

Digital Economy Act 2017

Debt and Fraud Information Sharing Business Case

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Explanatory notes

Part 5 of the Digital Economy Act 2017 provides for powers to share information to help reduce debt owed the public sector and combat fraud against the public sector. If you wish to establish an information sharing arrangement under the debt or fraud powers, you must have regard to the [Information Sharing Code of Practice](#). Initially, all information sharing for debt and fraud purposes will be run as pilots and you must develop and agree a single business case with the other bodies participating in the data share.

The initial purpose of the business case is to justify the pilot by clarifying its objectives, how the pilot will be measured and the processes to ensure that data is being protected and used appropriately. Where necessary, supplement the business case with relevant documents related to the pilot, for example, a project initiation document (or equivalent), data specification and privacy notice.

Before completing the business case below, please:

- read the Information Sharing Code of Practice in conjunction with the Information Commissioner's Data Sharing Code of Practice¹.
- check that the public authority and/or service provider you represent is specified in the Act; and
- check that your information sharing arrangement relates to England-only and non-devolved data shares.

If you have existing corporate documentation that meets the criteria then you can use that in place of this template.

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Name of Pilot	Apprenticeship Levy Fund Fraud
Is this information sharing arrangement for the purposes of managing/reducing debt, combating fraud or both?	Combating fraud
List the specific clause in the DEA Act (2017)	For the purposes of the taking of action in connection with fraud against a public authority, the Digital Economy Act (2017), part 5, chapter 4, paragraph 56.
Lead organisation - Please confirm which public authority or service provider you represent and which Schedule your organisation is listed in for the purposes of the proposed data share.	Education and Skills Funding Agency (ESFA) – Executive Agency of Department for Education, Paragraph 5, Schedule 8
Please confirm which other public authorities are party to the proposed data sharing arrangement, and which Schedule they are listed in.	Her Majesty's Revenue and Customs [HMRC] – Paragraph 14, Schedule 8
Legal basis	ESFA and HMRC have confirmed that the legal basis for this data share is the Digital Economy Act (2017), part 5, chapter 4, paragraph 56. They have confirmed no other legal gateway is available.
Review Board region	England and Non-Devolved
If your information sharing arrangement includes a service provider, please refer to paragraphs 42 and 43 of the Code of Practice	
Please confirm if this is a submission for an informal review or the fully completed submission for Ministerial consideration	Formal
Please provide an outline of the information share. Note: you need not detail the counter fraud operations of partners	
This should include: <ul style="list-style-type: none"> ● the objective of the information sharing agreement; ● an overview of the activity under the arrangement and how the data will be used; 	

¹ The code is being updated following a consultation in 2019, so please check the ICO website www.ico.org.uk for the new version. Until then, you may wish to refer to the 2011 version of the code, but please bear in mind that this is now out of date in many respects.

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- an outline of what types of data will be shared and the data security arrangements to be put in place;
- the period of duration for the arrangement, when the data share will be live;
- how retention periods will be managed.

Legal basis:

ESFA and HMRC have confirmed that the legal basis for this data share is the Digital Economy Act (2017), part 5, chapter 4, paragraph 56.

They have confirmed no other legal gateway is available.

The objective of the information sharing agreement:

The Education and Skills Funding Agency (ESFA) is an executive agency of the Department for Education and is accountable for funding education and skills for children, young people and adults. At any one time there are estimated to be around 800,000 apprentices in learning.

ESFA have intelligence indicating fraud exists with a specific employer (the Employer), and potentially that employer's collusion with training providers. This pilot is to investigate that intelligence and confirm if fraud is occurring, and if appropriate to take investigation action up to and including prosecution. To enable this, the intention is to share employee and employer data with HMRC to establish the employees status, to identify any links between the employer and the training providers in question, and to identify if potentially hijacked employee data is being used by other employers registered with ESFA.

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An overview of the activity under the arrangement and how the data will be used:

Intended data flow:-

1. ESFA compiles the file of data items.
2. ESFA send this data to HMRC via Secure File Transfer Protocol.
3. HMRC will match ESFA data against HMRC records and add the relevant data.
4. HMRC will return the data to ESFA via Secure File Transfer Protocol.
5. ESFA will review the data and address any anomalies with HMRC, then confirm that HMRC can delete their files.
6. ESFA will undertake the investigations into the HMRC data and take appropriate actions up to and including prosecution.

ESFA will analyse these results to evaluate the Employers ability to be an Apprentice Levy paying company, compare the workforce size to number of apprenticeships and analyse company links to Training Providers.

Understanding the workforce data will assist in establishing why the Employers hasn't been registered previously to pay levy and if there were suspicious motives for seeking this levy status.

Details of any additional workforce will be used to check current ESFA database to understand if the fraud is more widespread.

ESFA will produce an evaluation report, including future solutions that would prevent this type of fraud attack in the future.

The period of duration for the arrangement, when the data share will be live:

The information share pilot will last for approximately 4 months. The following bullets detail the key project milestones:

Estimate

- 05/08/2020: Project inception meeting
- August: further project planning and resource allocation
- September: DEA Board submission
- September: Ministerial approval
- September/October: Data extraction and structuring at ESFA commences
- September/October Transfer of data to HMRC
- October: HMRC data matching and enrichment. Transfer of data file back to ESFA. HMRC destroys data files upon notification of receipt.
- October/November: Investigation exercise undertaken by ESFA
- December: Evaluation report produced for the review board
- March: Final metrics and evaluations report produced for the review board

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How retention periods will be managed:

Data will be retained in accordance with the organisations data retention policy or as specified in the Code of Practice. Shared data will be kept separate and recognisable to enable deletion at the end of the pilot and will be password protected.

HMRC will delete the ESFA data and their own data files used to conduct the matching, once they have conducted the matching and returned the data to ESFA and ESFA have checked the file for anomalies and resolved these.

HMRC data held by ESFA will be retained by ESFA until the conclusion of the investigation, regardless of whether the enquiry into the individual has been completed. This extended period is required to identify the full extent of the fraud. It is envisaged that destruction of the data will occur in March 2021, or by the date stipulated by legislation should any proceedings be undertaken.

All parties agree to move, process and destroy data securely i.e. in line with the principles set out in HM Government [Security Policy Framework](#), issued by the Cabinet Office, when handling, transferring, storing, accessing or destroying information.

Please provide details of how the benefits of the information share will be measured.

This should include:

- the potential benefits the information share could bring; and
- the success criteria for the data share and the methodology you will use to measure success

The potential benefits the information share could bring:

- The data will enable the ESFA to say with certainty what the extent of fraudulent behaviour is with this Employer
- It will enable ESFA to identify any trainer providers linked to the employer, and any subsequent collusion.
- It will inform ESFA on the risks of collusion between Employers and Training Providers and organised attacks on apprenticeship funding.
- The data will assist ESFA to explore the potential risk of fraud and error within its existing business processes.
- The pilot will assist ESFA in identifying commonalities in fraudulent behaviour, and consequently establish risk indicators.
- The pilot may indicate the need to embed a more permanent solution as business as usual, which will enable ESFA to more easily validate Employer circumstances. In streamlining the application process, benefits will be realised in customer experience.

The success criteria for the data share and the methodology you will use to measure success:

Success criteria and associated **metrics (in bold)** for this pilot are:

- Identifying whether there is any fraud in the ESFA Apprenticeship Learning Funding process, as well as the extent of any found fraud (**fraud rate and associated cost to ESFA, found through pilot**).
- Identifying whether there is any error in the ESFA business process, as well as the extent of any found error (**false positive rate**).
- Qualifying the nature of any fraud and error found in the Apprenticeship Learning Funding process.

FOR DEBT INFORMATION SHARES

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Please include details of how you have considered the Debt Fairness Principles.

N/A

FOR ALL INFORMATION SHARES

Please include a statement showing how you will comply with the Code of Practice.

I agree that the pilot will adhere to the Digital Economy Act (2017) Information Sharing Code of Practice.

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Register of Information Sharing

Full guidance for data controllers relating to the entries in the Register of Information Sharing Agreements is here:

<https://www.registers.service.gov.uk/registers/information-sharing-agreement-0001>

Please use this form to submit your entry to the secretariat with your business case.

Title of data field	Your entry
Controller names - Names of specific Controllers within a class of specified persons within the relevant schedule, such as a specific local authority. Free text.	ESFA and HMRC
Information sharing method	Secure File Transfer Protocol
Processor names - Names of specific processors within a class of specified persons within the relevant schedule, such as a specific local authority. Free text	N/A
Retention period - How long the information will be held by the recipient	31/03/2021
Start date - when the information sharing agreement comes into effect	25/09/2020
End date - when the information sharing agreement comes to an end	31/01/2021
Review date - when the information sharing agreement will be reviewed by the governance or Controllers with oversight responsibility for information sharing agreement where the data sharing is not a one-off sharing agreement	31/01/2021

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<p>Contact - Contact details for any subject access requests or general enquiries about the information sharing agreement; email addresses for managed mailboxes rather than specific individuals.</p>	<p>PrivacyAssuranceTeam.MAILBOX@education.gov.uk</p>
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Privacy Notice

This notice sets out how we will use your personal data, and your rights. It is made under Articles 13 and/or 14 of the General Data Protection Regulation (GDPR).

YOUR DATA

We will process your name, department, email address, telephone number and job title for the purposes of evaluating your business case in accordance with the Information Sharing Code of Practice for public authorities disclosing information under Chapters 1, 3 and 4 (Public Service Delivery, Debt and Fraud) of Part 5 of the Digital Economy Act 2018.

The legal basis for processing your personal data is because processing is necessary in the exercise of official authority vested in the data controller under Part 5 of the Digital Economy Act 2017.

Your personal data will be shared by us within Cabinet Office, and with members of the Fraud and Debt Information Sharing Review Board, and other parties to the pilot data share. As your personal data will be stored on our IT infrastructure it will also be shared with our IT suppliers.

Your personal data will be kept by us until such time that the review of Part 5 of the Digital Economy Act 2018 is complete.

YOUR RIGHTS

You have the right to request information about how your personal data are processed, and to request a copy of that personal data.

You have the right to request that any inaccuracies in your personal data are rectified without delay.

You have the right to request that any incomplete personal data are completed, including by means of a supplementary statement.

You have the right to request that your personal data are erased if there is no longer a justification for them to be processed.

You have the right in certain circumstances (for example, where accuracy is contested) to request that the processing of your personal data is restricted.

You have the right to object to the processing of your personal data where it is processed for direct marketing purposes.

You have the right to object to the processing of your personal data.

INTERNATIONAL TRANSFERS

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As your personal data is stored on our IT infrastructure, and shared with our data processors, it may be transferred and stored securely outside the European Union. Where that is the case it will be subject to equivalent legal protection through the use of Model Contract Clauses

COMPLAINTS

If you consider that your personal data has been misused or mishandled, you may make a complaint to the Information Commissioner, who is an independent regulator. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
0303 123 1113
casework@ico.org.uk

Any complaint to the Information Commissioner is without prejudice to your right to seek redress through the courts.

CONTACT DETAILS

The data controller for your personal data is the Cabinet Office. The contact details for the data controller are:

Cabinet Office
70 Whitehall
London
SW1A 2AS
0207 276 1234
publiccorrespondence@cabinetoffice.gov.uk

The contact details for the data controller's Data Protection Officer (DPO) are:

Stephen Jones
DPO
Cabinet Office
70 Whitehall
dpo@cabinetoffice.gov.uk