and therefore they can't receive this support. NEA therefore believes the new powers can not only help these households but they will equally help reduce delivery costs and enable energy suppliers that provide the WHD (and potentially other forms of supplier –led assistance) to do so more cost effectively (on behalf of all their customers) and so there would also be a wider proportionate benefit too.

*NEA would however underline again that the objective for public authorities to share personal **must** explicitly state that this is for the purpose of improving the welfare of the **individual** in question and these powers must not be used to share data to reduce support from current recipients of the **GB** wide Warm Homes Discount Scheme. This is particularly a concern for the following groups:*

1) *Low income families or vulnerable households (with an income under £16,190 per year) who are already receiving support within the Broader Group of the WHDS*

2) *Households in Wales and Scotland who may not benefit from future programmes that are targeted at those adjudged by the UK Government to have low income and higher than average energy costs (but still may be in fuel poverty under the 10% definition).*

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?

(X) Strongly agree

( ) Agree

( ) Neither agree nor disagree

( ) Disagree

( ) Strongly disagree

Please explain your reasons:

Whilst there are clearly limits to funds that can be drawn from energy consumer funded initiatives and activity that can be delivered solely by energy suppliers, NEA believes that additional support can be provided to disadvantaged households via existing market mechanisms, such as rebates under the WHD or the Energy Company Obligation (ECO). Specifically, further data sharing between energy suppliers and the Department for Work and Pensions can facilitate additional energy saving support to vulnerable households through ECO. This is because these programmes are funded via a levy on consumer bills and any unnecessary targeting costs or inefficient use of current data sharing powers can reduce the level of support that can be provided and also negatively impact a wider cohort of ineligible households on the brink of fuel poverty.

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

(X) Yes

( ) No

In 2011 12, NEA has been commissioned by the Department of Energy and Climate Change (DECC) to explore what data would be required to complement a legislative framework to

facilitate a neighbourhood retrofit schemes programme post 2012[1]. The full report examines the potential for a mutually beneficial relationship between local data collection and targeting and national monitoring by central government; who would act as a gatekeeper. It is envisaged that local agents would be provided with the necessary framework and guidance to successfully collate and use data for the purposes of targeting national, but locally administered, fuel poverty and energy efficiency programmes; while central government would receive data and information to populate and maintain the developing National Energy Efficiency Database (NEED) framework.

NEA also highlights the opportunity to build on the momentum of the 2015 NICE guideline on cold homes as well as the good practice of a small number of GP practices, Health and Wellbeing Boards (HWBs) and Clinical Commissioning Group (CCGs) who are currently identify householders with an existing medically certified health condition (certified by a registered doctor) which could be exacerbated by living in an energy inefficient, cold home.

At present it is not possible for GPs to assess the eligibility of patients to the current ECO Affordable Warmth criteria and the Warm Home Discount without a time consuming appraisal of the household's circumstances and securing individual 'opt in' consent from each patient. Invariably, given the time constraints on GPs and practice managers, this is judged by the vast majority as 'too difficult' or 'too time consuming'. If a new primary power enabled GPs to request this information from a supplier in aggregate for all of their patients (or a local agency could do this on behalf of a practice manager), the GP would be able to match this information with any existing medically certified health conditions exacerbated by living in a cold home. Therein, tailored advice and referrals for affordable warmth interventions could be provided to those most vulnerable patients. This data matching process would also make it easier for local affordable warmth programmes to secure funding from HWBs, CCGs and others towards the cost of energy efficiency interventions (either on an individual or aggregated basis).

The need for this data sharing to enable and enhance any support provided by energy suppliers is essential. This is because despite being eligible for support, many low income and vulnerable households are missing out on interventions under ECO Affordable Warmth due to suppliers having full discretion to determine which eligible households they install measures in, as long as they meet their overall obligation.

[1] A briefing note provides a précis of the research, and sets out the types of data that will be required by a neighbourhood retrofit programme post 2012; the barriers and risks to effective targeting strategies; and how data and information can and is being used to identify and expedite delivery of measures to improve the worst performing properties occupied by those most at risk of fuel poverty. See: http://www.nea.org.uk/wp content/uploads/2015/10/Beyond 2012 Data Sharing Briefing Note FINAL for website.pdf

Clearly, this issue is of paramount concern to all vulnerable households that miss out on assistance (and yet may still pay for the full costs of the policy) but is particularly acute for eligible households who have acute medical conditions which could be made worse by living in a cold home and would only be able to benefit from ECO if the contribution from suppliers is sufficient to cover the full cost measures. If the latter condition is not met, and without the data sharing intervention suggested above, many cold and sick fuel poor households will continue to be left without any access to energy efficiency works or eligible households that have the work done will be asked for capital contributions that are variable and not subject to effective monitoring or scrutiny.

The need for this level of additional intervention is also supported by the Fuel Poverty Strategy for England[2]. Here, the UK Government states that they will take more account of the particular needs of the most vulnerable households, including those with disabilities and long term health conditions, in developing approaches to delivery of energy efficiency measures and other forms of fuel poverty support. In particular, the Government stresses they will explore options to support the most vulnerable households, particularly those where someone has a health condition related to living in a cold home, who may be harder to reach, have multiple needs and require more structured support.

[2] Cutting the cost of keeping warm: A fuel poverty strategy for England, HM Government, March 2015.

Better use of data in government consultation

How to respond to this consultation

The closing date for responses is **22 April 2016**.

Please respond to this consultation in one of three ways:

- Complete these consultation questions and email your response to data-sharing@cabinetoffice.gov.uk.
- Post your response to: Better Use of Data in Government consultation 2016, Government Digital Service, 6th Floor, Aviation House, London WC2B 6NH, making clear who you are and in what capacity you are responding

Evaluating the responses

To evaluate responses properly, we need to know who is responding to the consultation and in what capacity. We will therefore only consider your response if you complete the information page.

Any personal data (such as your name, address and any other identifying information) will be processed in accordance with the Data Protection Act 1998 and our standard terms and conditions.

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Name (optional): Jacqui Taylor

Position (optional): CEO

Organisation name: FlyingBinary Limited

Address: 98 Brackley Square, Woodford Green, Essex. IG8 7LS

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 (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*

(X) 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*

(X) England

( ) Wales

( ) Northern Ireland

( ) Scotland

( ) Other EU country: _____

( ) Non-EU country: _____

How did you find out about this consultation?

( ) Gov.uk website

( ) Internet search

(X) Other

__Twitter_____

May we contact you for further information?

(X) 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?

(X) No

( ) Yes

If yes, please explain your reasons.

.....

.....

.....

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

(X) 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?

(X) Strongly agree

( ) Agree

( ) Neither agree nor disagree

( ) Disagree

( ) Strongly disagree

Please explain your reasons:

Increasingly public service delivery is being delivered by non-public authorities. This will only increase as the urbanisation of our society evolves and public services are increasingly personalised for communities and neighbourhoods, leveraging the Internet of Things.

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

( ) Strongly agree

(X) Agree

( ) Neither agree nor disagree

( ) Disagree

( ) Strongly disagree

Please explain your reasons:

.....

.....

.....

<u>Providing assistance to citizens living in fuel poverty</u>

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

(X) Agree

( ) Neither agree nor disagree

( ) Disagree

( ) Strongly disagree

Please explain your reasons: There is a public trust issue to consider with these proposals, particularly where the energy services companies are required to perform these new powers. The communication of these measures needs to involve the wider public who are not likely to participate in this consultation, or the subsequent legislation. No provision has been made for this in these proposals. This

communication should be included before proceeding with primary legislation. The assumption appears to have been made that this is a role that the Regulator should perform, however the wide ranging nature of this change will require wider public participation. This should be addressed as part of the analysis of the consultation of responses received.

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

(X) 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

(X) No

If yes, please explain your reasons:

.....

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.....

<u>Access to civil registration information to improve public service delivery</u>

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?

(X) Strongly agree

( ) Agree

( ) Neither agree nor disagree

( ) Disagree

( ) Strongly disagree

Please explain your reasons:

It is inconceivable that we should continue to rely on paper certificates as a means of accessing government services. The use of electronic Births Marriages and Deaths index data has the power to create a dignified mechanism for accessing public services for some of our most significant life events.

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

(X) Agree

( ) Neither agree nor disagree

( ) Disagree

( ) Strongly disagree

Please explain your reasons:

No mention has been made of the right to be forgotten legislation which governs our digital society. Arguably the use of bulk notification data accessed appropriately can ensure that this legislation is applied in a dignified and timely manner. This would enable government to support a family at a time of great stress. It is important to provide measures which allow the right to be forgotten legislation to be implemented. These proposals should be amended to include provision for the right to be forgotten.

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?

(X) Yes

( ) No

Please explain your reasons:

Neither during the open policy consultation or this consultation has there been any clear statement of the metrics around this issue. It is premature to enshrine these proposals in legislation when there is such a conflicted evidence base to underpin these proposals. As expressed repeatedly by all during the open policy consultation the pilot proposals were deemed necessary to understand the evidence base that exists for this policy. It is inappropriate to consider legislation without first understanding the scope of the issues around not just fraud, but error.

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?

N/A as this is premature to take a legislation approach to these proposals, as per the answer to the previous question.

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?

Citizens Advice Bureau and Which, plus any other voluntary sector organisations who support citizens in this area.

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?

In addition to the other answers it is important to understand the risks of this approach and the impact it is likely to have on existing issues of trust of government.

Additionally an independent ministerial advisory group would go some way to addressing the trust issue regarding the scrutiny of any pilots.

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??

N/A. See previous answers regarding the premature nature of this legislation

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

(X) No

It is important to ensure an independent research base in the UK continues to thrive outside of government research, from a policy perspective. This research base provides a rich input and debate which often extends and challenges traditional government thinking. This will become increasingly important as as our connected society develops. In order to support this important activity no fees should be charged, rather government should look to develop capability with technology to facilitate the provision of data free and in a timely manner. The timely provision of data seems not to have been considered in these proposals although it was discussed at length during the open policy making process. The burden of the costs of inadequate and outdated government IT systems should not be borne by researchers who need data to carry out 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?

(X) 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?

This is a complex area and requires further consultation in a similar workshop setting to the original open policy making workshops. Further detailed consultation should be organised on this whole area. It is a concern that the Health and Social care data landscape is not yet known as this has a great bearing on the answer to this question. The questions around research are not possible to consider properly without access to the Health and Social care provisions which will be outlined by the separate review. It is recommended that research consideration are reconsidered once the results of this separate consultation are made available and that these proposals are not moved into the legislative process until these issues can be considered as a whole.

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

.....

.....

.....

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

There are new techniques that we as a company have pioneered which would allow ONS to take a new approach to data collection and the remainder of the data process. In our web society there is often no need to resort to sampling techniques as the data is, or can often be made available to consider whole populations. These new methods should be investigated as a means of providing whole population or cohort data rather than the sampling techniques of surveys.

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?

Transparency of all elements should govern this. ONS is the appropriate organisation to oversee and communicate these matters to the wider public of the plans for these changes, as part of the preparation of the Code of Practice. Again there is an issue of Trust which must be considered before any changes are made to current practices. Citizen participation in this area of the consultation is key and should take place before any move to enshrine these proposals in legislation.

Better use of data in government consultation

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Name (optional):

Position (optional):

Organisation name:

I work at the London School of Economics but am responding in a personal capacity

Address:

The LSE Address is Houghton Street, London WC2A 2AE

Email: [redacted]

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 (X) No

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

(X) 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*

(X) England ** I live in

( ) Wales ** I am from

( ) Northern Ireland

( ) Scotland

( ) Other EU country: _____

( ) Non EU country: _____

How did you find out about this consultation?

( ) Gov.uk website

( ) Internet search

(X) Other

_____

May we contact you for further information?

(X) Yes ( ) No

Questions

As someone who has been an active member of the open policy consultation process organised by Involve, having attended a range of the discussion meetings, as well as being a member of the independent QA review process, I must express considerable frustration with those parts of the consultation that relate to events and discussions I have participated in. Without doing a detailed comparison between the current document and the earlier drafts of the proposals I have seen I find it difficult to identify significant changes to the proposals that have resulted from the open consultation process.

In addition, as noted in paragraph 14 of the overview document, "additional proposals have been developed which are included in this consultation exercise". It is claimed that these offer "clear public benefits". In earlier contributions to the policy making process, I raised concerns about these "clear public benefits" but these do not appear to have been incorporated.

Paragraph 20 notes the proposal to introduce codes of practice for the proposals. As has been noted in other areas of contentious legislation, providing drafts of such codes is incredibly helpful1.

Although the Yes/No API proposals outlined in paragraph 21 are to be welcomed, there are detailed questions about what data will be shared with the API in order to obtain the Yes/No response. Similarly, far greater clarity around the "when all else fails" conditions for undertaking bulk data transfers is needed.

Paragraph 41. As has been noted extensively elsewhere, the government has far greater confidence in the scrutiny associated with secondary legislation and, by implication, statutory instruments, than many outsiders.

Question 2 asks if there are any public authorities that are not deemed fit to participate in data sharing. Behind this question would appear to be government unease about the (technological, organisational, administrative?) capabilities of particular public authorities to handle data sharing well. It would be good to learn what the government's own internal risk assessment is before coming up with our own list of such problematic authorities.

Question 3: yes

Question 4: The proposed principles are wonderfully vague and high level and are hardly helpful. Is anyone really proposing principles for the use of a power that do not include details of when the power is intended to be used, or suggesting that providing additional safeguards is not a good idea?

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1 http://amberhawk.typepad.com/amberhawk/2016/01/draft-investigatory-powers-bill-ignores-data-protection-when-collecting-bulk-personal-datasets.html and http://www.publications.parliament.uk/pa/jt201516/jtselect/jtinvpowers/93/9304.htm, paras 13, 42, 47, 68, 74

Question 5: As with all data sharing activities, details of what data should be shared are vital for undertaking a proper risk assessment: "share information" is rather vague. Additionally, how is it proposed to constrain potential further uses of the data to ensure that the "sole purpose" ("or any other reason?") is met? What will be done to prevent "legitimate" (and illegitimate) scope creep? (Cf paragraph 52).

I am not clear that the disincentive of withholding data from fuel providers in the future will have much effect as the consequences will primarily be felt by the very households the policy is trying to help.

If data sharing has identified relevant households, why not leverage the benefits of this information beyond "promoting energy efficiency measures" and targeting one of the two factors that cause fuel poverty, namely higher than typical energy costs?

There is a lack of clarity in the box on fuel poverty – at the start, there is talk of the "most severe cases of fuel poverty" yet by the end of the box, the proposals refer to "targeting those 'in' fuel poverty". Is the policy to address *all* cases of fuel poverty (which could be done without data matching – all those having a low income as well as all those living in higher than typical energy cost homes) or the most severe ones (which is the union or intercept?) of these two factors (and no others?)?

When the civil registration data sharing proposals were introduced late in the open policy process I explicitly commented that they were quite poorly specified / thought through and should not be put out for consultation under they were further developed. Instead, we get (paragraph 59) talk of "discretionary" powers and charged on a cost recovery basis. This will, of course, run the risk of causing other departments to resort to the (cheaper to them) requirement that citizens bring along paper copies of the relevant documents.

Paragraph 60(b) seems to be a very general statement not one specific to civil registration information.

60(c) is peculiar – how much access to government services is enabled (solely) by digital birth data and how does this relate to existing investment in the Verify service?

60(d) – Isn't this what tell us once is already intended to do?

Most of the proposals seem to (sensibly) relate to the checking (not data sharing!) of individual records when, all of a sudden, in paragraph 63, there is talk of ("in other circumstances") the "sharing of bulk data". Unfortunately this is not discussed further in the consultation document yet raises very different concerns from those of individual records (and, again, these issues were discussed in the open policy meetings).

Question 8 refers to a verification activity and yet it is unclear whether this is best achieved by a government department making the request of the GRO (with the applicant's consent) or whether this information should be provided to the applicant on request and then the confirmation of the data shared with the government department.

Question 9 describes a poorly thought out process. The bulk nature suggests that this is a periodic data sharing (once a month?) whereas the issue of stopping correspondence to deceased persons is a) something that tell us once already does; b) isn't particularly helpful if done in bulk once a month as it could result in up to 30 days of inappropriate mail being sent out. The examples previously suggested by GRO were more invasive than this and so I am very reluctant to indicate general support to bulk data set sharing without more specific details of the kinds of sharing to be undertaken.

In terms of the impact assessment, why are the civil registration proposals going to be part of the "digital economy bill"? Why does option 2 not refer to bulk data provisions (cf question 9).

Paragraph 75. I recommend that the Cabinet Office Privacy and Consumer Advisory Group (that I co chair) be a useful basis for the strategic steering group. The government may also wish to consider the members of the QA review group.

Paragraph 77: There is considerable scope for learning from the experience of the Verify team in the matching process and it is surprising that the government seems to want to reinvent the wheel in its matching activities. It would be helpful to know what budget has been allocated to the data cleansing activities in government databases resulting from these activities.

Question 11: Three years 6 months.

Paragraph 98. As a member of the ESRC Administrative Data Research Network: Information Assurance Expert Group I fully understand the Trusted Third Party model but don't understand what is meant when the paper proposes removing data that could identify an individual and replacing with a form of code *or encryption*.

Question 15: No fees

Question 17: As a follower of late Wittgenstein I don't believe we should waste time trying to define principles or criteria in advance.

Dr Edgar A. Whitley, Associate Professor (Reader) in Information Systems, Department of Management, London School of Economics and Political Science and co chair Cabinet Office Privacy and Consumer Advisory Group.

ROYAL
STATISTICAL
SOCIETY
DATA | EVIDENCE | DECISIONS

Statement on the Cabinet Office consultation 'Better use of data in government'

1 April 2016

The Cabinet Office has recently launched a consultation document 'Better use of data in government' (available from https://www.gov.uk/government/consultations/better-use-of-data-in-government). This statement presents the Royal Statistical Society (RSS)'s initial response.

As a charity and a membership organisation which focuses on the production and use of statistics and statistical research, one of our core aims is to promote better use of data for the public good. This is represented most recently in our Data Manifesto, which identified 10 areas for improvement in government policy and practice. One of the key recommendations in the Data Manifesto is that there should be greater data sharing for the purpose of statistics and research.[1]

The Cabinet Office consultation document sets out proposals for new legislation that addresses data sharing in government for several purposes: improving public services, tackling fraud and debt, and improving the use of data for research and for official statistics.

We welcome and support the Cabinet Office initiative and believe clarity, efficiency and proportionality of any new data sharing legislation will be crucial to support the better use of data by government.

Below we respond to key proposals with regard to how they address UK statistics and research needs, and indicate how we believe these proposals can be strengthened.

In summary, our five key areas of comment on the proposed legislative framework are:

1. The proposals for improved **access for statistical purposes** should be strengthened to an automatic presumption of access, rather than the right to access;
2. To improve sharing and linkage of **data for research purposes,** we believe greater flexibility should be introduced, including for access to survey data, and that the proposals for research overall require clear oversight and allocation of funding. The proposals need to allow for faster and more agile access, without losing privacy safeguards;
3. We would like to see a clearer articulation of how **privacy concerns** would be met for the new proposals, especially where they do not build on existing safeguards;
4. The proposals are silent on how **health and social care data**, which are of essential interest to the research and statistical communities, will be handled;

[1] Royal Statistical Society (2014) Data Manifesto (webpage), available at: www.rss.org.uk/manifesto

5. The proposals should be clear on how the government wants to handle the issue of **access to data by non-public bodies**.

The paragraphs below expand on each of these points. One general point to make is that improved legislation in this area will be a necessary but not sufficient condition – culture and resources will also play an important part and must be tackled side by side with legislation.

1. Improved powers for the ONS to access administrative data for production of statistics

1.1. The findings of the *Independent Review of Economic Statistics* (the 'Bean Review'), which the Government has fully endorsed, show the importance of greater powers for the Office for National Statistics (ONS) to improve UK statistics and understanding of our economy.[2, 3] As part of our *Data Manifesto*, the RSS called for legislation to be strengthened for the ONS to access the data needed for national statistics. The current framework is cumbersome and unwieldy and takes far too long to enable data access for the production and improvement of official statistics. We therefore welcome the intention stated in Cabinet Office proposals for the ONS to "access detailed administrative data from across government and businesses, to provide more accurate, frequent and timely statistics and to update how the census is managed, instead of relying on surveys".[4]

1.2. The way the draft legislation is currently framed, government departments will be given the right to provide information to ONS if they are satisfied that this is required by the ONS to exercise its functions. We fear, however, that this will not achieve the stated purpose. The Bean Review recommends as a model the arrangements that are currently in place the Office for Budget Responsibility (OBR), which gives "a right of access (at any reasonable time) to all Government information which it may reasonably require for the purpose of performance of its duty", and says that the ONS should be similarly empowered. This should be accompanied by "an independent ombudsman (or similar) appointed to adjudicate difficult cases".[5] We also believe that in the detail of the legislation, the mandate for the ONS should be strengthened so that there is a presumption of data access for statistical purposes.

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[2] 'Better data access will improve economic statistics, says Bean', *StatsLife*, 2 December 2015 https://www.statslife.org.uk/news/2585-better-data-access-will-improve-economic-statistics-says-bean

[3] Cabinet Office, HM Treasury (2016) 'Independent review of UK economic statistics: government response' (webpage). Available at: https://www.gov.uk/government/news/independent-review-of-uk-economic-statistics-government-response

[4] 4, p. 3 in Cabinet Office (2016) *Better Use of Data: Consultation Paper* (PDF), Available from: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/503905/29-02-16_Data_Legislation_Proposals_-_Con_Doc_-_final__3_.pdf

[5] 4.154 p. 166 in Professor Sir Charles Bean (2016) *Independent Review of UK Economic Statistics* (PDF).

1.3. Additionally we welcome the Cabinet Office proposal that "a new power be created to broaden the scope of data that can be requested [from businesses] and allow more modern methods of data collection which can move current processes away from outmoded, burdensome and expensive surveys".[6] This is in line with what has been recommended by the Bean Review, by the Science and Technology Committee, and what has already been enacted in other countries such as Canada. The legislation should enable safe statistical processing of more different types of business data, for the production of aggregate statistics.

2. Support for secure access to de-identified linked data for research projects

2.1. The consultation sets out proposals to ease access to de-identified government data for the purpose of research, by setting out standards for accredited research, researchers, and facilities. Research that explores public attitudes has shown substantial support from the public for data to be used for scientific, social or statistical research, with an intended public benefit, and with privacy safeguards in place.[7, 8, 9] The proposed legislation would standardise what in many cases are already the type of data protection that research approvals panels seek, to support ethical research that protects the identities and privacy of people during and after the research process.

2.2. We welcome the proposal that government departments should share and link more data for research through such well-protected arrangements. We think however that Departments may also need stronger incentives to take part. Delays to data access approval, even after research bids and projects have been approved, are a drain on public funding for researchers and for their funders. The Cabinet Office are consulting on their proposal that Departments charge a fee to the applicant, on a cost-recovery basis, in return for supplying data for linkage. We are not convinced that this is the right model, especially if it creates more of an administrative burden in the system. We note the governance role that will be played by the UK Statistics Authority and we welcome that there will be an oversight body in this area, but we note it must be adequately resourced for this function.

2.3. It is important that the legislative framework has enough flexibility for researchers. The proposals being consulted on go into some detail about the Trusted Third Party model for de-identifying linked administrative data. However one opportunity which is not currently

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[6] 14, p.4 in Cabinet Office (2016) Better Use of Data: Consultation Paper (PDF), Available from: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/503905/29-02-16_Data_Legislation_Proposals_-_Con_Doc_-_final__3_.pdf

[7] ESRC (2014) 'Public dialogues on using administrative data' (webpage), Available at: www.esrc.ac.uk/public-engagement/public-dialogues/public-dialogues-on-using-administrative-data/

[8] 'RSS research finds data trust deficit, with lessons for policymakers', *StatsLife*, 22 July 2014. Available at: https://www.statslife.org.uk/news/1672-new-rss-research-finds-data-trust-deficit-with-lessons-for-policymakers

[9] 'Public supports sharing health data for research, survey says', *StatsLife*, 14 March 2016. Available at: https://www.statslife.org.uk/news/2721-public-supports-sharing-health-data-for-research-poll-says

addressed by the proposals (and which therefore appears unduly limited) is the possibility of linking administrative data with survey data. From our perspective this is a key opportunity to be realised. Administrative data is not designed for research purposes, and the most fruitful research will often come from being able to link it with surveys.

2.4. We also believe in general terms that there should be no long-term 'lock-in' to the Trusted Third Party model, and we support that it will be implemented by a statutory Code of Practice that should be reviewed and updated with ministerial approval. Scope for revision is important so that the legislation does not build in obsolescence. We are in a period of significant technological change, and new ways to manage safe data linkage may evolve. The legislation should establish the broad principles of research approval rather than making detailed prescriptions.

2.5. We also welcome that Cabinet Office proposals will not sweep away any of the pre-existing legal gateways for data sharing. This reflects that there are areas where existing access arrangements are working, and need not to be disturbed. For example devolved administrations of the UK are noted as areas where further discussions of approved systems for de-identified data linkage are taking place.

3. Articulation of privacy safeguards

3.1. Privacy safeguards in the Cabinet Office's proposed legislation include a criminal offence for unlawful disclosure of data, by which those found guilty will face either a fine or up to two years' imprisonment. In addition, statutory Codes of Practice will set out if, how and when data can be disclosed. Although we believe these provisions will be helpful, it is unclear to us how they will satisfy privacy concerns and we believe they should be spelled out in further detail.

3.2. This could usefully be done by explaining the consequences of the proposals in relation to the Information Commissioner's Office advice to the Law Commission which stated that "the "recipe" for data sharing standards, such as security, transparency, and privacy impact assessments, [should be] broadly consistent, and should contain meaningful safeguards for individuals, especially in light of the different levels of sensitivity and privacy impact that different types of data might have." [10]

[10] 11.7 p. 167 in Law Commission (2014) *Data Sharing between Public Bodies: A Scoping Report* (PDF).

4. Integration of health and social care data

4.1. Another concern we have is that it is not clear if and how health and social care data can be linked with other data for research purposes. This is an area where the scope of the Cabinet Office's interventions has been strictly limited, as health data is subject to separate legislation and has been under review by Dame Fiona Caldicott. It is hugely important that standards for research emerging from the Cabinet Office proposals are integrated with those that will be brought in place for patient records. Many of the most socially beneficial research questions seek to link health and care data with other data domains, such as conditions of employment and welfare, education, and the environment. This was represented under the tagline 'data saves lives' as the new EU General Data Protection Regulation was being debated, in a campaign that made clear that data linkage across health and other domains supports hugely valuable research for public benefit, and needs to be workable and permitted.[11]

5. Data access for non-public bodies

5.1. Non-public bodies engaging in research, such as private companies, the media and charities, are not clearly covered by the proposals. We do not in general terms think that a different set of rules should apply to private actors, as compared to public bodies. Our own research identified that although research uses are relatively well regarded by the public, government needs to tread carefully for public trust in the uses data may be put to by non-public third parties.[12] We have welcomed important insight into the nuance of public views on this, in findings that have recently been obtained by the Wellcome Trust. [13] We would therefore welcome a clear statement of how the government intends to grasp the issue of private sector access to data.

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[11] EHDA (2015) *Data Protection Regulation and health research: The issues explained* (PDF). Available from: http://www.datasaveslives.eu/media/1178/data-saves-lives-position-paper-october-2015.pdf, and case studies at http://www.datasaveslives.eu/case-studies/

[12] Royal Statistical Society (2014) Research on trust in data and attitudes towards data use / data sharing (PDF), Available from: http://www.statslife.org.uk/images/pdf/rss-data-trust-data-sharing-attitudes-research-note.pdf

[13] Ipsos MORI SRI (2016) The One-Way Mirror: Public attitudes to commercial access to health data: Report prepared for the Wellcome Trust (PDF). Available from: http://www.wellcome.ac.uk/stellent/groups/corporatesite/@msh_grants/documents/web_document/wtp060244.pdf

Background and further resources

The Cabinet Office's proposals for legislation follow a number high profile calls for improved data sharing. For research and statistics in particular, we have seen the *Independent Review of Economic Statistics,* [14] the Science and Technology Select Committee's *Big data dilemma* inquiry report,[15] the Law Commission's scoping of data sharing between public bodies, [16] the findings of the Administrative Data Taskforce,[17,18] as well as the UK Statistics Authority recent outline of the case for change in their policy paper.[19]

[14] Professor Sir Charles Bean (2016) *Independent Review of UK Economic Statistics* (PDF). Available from: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/507081/2904936_Bean_Review_Web_Accessible.pdf

[15] Science & Technology Committee (Commons) (2016) 'Big data' is a big opportunity, but Government should tackle misuse' (webpage). Available at: http://www.parliament.uk/business/committees/committees-a-z/commons-select/science-and-technology-committee/news-parliament-2015/big-data-dilemma-report-published-15-16/

[16] Law Commission (2014) *Data Sharing between Public Bodies: A Scoping Report* (PDF). Available from: http://www.lawcom.gov.uk/wp-content/uploads/2015/03/lc351_data-sharing.pdf

[17] Administrative Data Taskforce (2012) *Improving access for research and policy* (PDF). Available from: https://www.statisticsauthority.gov.uk/wp-content/uploads/2015/12/images-administrativedatataskforcereportdecember201_tcm97-43887.pdf

[18] Department for Business, Innovation and Skills (2013) 'Administrative Data Taskforce report: government response' (webpage). Available at: https://www.gov.uk/government/publications/administrative-data-taskforce-report-government-response

[19] UK Statistics Authority (2016) *Delivering better statistics for better decisions: Why we need new legislation for better access to data* (PDF). Available from: https://www.statisticsauthority.gov.uk/wp-content/uploads/2016/03/Delivering-better-statistics-for-better-decisions-data-access-legislation-March-2016.pdf

Social Research Association

Response to Cabinet Office consultation on 'Better Use of Data' 2016

22 April 2016

The Social Research Association is a charitable membership organisation founded in 1978, representing over 850 social researchers in the UK and Ireland who work in government, academia, research agencies, the voluntary sector and as independent practitioners. The SRA's aims are to uphold good standards of research, while providing a voice for our members and a focus for sharing knowledge among the wider social research community.

Please note that our response to the Cabinet Office consultation on 'Better Use of Data' refers only to **Section C,** the proposals to give UK public bodies the power to share data for research purposes and official statistics.

In principle we welcome the broad aims of the proposals to enable increased data-sharing between public bodies, which should enhance access to data for research purposes, improving the quality and scope of research.

We are responding to the specific questions 15, 16, and 17 raised in the consultation, as well as raising issues arising from other areas.

Part 1: RESPONSES TO QUESTIONS IN THE CONSULTATION DOCUMENT

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?

In principle we can see a justification for fees if the income is used by government departments to contribute towards the extra resources that increased demand for data-sharing will require. (We say more on this later.) However the work involved in responding to data sharing requests (in particular the accurate specifying of the detail) will surely require greater resourcing than fees alone could provide.

In many cases the requests for data-sharing will come from research projects commissioned by a public sector body, and so payment of fees will just involve shifting money around within Government, thereby reducing the value of the fee.

It is also important that there is clarity about the fee rates to be charged for data-sharing, in order for the cost to be included in research proposals, as these are often fixed price contracts.

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?

Publishing details of rejected applications and reasons for rejection would give useful guidance to future applicants. But we can see no obvious reason for naming the rejected

applicants. In the first instance, guidance about the conditions for acceptance would be needed, to which examples of accepted and rejected applications can be added later. Since it would be important to tell unsuccessful applicants why their bids were not accepted, doing this in relation to published guidance clearly makes sense.

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 consultancy document notes that determining whether or not research is 'in the public interest' would be a matter for the UK Statistics Authority, and obviously these decisions will need to be made on a case-by-case basis. The principles should be in line with Data Protection legislation, including general criteria that applications will be assessed for their contribution to an understanding of society, policy or practice, and that reasons for rejection could include (for example) that the data can be obtained elsewhere, or exceptionally, that the expected cost of fulfilling the request is not justified.

Part 2: OTHER COMMENTS ON THE CONSULTATION DOCUMENT

(a) The exclusion of public bodies who deliver health and adult social care services

We can appreciate the sensitivities that have led to this proposed exclusion. Also, the provision and sharing of health data is already subject to its own legislation and guidance. However we strongly support the RSS's initial response on this point, which states (page 5) "It is hugely important that standards for research emerging from the Cabinet Office proposals are integrated with those that will be brought in place for patient records." The 'trusted third parties' of these proposals must also be trusted and recognised by the bodies that safeguard health data.

(b) Private companies and organisations who collect and hold public data

The consultation refers throughout to data held by public bodies and public authorities. However many private organisations operate public services on behalf of central and local government, collecting and storing administrative data about members of the public. Since the collection of this data is paid for with public money, we believe strongly that its availability for research should also be included in this legislation.

Since such data is collected under the auspices of a public body it may be felt to be included by implication, but we request that it should be made explicit, to avoid the possibility of suppliers claiming an exemption for information they believe to be 'commercial in confidence'.

(c) Non-inclusion of data collected by government surveys

Many surveys funded by government departments include requests for respondent consent to data linkage, usually involving combining the survey data with administrative records.

However, it is not always easy to actually carry out linkage, often due to the inaccessibility of the administrative data.

We therefore request that this legislation covers the linkage of survey data and administrative data, with the aim of making this more straightforward. The value of this inclusion for research would be considerable, and seems central to the stated purpose of the legislation in facilitating better informed research. Administrative data is not collected for research purposes, and its value can be vastly increased when combined with survey data.

Survey researchers would form a sophisticated group of users of government administrative data because many will have previous experience, for example using benefit records to draw samples of respondents. From this prior knowledge researchers will be aware that such records are rarely 100% accurate, and require careful assessment of validity. This group could be a valuable source of guidance and advice to less-experienced users.

(d) Detailed descriptions of data matching processes

We appreciate the need for these proposals to provide strong assurances that the security of administrative data will be guaranteed. However by including detailed descriptions of the ways to achieve this (eg. item 98, page 27, with reference to roles such as 'indexers'), the legislation may be at risk of building in obsolescence if better methods become available in the future. It would be preferable to establish the underlying principles of data matching in law, and being clear this is separate from any detailed illustrative example.

(e) Replacement of Information Sharing Orders (ISOs)

Item 109d (page 30) notes that ISOs may not be used to give ONS access to provide statistical services, a restriction that "is thought to have originated in a desire to ensure a level playing field in securing survey work". As ONS actively engages in competitive tenders for surveys, we request that the proposed new legislation to facilitate ONS's access to data should include a requirement that ONS gains no competitive advantage from it when tendering for survey work.

(f) Non-public sector access to research data

There is no mention of whether non-public bodies, eg. commercial research agencies, will be allowed access to de-identified matched datasets for specific research purposes. We believe that in principle there should be no objection to this, provided that the results of such research are made publicly available.

(g) Extra resources needed in government departments

We agree that the UKSA is the appropriate body to oversee the working of the proposed new data-matching, but it is essential that the considerable extra resources needed by the

Authority will be forthcoming, so that their central role in assessing applications and overseeing the matching and provision of data does not become a bottleneck in the process. However we repeat our concerns that additional departmental resources will also be required, to avoid bottlenecks. The Impact Assessment to the Consultation states (page 3):

> It is expected that public sector bodies affected by the legislative change will face one-off familiarisation and training costs associated with the change in legislation. Public sector bodies will also incur administrative costs associated with an increased volume of data sharing requests. However, it is expected that any data sharing burden would be at least partially offset by benefits associated with increasing the quality and quantity of policy relevant research.

These two factors, the cost of fulfilling data-sharing requests and the benefits of better-quality policy relevant research, seem to be only tenuously connected. The cost of providing data are tangible and necessary, and comes first in point of time - therefore this work must be resourced regardless of anticipated future benefits, if these proposals are to succeed.