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Department
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Guidance for local authorities on the use of social security data

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1. Aim of the guide

- 1.1. This document updates guidance previously published in August 2010. It aims to help local authorities (LAs) decide whether they can use a claimant's personal information which has been obtained for the purpose of administering social security benefits, to help improve delivery of other locally-managed services and benefits. It is particularly aimed at Housing Benefit teams but will also be useful to other parts of the LA; particularly in light of the extended data sharing powers included in the Welfare Reform Act 2012 (WRA) and associated regulations.
- 1.2. Parliament has attached special importance to the confidentiality of social security information and has made it a criminal offence for a person employed in the administration of social security to disclose social security information relating to a particular individual without lawful authority. This offence provision and other restrictions in social security legislation mean that LAs cannot consider using or sharing social security data in the same way that they would use or share other data that they hold. This guide will help LAs to better understand some of the key considerations and constraints that frame how social security data can be used.
- 1.3. The information about the Data Protection Act (DPA) 1998, the Social Security Administration Act (SSAA) 1992 and the WRA contained in this guide is applicable to England, Scotland and Wales. However, in Scotland, and (to a lesser degree) in Wales, there are differences in the law which may impact on the advice in this guide.
- 1.4. This guide is not intended to be a substitute for specific legal advice from LA lawyers on particular data sharing proposals in England, Scotland or Wales that relate to the data that LAs hold. This Guide should be read in conjunction with the:
 - DWP Memorandum of Understanding (MOU) between the Department for Work and Pensions and Local Authorities 2013 – 2014 for the Access, handling, exchange and protection of Department for Work and Pensions' and Her Majesty's Revenue and Customs' data
 - LA Customer Information System (CIS) Guide.
- 1.5. Where LAs have legal questions in relation to the use of DWP data streams, they should continue to approach DWP.

2. Considerations and constraints on data sharing

- 2.1 The purpose of this section is to provide a brief overview of some of the main concepts, considerations and constraints that apply to sharing social security data between DWP and LAs, within LAs, between LAs and their service providers, and certain other third parties.
- 2.2 While there is usually a great deal of additional depth and detail to each of these points, which is often the domain of specialists, a basic understanding can be very useful in becoming aware of potential solutions and in tackling common misperceptions.

What do we mean by ‘data sharing?’

- 2.3 Data sharing is a concept that is often used by local partners to describe a wide range of sharing of information between one organisation and another.
- 2.4 For the purpose of this guide we are focusing on the use and supply of claimant social security data by DWP, LAs, service providers, and some additional bodies such as social landlords, for purposes relating to:
- the administration of social security benefits (including Housing Benefit (HB));
 - new local schemes providing support for council tax following the abolition of Council Tax Benefit from April 2013¹ (CTR schemes);
 - certain welfare services which have been prescribed in regulations.
- 2.5 By claimant social security data, we mean the information obtained from claimants or others in relation to claims for a DWP social security benefit, including HB. This type of information includes personal data, and some of it, such as information about a person’s health, will be classed as sensitive personal data.
- 2.6 Social security data obtained for the authority's HB or CTR functions cannot be re-used for another function unless the law provides a gateway for this. This is the case even where the same member of staff is responsible for those different functions.

What law is relevant to data sharing?

- 2.7 There is no single source of law that regulates the powers that a public body has, to use and to share personal information. The collection, use and

¹ This guidance applies to Council Tax Benefit to the extent that LAs need to deal with historical claims.

disclosure of personal information is governed by a number of different areas of law as follows:

- the law that governs the actions of public bodies (administrative law);
- the Human Rights Act 1998 and the European Convention on Human Rights;
- the common law tort of breach of confidence;
- the Data Protection Act 1998; and
- European law.

2.8 The starting point is always to determine whether the public body has the power to carry out any proposed data sharing. This will be a matter of administrative law. The next stage is to consider whether the proposed data sharing might nevertheless be unlawful due to the operation of any of the other legislation listed above.

2.9 This section provides a summary of relevant administrative law in relation to social security data, along with an overview of the Data Protection Act (DPA) 1998. Further guidance on how the DPA applies to public bodies can be found on the Information Commissioner's Office website at the following link:
http://www.ico.gov.uk/for_organisations/data_protection.aspx

Administrative law

2.10 Public bodies such as LAs derive their powers from statute, and LAs must not act outside these powers. Account must be taken of any specific data sharing legislation that applies to the function being undertaken.

2.11 As there is no general statutory power to disclose social security data held by DWP or LAs, it is necessary to consider the legislation to see whether there is a statutory gateway permitting the disclosure in question. In the context of social security, the key pieces of primary legislation are the SSAA 1992 and the WRA 2012. The WRA and related regulations have introduced expanded data sharing powers. The impact of this legislation on LAs and others such as social landlords is discussed in Section 4. The box below provides a summary of the key elements of the SSAA.

Sections 7B of the SSAA and associated regulations provide for LAs to use social security information they hold in relation to HB for certain advice and take up activities in relation to HB and some other DWP benefit. Unlike the other gateways in this box, these powers relate to county councils in England as well as authorities administering HB.

Section 122C* of the Act allows DWP to provide social security information to LAs, and to organisations carrying out functions on behalf of the LA (i.e. service providers), for the purposes of: administering HB prevention, detection, investigation or prosecution of offences relating to HB (and in some circumstances, DWP social security benefits); and verification of, amending or supplementing HB information (fraud and verification). In some circumstances where DWP obtained the information for fraud and verification purposes its use by LAs is limited to fraud on HB and DWP benefits and verification of HB information. (There are restrictions on disclosure).

Section 122D* of the Act allows DWP to require local authorities to provide 'relevant benefit information' to DWP for any purpose relating to social security and certain other functions. DWP can also require 'benefit policy information' for estimating future expenditure and developing policy in relation to any relevant social security benefit (including HB), and for planning in relation to a limited number of other functions.

Section 122E* of the Act allows a LA administering HB to share 'relevant benefit information' with another authority administering HB, for fraud and verification purposes.

Section 123 of the Act provides that it is an offence for any person employed in social security administration (including LA staff and their service providers), to disclose without lawful authority, any social security information which relates to a particular individual.

** These provisions have been repealed in relation to CTB other than historical CTB claims and will be repealed in relation to HB in the future.*

2.12 Statutory powers may be:

- **express:** for example, the duty to share information set out in section 122D of the SSAA;
- **discretionary:** for example, the provisions in section 122E of the SSAA allowing LAs administering HB share information with each other. Section 1 of the Localism Act 2011 also gives LAs a power to do anything that individuals may generally do which could include sharing information, subject to complying with other relevant legislation such as the Data Protection Act 1998.
- **implied:** it is a well-established principle that express powers should be interpreted so as to authorise, by implication, the carrying out of activities

which are reasonably incidental to the express function. This principle is extended by section 111(1) of the Local Government Act (LGA) 1972 which provides that LAs are expressly empowered to do anything which is calculated to facilitate, or is conducive or incidental to the discharge of any of their function.

- 2.13 Any reliance on a discretionary or implied power to disclose information is however **subject to** any express statutory limitation on the use of the data or any other limitation, including for example any obligation of confidence and also the Human Rights Act 1998 (with reference to article 8 of the European Convention on Human Rights).
- 2.14 These limitations on the use of discretionary and implied powers are particularly important in the field of social security information where the statutory gateways under which information is supplied usually restrict the uses to which the information can be put. As an example, see the information in the box above, summarising section 122C of the SSAA.

Effect of the offence provision in section 123 SSAA

- 2.15 Section 123 of the SSAA makes it an offence for a person employed in social security administration (which includes DWP civil servants administering DWP benefits and LA officers and their service providers administering HB) to disclose social security information relating to any particular individual without lawful authority. However there is no offence where the person to whom the information relates (or others listed in section 123(10), such as an attorney) consent to the disclosure (see Section 4 for details of the offence associated with disclosing information shared under the provisions of the WRA).

Example of where it would be an offence to re-use data

LAs may wish to pool data on their customers in order to ensure they have the most up to date contact details, for example to help pursue people who have defaulted on Council Tax bills.

It would not normally be legal to use information such as a customer's address, which has been obtained from social security claim details, to trace people that owe the LA money, for example rent arrears, or a Council Tax debt.

If the customer gave prior consent for their details to be re used for another purpose, it may be possible to disclose their personal details to another part of the LA for example to trace Council Tax debtors. (See paras 2.30-2.39 below)

It is appropriate to use personal social security data to trace people who have been overpaid HB, including where they owe the LA outstanding legal costs.

Other legal gateways

- 2.16 There are other legal gateways that have been specifically designed to allow the sharing of social security data, including the provisions listed below. This is not a definitive list and if an LA wants to access social security information for a purpose not mentioned below it should contact DWP for further advice.

Section 72 of the Welfare Reform and Pensions Act 1999: this contains regulation making powers to provide for the supply of social security, employment and training information and its use by service providers, designated persons, ministers of the Crown and LAs. Regulations made under this section allow for information to be supplied and used for certain purposes which broadly relate to labour market measures, employment and training, Jobseeker's Allowance (JSA) and Employment Support Allowance (ESA).

Schedule 5 to the Tax Credits Act 2002: allows HMRC to give LAs data relating to Tax Credits, Child Benefit or Guardian's Allowance, for use in the administration of HB. [HMRC can also require an LA administering HB to provide details concerning any function relating to HB, for purposes relating to Tax Credits, Child Benefit or Guardian's Allowance.]

Section 110 of the Education Act 2005: allows DWP to share social security data with the Department for Education (DfE) and LAs in England and Wales, for the purpose of determining eligibility for free school meals. This is done via the DfE Eligibility Checking Service (ECS), which provides an online service for LA employees to check a parent's/carer's entitlement against central government data held by DWP, HMRC and the Home Office.

Section 131 of the WRA and associated regulations: these allow DWP, LAs and others such as social landlords, to share or use social security data for purposes related to welfare services, social security, and council tax. **For further details see section 4.**

Data Protection Act 1998

- 2.17 The [Information Commissioner's Office](http://www.ico.gov.uk) (ICO) produces detailed guidance, which provides organisations with comprehensive information about the DPA. This section provides an overview of the main principles. For more details, see http://www.ico.gov.uk/for_organisations/data_protection_guide.aspx
- 2.18 Processing of data, including its disclosure, must comply with the various data protection principles contained in the DPA. There are eight principles in all; the most important (for determining whether or not you can share data) being the first three principles, which are summarised in the box below.

The Data Protection Act 1998 (DPA) Key Principles

First Principle

Personal data are required to be processed fairly

This means data must be obtained lawfully and the data subject (the person whose data is being sought) must understand the purpose for which it will be used.

And lawfully

In the context of LAs, this means it must relate to a function that the authority has the power to carry out, and the processing is compliant with relevant domestic statute, common law principles, the Human Rights Act, and the European Convention on Human Rights.

Second Principle

This requires that data shall be obtained for one or more specified and lawful purposes, and shall not be further processed in any way that is incompatible with that purpose.

Third Principle

This requires that personal data shall be adequate, relevant and not excessive in relation to the purpose for which it is processed.

2.19 Some key aspects of the DPA are described below.

What is personal data?

2.20 The DPA defines personal data as data that relates to a living individual who can be identified from:

- those data or;
- those data combined with other information, which is in the possession of, or likely to come into the possession of, the data controller.

2.21 Sensitive personal data is defined as information concerning data subjects, such as:

- race
- political, religious or other beliefs
- membership of a trade union
- physical or mental health
- sexuality
- criminal offences, proceedings, or sentences.

Who controls the data?

- 2.22 The DPA applies to any processing of personal data and regulates whether and how data controllers or data processors use personal data.

A data controller is a person who:

- either alone, jointly, or in common with others determines the purposes for which, and the manner in which, any personal data are processed and;
- is responsible for ensuring that the provisions of the DPA are complied with.

'Person' includes organisations such as LAs, as well as individuals. 'Jointly' is used where two or more persons (usually organisations) act together to decide the purpose and manner of any data processing. 'In common' applies where two or more persons share a pool of personal data that they process independently of each other.

A data processor is:

An agency or partner organisation (includes individuals, contractors or service providers) who process data on behalf of the data controller.

- 2.23 DWP is the data controller for the personal data it holds, which has been obtained from claimants and others for the purpose of administering a social security benefit.
- 2.24 LAs are data controllers for the personal data they hold, which has been obtained from claimants and others, including the information they obtain from DWP for the purpose of administering HB. This also applies to information they hold in relation to prescribed welfare services, and certain other purposes such as local council tax support.
- 2.25 A person is only a data controller if, alone or with others, they 'determine the purposes for which and the manner in which any personal data are processed'. In essence, this means that the data controller is the agent who decides how and why personal data is processed.
- 2.26 The ICO take the view that having some discretion about the smaller details of implementing data processing (i.e. the manner of processing) does not make an agent a data controller. Data controllers must ensure that any processing of personal data for which they are responsible complies with the DPA. Failure to do so risks enforcement action, even prosecution, and compensation claims from individuals.

How long data should be kept?

- 2.27 Retention policies should be in place to ensure personal data is not kept for any longer than is necessary. Details of how long customer data will be kept for can be included in the Privacy Notice (see paragraph 2.28 and 2.29 below). To ensure data is not kept longer than necessary it is important to:
- review the length of time data is held;

- consider the purpose that the information has been collected for;
- decide whether and how long to keep different types of information; and
- update, archive or securely delete information where appropriate.

2.28 There are various legal requirements and professional guidelines about keeping certain kinds of records, such as that needed for audit purposes. If an organisation keeps personal data to comply with a requirement like this, it will not be considered to have kept the information for longer than necessary.

What are Privacy Notices?

2.29 Privacy Notices (PN) inform customers how their data will be used, including whether it will be shared, for example with a different part of the LA, or a different body altogether such as a social landlord. It should be drafted in an easy to understand way. A single notice can be provided for general information about the data that LAs process, but more detailed and individual notices are advisable for specific data share activities. Where the LA provides a PN this will not negate the need to seek customer consent, where this is necessary (see paragraphs 2.30 – 2.39).

Obtaining consent

2.30 LAs can use DWP data provided to them, and HB data that they hold, for the purposes of administering HB and certain other prescribed purposes. They do not need the claimant's consent to do this. But where there is no express statutory power (referred to as a legal gateway) allowing the sharing of social security data, customer consent, taken together with the discretionary power in section 1 of the Localism Act 2011, may form the basis for legitimate data sharing.

2.31 Consent is not defined in the DPA. However, the European Data Protection Directive (to which the Act gives effect) defines an individual's consent as: "*...any freely given specific and informed indication of his wishes by which the data subject signifies his agreement to personal data relating to him being processed*". http://ec.europa.eu/justice/data-protection/index_en.htm

2.32 The fact that an individual must *signify* their agreement means that there must be some active communication between the parties. An individual may signify agreement other than in writing, but organisations should not infer consent if an individual does not respond to a communication – for example, from a person's failure to return a form or respond to a leaflet. In these circumstances, consent cannot be implied.

2.33 Informed consent means the customer must understand what is being consented to and the consequences of giving or withholding consent. In the case of sensitive personal data, consent must be explicit.

2.34 Consent forms should include information about what data is going to be shared, with whom, and for what purpose. Where appropriate, a time limit should also be included, explaining when the data will be destroyed.

- 2.35 The claimant must have a real choice. Care must be taken to avoid implying for example, that they can only get HB if they agree to their data being used for another purpose.
- 2.36 Consent must also be appropriate to the age and capacity of the individual and to the particular circumstances of the case.
- 2.37 Where consent has been given, it will not necessarily last forever. Although in most cases consent will last for as long as the processing to which it relates continues, LAs should recognise that the individual may be able to withdraw consent at any time. LAs should put in place a process for checking whether any consent obtained is still valid. Withdrawing consent does not affect the validity of anything already done on the understanding that consent had been given.

Data sharing on the basis of customer consent

- 2.38 It is possible for claimants to consent to their personal social security data being shared by DWP with LAs. LAs must agree in advance with the relevant DWP office, how consent should be handled and what form the consent should take.
- 2.39 Similarly it is possible for claimants to consent to their HB data being shared or used by the LA for other purposes where a legal gateway does not already exist. It will be up to each LA to determine whether locally held information can be shared or used for different purposes, and if so, the best way of processing this information in order to ensure it is only used for the agreed purposes.

Working with representatives

- 2.40 DWP has produced guidance for those who often assist customers to claim the benefits they are entitled to, and as such may act as the customer's representative. The DWP guidance *Working with Representatives* (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/271554/repsguide.pdf) includes the concept of 'implicit consent'.
- 2.41 This guidance can assist LAs where a member of staff, commonly working in the Welfare Rights area, is helping a DWP customer with their benefit or pensions claim, and needs to phone DWP for information about the claim. DWP staff are allowed to make a judgement, based on the nature of the information held by the adviser, whether the questions asked are consistent with the role of a representative, and whether the caller has the implicit consent of the customer to seek the information.
- 2.42 'Implicit consent' is not applicable where the LA requires information for any other purposes, for example, assessing entitlement to a LA service/benefit.
- 2.43 Where the LA is seeking data for the purpose of dealing with the HB claim, they can contact the DWP for information without needing to obtain customer consent (**see Section 3 for more details**).

Data handling

- 2.44 Once a decision has been taken to share information, either between DWP and the LA, with another part of the LA or with a third party, it is important to consider how that data should be transferred.

Transmission of data between DWP and LAs

- 2.45 The DWP Data Access policy requires that all sensitive personal data must only be sent via a government approved secure communications channel, where such a channel can be or has been made available. This policy applies to all authorities in England, Wales and Scotland.
- 2.46 On 1 February 2013, Government Connect was transferred to Public Services Network (PSN) for existing customers.
- 2.47 The PSN is a UK Government programme to unify the provision of network infrastructure across the United Kingdom public sector into an interconnected "network of networks" to increase efficiency and reduce overall public expenditure. This network will substantially reduce the cost of communication services across UK government and enable new, joined-up and shared public services for the benefit of citizens. PSN is creating one logical network, based on industry standards, and a more open and competitive ICT marketplace at the heart of the UK public sector.

3. Potential uses of data and our advice

To administer HB and DWP benefits

- 3.1. LAs can use social security data, be it DWP data provided to them, or HB data that they hold, for the purposes of administering HB. They do not need claimant consent to do this. HB administration includes, any contact with customers relating to a HB claim or award (or potential claim or award); the handling of appeals; the recovery of HB overpayments or the investigation of suspected HB fraud (including fraud relating to DWP benefits).
- 3.2. LAs can use social security data they hold, which has been supplied for the purpose of administration of HB, and is stored on a local database, in order to advise and support people about certain specified DWP benefits. These are listed in the box below:

Using LA social security data

LAs and the Scottish and Welsh Governments will be able to offer a variety of local welfare provision offering tailored flexible support to vulnerable people, based on detailed knowledge of the issues they face in the community. It will be a matter for each LA to decide who qualifies for help, and how best to provide it.

LAs can use information that they hold on their own system, whether it has been obtained from the Customer Information System (CIS), from the claimant, or from someone else, to do anything in relation to a claim which is made or could be made, for the purpose of:

- identifying people who may be entitled to HB, or to the following DWP benefits:
 - Attendance Allowance
 - Bereavement Allowance
 - Bereavement Payment
 - Carers Allowance
 - Disability Living Allowance
 - Employment and Support Allowance
 - Incapacity Benefit
 - Income Support
 - Jobseeker's Allowance
 - Retirement Pension
 - State Pension Credit
 - Widowed Parents Allowance
 - Winter Fuel Payment
- encouraging or assisting people to make such a claim
- advising claimants in relation to such a claim

Using Customer Information System (CIS) data

3.3. LAs can use locally held social security data as described in the paragraphs above. It is important to note in order for LAs to directly access DWP's Customer Information system (CIS) there has to be a legal gateway. DWP provides LAs with data from the following sources:

- Local Authority Claim Information documents (LACIs)
- Local Authority Input Documents (LAIDs)

- Electronic Transfers of Data (ETDs) files
 - Automated Transfer to Local Authority Systems (ATLAS) notifications; and
 - read only access to DWP's Customer Information System (CIS).
- 3.4. DWP and HMRC data is provided to LAs by DWP for the limited purposes of administering HB, and any specific service or provision of a prescribed welfare service or local council tax reduction scheme. Currently this is limited to:
- Housing Benefit
 - Local Council Tax Reduction schemes (LCTR)
 - Local welfare provision (LWP).
- 3.5. LAs must not access CIS or DWP data from any IT source, for any other welfare service purpose. Where DWP data is required for one of the other prescribed purposes LAs must email or telephone local DWP contacts on a case by case basis. DWP is constantly working to improve the way it exchanges data with LAs.

To support direct marketing and take-up work

- 3.6. Targeted direct marketing may be used to identify local residents with specific characteristics, such as people at risk of child or fuel poverty. This direct marketing could be by letter or 'on the doorstep', and be used to help improve take up of particular benefits or services.'
- 3.7. The SSAA restricts DWP's ability to share bulk social security data, such as the names and addresses of benefit recipients. But it is possible to make available very low level data ('Output Area' data) on the number of people claiming different benefits

Using output area data to target mail shots

A LA decides to tackle high levels of child poverty in its area, and decides to issue marketing material to low income families with young children, offering them a benefits 'health check' .

Using DWP output area data, the LA is able to identify a number of small geographical areas, consisting of as little as one or two streets, where there are a high number of families with young children.

Mail shots are sent out to households in these streets, thereby ensuring it is targeted to families who are most likely to read it.

The material includes a form which the customer can sign and return, indicating they wish to take up the offer of a benefits health check, which is provided by LA staff at a benefits surgery in the local shopping centre.

- 3.8. The example above is just one way in which output level data could be used. LAs could also use this to send out other types of marketing material. Depending on what is on offer, the LA may also need to seek the customer's consent to re-use their data, particularly if, by taking up the help on offer, their details are going to be passed on to another part of the LA or a third party provider.

Helping to tackle worklessness

LA uses DWP output level data to identify households that include a person who is unemployed. They want to advertise a training course aimed at people who have been out of work for 3 months or more and need help to re enter the labour market. Mail shots are sent to selected households, offering residents the opportunity of registering for this new course. The mail shot advises people that if they respond, and wish to take up the offer, their contact details will be passed to a third party training provider who will send them instructions about how to register for the course.

- 3.9. Local HB/CTR data could be used as an alternative. For example, the LA HB/CTR team could use claimant data to identify target groups to whom it would send take up advice, such as those who are getting CTR but have not applied for Pension Credit, or those on HB with a disability premium, but no DLA or AA in payment. The LA should provide advice about how data will be used in this way, in its PN.
- 3.10. Local HB data can also be used to market a non social security benefit/service, but claimant consent must be obtained before the data is used to deliver that benefit/service. How this might work is covered in the example below.

To undertake eligibility checks

- 3.11. For example, to check whether a person is entitled to a benefit or service on the basis of receipt of a 'passporting' benefit or to cross check information that has already been provided to another part of the authority.
- 3.12. Where the LA wants to check against DWP or HB records in order to determine eligibility for another benefit or service other than those referred to in the box in para 3.2, for example a Disability Facilities Grant, Blue Badge parking permit, or adult social care (ASC) services, they previously had to seek the claimant's consent before accessing their own HB records or approaching DWP for information. The WRA enables social security information to be used for a number of welfare services purposes (see Section 4 for more detail).

Free School Meals

- 3.13. Free School Meals (FSM) are available to the children of certain low income families. Where a parent/carer has applied for FSMs, there are several options for checking eligibility:

Asking the customer to provide written proof of income

- 3.14. This is appropriate where the customer has suitable up to date evidence of receipt of a qualifying benefit or tax credit.

Cross checking against HB records

- 3.15. This is possible where the customer is receiving HB and lives in the same area in relation to which the application for FSMs is being made. Claimant consent is required in order to check against HB records. To address this some LAs have introduced combined claim forms for HB/CTR and FSM.

Checking against the Department for Education (DfE) Eligibility Checking Service (ECS)

- 3.16. This is available to LAs in England and Wales. It is not a legal requirement to have the claimant's consent to use the ECS as a legal gateway exists permitting the supply of information by DWP to LAs in England and Wales, for the purpose of administering FSM. LAs can request access to the ECS by contacting the DfE.

4. Changes in legislation from 2012

- 4.1. The Welfare Reform Act 2012 (the WRA) and the Social Security (Information sharing in relation to Welfare Services etc.) Regulations 2012 (henceforth referred to as the “2012 Regulations”) introduce wider data sharing gateways which will eventually replace some of the legal gateways in the SSAA outlined earlier in this guidance. This section outlines the main purposes that information can be shared for under the WRA and 2012 Regulations made under it.
- 4.2. This section provides an overview of the relevant legal provisions and LAs will need to consider the scope and restrictions of these provisions in relation to any specific data sharing proposals.

Council Tax Reduction (CTR) Schemes

- 4.3. The 2012 Regulations permit DWP to share social security benefit information with LAs for certain CTR related purposes including:
- a. making a CTR scheme;
 - b. determining a person’s entitlement or continued entitlement to a reduction under a CTR scheme; and
 - c. preventing, detecting, securing evidence of, or prosecuting the commission of, an offence relating to a CTR.
- 4.4. The 2012 Regulations also permit LAs to use and share information they have received from DWP for these purposes with other LAs for the same purposes. This assists LAs to design and set up new local schemes and use the information to prevent, investigate or prosecute CTR related fraud. Information supplied for purpose cannot be used for wider Council Tax fraud investigation; its use is limited to offences relating to CTR schemes².
- 4.5. LAs are also permitted to use information supplied for the purposes listed above and share it with other LAs in connection:
- (i) with Valuation Tribunal proceedings that relate to CTR schemes;
 - (ii) determining a person’s eligibility or continued eligibility for a disabled person’s badge;
 - (iii) determining a person’s eligibility or continued eligibility for housing support;

² Regulations 12, 13 and 14 of the 2012 Regulations.

- (iv) determining whether to make to any person any grant or payment listed in Regulation 5(2) of the 2012 Regulations (currently this covers disability adaptation grants; disabled facilities grants; and Discretionary Housing Payments (DHPs)) and the amount of any such grant or payment; and
 - (v) determining whether a person applying for or receiving a specified welfare service³ is liable to contribute towards the cost of that service and if so the amount of that contribution.
- 4.6. Section 131 of the WRA prescribes qualifying persons who can receive data for these purposes which includes other LAs. It is up to each LA to decide whether to use or share data received for CTR purposes, for any of the additional purposes set out in paragraph 4.5. Where data is used or shared in accordance with these provisions, as is the case for all data shares, it will be up to the relevant LA to ensure procedures are in place to ensure data is moved and stored safely and securely and only used for the purposes prescribed.

Housing support

- 4.7. The 2012 Regulations enable LAs to use and share locally held social security information to consider whether a person who lives in supported accommodation should have their HB assessed under special rules; or is a person who has difficulty managing their affairs and might need their rent paid direct to the landlord.
- 4.8. Regulations 16 and 17 of the 2012 Regulations allow LAs to supply information to DWP to help in the administration of Universal Credit (UC). We have not formulated any procedures to facilitate this supply of data. LAs do not need to do anything at this stage. If DWP decides to use this power to request data for this purpose, procedures will be put in place and guidance issued accordingly.

Benefit cap and under-occupancy rules

- 4.9. The 2012 Regulations enable LAs to use or share (including with a social landlord) locally held benefit information for the purposes of identifying and supporting HB claimants who may be affected by the benefit cap or under-occupancy rules.
- 4.10. DWP has been providing LAs with relevant benefit cap data, under section 122C of the Social Security Administration Act 1992, which allows the supply of benefit information to LAs administering HB. Once LAs have received this data they can then use it or share it for certain purposes as prescribed in the 2012 Regulations.

³ Housing support, domiciliary care or residential care.

- 4.11. The WRA provides the primary legislative framework for UC. The Act includes powers to make regulations containing the detailed provisions. The UC Regulations 2013 deal with UC itself and include details such as specifying how a UC award is calculated, which types of income are taken into account, how it is determined whether a person is treated as responsible for a child, qualifying criteria for the various elements of UC and so on. Other sets of regulations, also made under the powers in the Act, provide for when and how claims must be made, when and how UC is paid, matters relating to decision-making, and claimants' reconsideration and appeal rights (SI numbers 2013/380 and 2013/381).
- 4.12. The 2012 Regulations permit DWP to supply relevant benefit details to LAs about people getting UC who are also affected by the benefit cap or under-occupancy rules. The LA can consider, along with the social landlord where relevant, whether additional help is required such as a Discretionary Housing Payment, employment or training support, or a move to alternative accommodation.

Troubled Families Programme

DWP can supply relevant information to LAs in England to help them identify households who are eligible for support under the Troubled Families Programme. DWP will confirm whether a relevant person is in receipt of a working age benefit and whether they are on the Work Programme. Arrangements are already in place to enable this supply of data.

In addition, LA HB teams can supply relevant information to the Troubled Families team, relating to whether a person is affected by the benefit cap. The Troubled Families team can only use this and other social security data it is supplied with, for purposes connected to the Troubled Families Programme.

Preventing or reducing homelessness

- 4.13. The 2012 Regulations also currently permit LAs to use locally held benefit information in connection with functions under Part 7 of the Housing Act 1996 or, in Scotland, Part 2 of the Housing (Scotland) Act 1987. These functions relate to the prevention or reduction of homelessness.

Local Welfare Provision

- 4.14. Following the abolition of parts of the Discretionary Social Fund (community care grants and crisis loans) from April 2013, funding has been provided for new local welfare provision schemes commencing on this date. LAs in England the Scottish Government and Welsh Assembly will be able to offer a variety of local welfare provision offering tailored flexible support to those in greatest need, based on detailed knowledge of the issues they face in the community. It will be a matter for each LA to decide who qualifies for help, and how best to provide it.

- 4.15. Local welfare provision is defined as occasional financial or other assistance given by an LA, the Scottish Ministers, or the Welsh Ministers, or a person authorised to exercise any function of theirs or providing a service to them, to or in respect of individuals:
- for the purpose of meeting, or helping to meet, an immediate short term need
 - arising out of an exceptional event or exceptional circumstances; and
 - that requires to be met in order to avoid a risk to the well-being of an individual, or
 - enabling individuals to establish or maintain a settled home, where those individuals have been, or, without the assistance, might otherwise be:
 - in prison, hospital, a residential care establishment or other institution; or
 - homeless or otherwise living an unsettled way of life.
- 4.16. The 2012 Regulations enable DWP to supply relevant information to certain qualifying persons, defined as LAs, Scottish and Welsh Ministers, and others such as relevant service providers, for purposes connected with local welfare provision services.
- 4.17. Relevant social security benefit information must be supplied direct by DWP to qualifying persons. Information supplied for local welfare provision purposes cannot be used or shared for any of the other purposes prescribed in the information-sharing regulations described in the Housing Benefit Circular A9/2013. <https://www.gov.uk/government/publications/hb-circular-a92013-using-social-security-data-for-local-services>
- Social security information supplied under any of the other provisions in the information-sharing regulations described in this circular cannot be used or shared for purposes connected with local welfare provision.
- 4.18. Separate advice has been issued to LAs administering local welfare provision schemes, regarding the arrangements for supplying DWP information.

What this means in practice

Broadly, the 2012 Regulations enable LAs to share information between and within themselves and with relevant service providers, or in limited circumstances, with social landlords, as follows:

Benefit cap: LA HB teams and social landlords can share information to help identify people who will be affected by the cap on benefit, and who as a result may need help or support. LA HB teams in England can also provide benefit cap information to the Troubled Families team for purposes connected with supporting troubled families.

Discretionary Housing Payments: benefits data held by the HB team can be used to help decide if a person is entitled to a DHP.

Disabled Facility Grants: benefits data held by the HB team can be shared with another part of the LA or another LA, to be used to help decide if a person is entitled to a grant on the basis of being in receipt of HB, or having a low income.

Domiciliary (Non Residential) Care: LAs can seek benefit information from LA HB teams in order to complete the financial assessment which determines how much a person might have to pay towards the cost of their care.

Preventing Homelessness: LA HB teams can share information with other parts of the LA such as Housing Options, Homelessness Prevention teams, or Social Services Departments. Social security or welfare services data can be used or shared in order to identify and support people at risk of becoming homeless. This could include information about the impact of benefit changes, such as reductions in LHA or an application for Discretionary Housing Payments. It could also include information that indicates a person affected by benefit changes is vulnerable and may need support.

LHA purposes LAs (typically the Supporting People team) can confirm to the LA HB team that a person is living in supported accommodation (this affects how their HB is assessed); or that a person is vulnerable and having difficulty managing (as they may need HB paid direct to the landlord).

Residential Care: LAs can seek benefit information from LA HB teams in order to complete the financial assessment which determines how much a person might have to pay towards the cost of their care.

Supporting People: LA HB teams can confirm that a person is getting HB and therefore entitled to free or reduced cost Supporting People services. In Scotland these services are provided as part of Housing Support.

Social sector size criteria: LA HB teams and social landlords can share relevant data to help identify and support people affected by the new rules.

Effect of the offence provision in section 132 of the WRA 2012

4.19. Section 132 of the WRA 2012 makes it an offence to disclose information relating to a particular individual received under section 131 and the related provisions of the 2012 Regulations without lawful authority. Section 132 applies to:

- Local authorities;
- Any person authorised to exercise a local authority welfare services or council tax function;
- Any person providing welfare services or council tax services to a local authority; and
- Any person providing qualifying welfare services;
- Social landlords; and
- Any persons involved in the troubled families programme.

4.20. However, there is no offence where the person to whom the information relates consents to the disclosure (see also paragraph 2.15 of this Guidance