

# **Better Use of Data - Consultation Paper**

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## *Ministerial Foreword by Matt Hancock*

We are committed to providing economic security for working people at every stage of their lives. We have a duty to provide public services to help those with the least, building a society where there is real opportunity for all. To do this, we need to keep pace with both rising public expectations and the availability of new technology. Delivering on that mission requires modern rules on the use of data in public services, to protect and use the information that makes our services effective and delivers the opportunities our citizens need.

When data is used effectively, everyone benefits from better services that can be delivered at a lower cost to taxpayers. Citizens too have a strong expectation that data will be used responsibly, proportionately and securely ensuring that their data is respected and handled sensitively. As the volume of data and our capacity to deliver digital services grow, the opportunities to improve services increase — but so too must our governance and safeguards to best protect our data against increasing cyber security threats.

This paper addresses these issues. It proposes a series of reforms to deliver targeted improvements for individuals and businesses, saving significant sums of taxpayers' money, reducing burdens on business and improving the protection of data and the provision of public services.

We have developed these proposals over two years of significant collaboration with civil society groups. I am enormously grateful to the 50 organisations who have participated, challenged and improved our thinking over that time. Now we want to take the proposals forward, and want wider views.

The proposals include reforms to the way government uses individual citizens' data to improve the public services they rely on, as well as measures to ensure that the rich datasets available to government can be properly used to produce world-leading research and statistics.

These legislative proposals are part of a broader programme to modernise the UK data landscape. Our goal is to transform and improve the relationship between the citizen and the state. Increasing citizens' confidence in the government's use of their data while simultaneously making better use of that data to deliver services they need will help us to build a more prosperous society.

## *Introduction*

1. Government needs to do more to unlock the power of data. Information is the key to sound decision-making and efficient operations for all organisations. Proportionate, secure and well-governed sharing of information between public authorities can improve the lives of citizens, support decisions on the economy which allow our businesses to flourish, and improve the efficiency and effectiveness of the public sector.

These proposals in our consultation will support:

- the delivery of better targeted and more efficient public services to citizens; and
- better research and official statistics to inform better decision-making.

The proposals fall into three groups:

### **2. Improving public services**

- Clauses to allow public agencies to share personal data with other public agencies in specific contexts in order to improve the welfare of the individual in question. There are two areas where we believe this type of legislation is needed immediately:
  - o automatically providing direct discounts off the energy bills of people living in fuel poverty, to help them keep their homes warmer during winter; and
  - o better identification of families with multiple and complex problems, who are receiving support from multiple public agencies and would benefit from the Troubled Families Programme whose workers understand and respond to the needs of the whole family and co-ordinate support accordingly.
- To enable access to civil registration data like births, deaths and marriages to allow public authorities to prevent sending letters to people who have deceased and make it easier for citizens to interact with public services.

### **3. Tackling fraud and debt**

- To help citizens manage their debt more effectively and reduce the estimated £24.1bn of overdue debt owed to government. The proposed legislation would allow public authorities to pilot projects that identify where individuals have debts with a number of public agencies, and then have a single interaction with them to help manage those debts.
- To help detect and prevent the losses government currently experiences to fraudulent activity each year. The proposed legislation would provide the ability for public authorities to pilot methods to spot conflicting information across different public services that could suggest patterns of fraud for further investigation by officials.

### **4. Allowing use of data for research purposes and for official statistics**

Specifically, these proposals will allow:

- The Office for National Statistics 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.
  - The use of de-identified data to support accredited researchers to access and link data in secure facilities to carry out research for public benefit.
5. These proposals will help simplify a complex legal landscape which currently slows the pace of government's work to modernise and improve the services it provides to citizens and businesses. These powers will also ensure we can improve the safe handling of citizen data by bringing consistency and improved safeguards to the way it is handled. These proposals are not about selling public or personal data, collecting new data from citizens or weakening the Data Protection Act 1998.
6. These legislative proposals are one part of a broader programme on data, where our aim is to transform and improve the relationship between citizen and state. The data programme has data security at its heart, and includes proposals to expand the use of appropriate and ethical data science techniques to help tailor interventions to the public, and also to start fixing government's data infrastructure to better support public services. It will enable a shift towards querying datasets through APIs in place of the typical practice of using bulk data shares, with positive benefits on privacy and security. Where data is connected for research or operational purposes there will be clear processes and greater transparency about how that data is used, and repercussions on those who break these codes of practice. It will also mean citizens gain greater visibility about what data is held on them and how it is used. Open data is a priority and the programme will continue to support the release of data that will help innovators to develop new services.

#### How to respond to this consultation paper

7. Comments and views are sought from as wide a range of people as possible on the proposals contained in this consultation document. Consultation questions are posed throughout the document and are summarised at the end of the paper. Views can be submitted by **Friday 22 April 2016**:

- **By writing to the Data Sharing Policy Team, Floor 6, Aviation House, London WC2B 6NH; or**
- **by e-mailing [data-sharing@cabinetoffice.gov.uk](mailto:data-sharing@cabinetoffice.gov.uk)**

#### *Why new powers are needed*

8. Better use of data by government can help strengthen our economy, help businesses grow, and improve public services. The opportunities offered by better use of data are vast. Citizens and businesses can receive better services. Public authorities can operate more effectively and efficiently together at a lower cost to taxpayers. Better access to, and usage of data, can help to identify and prevent the complex problems that people face.
9. Public authorities collect and maintain their own datasets to meet the needs of their own roles and objectives. To understand the bigger picture and address the complex challenges that face the nation, public authorities need to work better together. From evidence gathering to inform policy development through to implementation and

evaluation, the full cycle of public service delivery is dependent on timely and accurate data. Without proportionate and timely access to data, government cannot efficiently and effectively deliver on its priorities and citizens may not receive the services or support they need at the right time.

10. Public authorities are operating within a time of great spending restraint. As a result there needs to be a shift to more collaborative ways of working between public authorities to improve the effectiveness of operations whilst driving down costs. Advances in technology together with the better use of data held by public authorities offers an exciting opportunity to gain greater insights into national issues to inform the development and delivery of new policies and services. Greater data-enabled collaboration between public authorities can help ensure citizens receive the services they require, support efforts to reduce fraud and better manage debt owed to the public sector, and help early intervention to prevent harm, rather than pay the greater costs of resolving problems once they have arisen.
11. Those who deliver public services often face problems gaining access to information already held in other parts of government. There are a number of reasons for this.
12. The development of new techniques has provided solutions and workarounds to some of the challenges faced. These techniques include the use of Application Programming Interfaces (APIs), which allow the access to the minimal necessary information.
13. Nevertheless technical solutions are only a part of the picture and legal barriers remain. A complex patchwork of data sharing laws has grown over time. In some instances there are clear legal barriers to sharing data. The process of identifying and then understanding legal barriers and obtaining the required powers to share data can be painstakingly slow and demanding on the limited resources available to departments. Progress has been made despite the challenges, such as the Small Business, Enterprise and Employment Act 2015 which is enabling government to bring together data on employment, benefits and education to significantly extend understanding of the link between education, training and work. However, we need to go further and update the legal regime to provide simple and flexible legal gateways to improve public sector access to information in key areas which impact the whole public sector in a systematic and consistent way so that citizens can have confidence that their data is being used for the right purposes and remains securely held.
14. An example of the type of legal barriers that remain is reducing the burden placed on businesses to return surveys to ONS for statistical purposes. At present ONS require around 1.2 million business survey responses from more than 340,000 businesses each year to produce vitally important statistics about the UK economy. Responding to these surveys is estimated to take over one million hours and cost businesses over £24 million per year. A legal gateway could provide for (HMRC held) corporation tax and income tax information to be shared directly with ONS with the necessary safeguards to protect taxpayer confidentiality. Securing access to this data for the purposes of producing National and official statistics will allow ONS to make significant improvements to the quality and timeliness of critical economic statistics outputs and would also mean that thousands of businesses would no longer have to spend time filling in surveys to provide government with data which it already holds, delivering significant financial savings to UK businesses every year.

### *Open policy-making*

15. In response to repeated calls from public authorities to review the data legislative landscape as well as the Administrative Data Taskforce recommendation specifically to improve researchers' access to data, officials within the Cabinet Office began work on developing new policy in 2013.
16. An open policy-making approach provided the opportunity to ensure that the views of those outside of government could shape the development of policy in an iterative way at an earlier stage.
17. Involve, a not for profit organisation established to improve government engagement with the public, helped facilitate an open policy-making process and external engagement. The open policy-making process was open to any interested organisations to join and was designed to ensure that all voices were heard from the outset. Groups engaged in the process included those with a specific interest in individual privacy and rights, academics, statisticians, researchers and their funders, charities, government officials and some private sector organisations. The strength of the open policy process has been to identify areas of consensus, but also to better understand areas of disagreement. As such, the groups and individuals who have participated in the process have helped to significantly shape a number of the proposals. Where there was a divergence of views, these have been factored into the consultation questions. The whole process was transparent, with key information and updates posted on [www.datasharing.org.uk](http://www.datasharing.org.uk), a non-government website, to act as a repository and audit trail of the work.

### *The Proposals*

13. Development of these specific proposals during the open policy-making process were underpinned by the following key protective principles:
  - o no building of new, large, and permanent databases, or collecting more data on citizens;
  - o no indiscriminate sharing of data within Government;
  - o no amending or weakening of the Data Protection Act; and
  - o safeguards that apply to a public authority's data (such as HMRC) apply to the data once it is disclosed to another public authority (i.e. restrictions on further disclosure and sanctions for unlawful disclosure).

These principles apply to the proposals set out in this document and will not affect existing data sharing arrangements.

14. Core proposals developed during the open policy-making process related to better access and use of data to improve public service delivery, combat fraud against the public sector and support greater reuse of data for research and statistical purposes. More recently additional proposals have been developed which are included in this consultation exercise as they offer clear public benefits and are consistent with and strengthen the package of proposed data legislation.
  - a. A Department of Energy and Climate Change (DECC) proposal for data sharing to provide direct assistance to citizens living in fuel poverty is included in the package of measures, which was not part of the open policy process.

Providing the ability to flag to non-public sector organisation whether a citizen is eligible for an automatic energy bill discount will help ensure some of the most vulnerable in society do not miss out on assistance.

- b. Proposals for sharing civil registration information (such as births, marriages, civil partnerships and death information) on a more consistent and transparent basis across government to fulfil public functions have more recently featured in the open policy-making discussions. Introducing new legislation would pave the way for citizens to access government services more conveniently and securely (e.g. removing the current reliance on paper certificates to access services).
  - c. Improving access to data to support better management of debt owed to the public sector was discussed during the open policy-making process. Consideration was given to whether a consent-based approach could be taken to achieve the desired outcomes without the need to introduce new data sharing powers. Further exploration of this matter since the conclusion of the open policy-making process led to the conclusion that a consent based approach would not deliver the desired outcomes as many debtors may not consider it to be in their interest to give consent. A new proposal has been developed which draws on the approach and safeguards developed for the fraud proposal. Testing approaches using data to better manage debt can help public authorities better understand and overcome the challenges to developing a single debtor view and provide more support to those individuals and businesses who struggle to repay debts.
15. A HMRC proposal on sharing general, aggregate and de-identified data for public benefit underwent formal consultation in July 2013 in the *Sharing and publishing data for public benefit* paper. The HMRC proposal was referenced in discussions throughout the process to ensure participants understood the full suite of reform measures and their dependencies. Any package of legislation taken forward as a result of this consultation will include these specific HMRC measures, which were consulted upon and agreed as government policy.

#### *Keeping your data safe*

16. Data legislation has grown piecemeal over time to respond to specific policy needs. The proposed legislation provides the opportunity to ensure consistent and improved safeguards are in place in relation to the handling of your data. The open policy-making process provided the opportunity to explore options and reach a consensus on the type and level of protective measures required to strengthen the privacy of citizens' data under the proposed package of data legislation.
17. A key guiding principle of the open policy-making process was that the powers of the Data Protection Act (DPA) 1998 should not be weakened. All the proposals are aligned to the "Data Protection Principles" set out in Schedule 1 to the DPA, in particular that the sharing or linking of data should be (i) proportionate, i.e. that the minimum amount and type of data necessary is used, and (ii) purposive - that the powers are constrained so that there are specific purposes for which data can be disclosed. The proposed legislation will expressly provide that information cannot be disclosed under the powers if it contravenes the DPA or is prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000.

18. To protect against the unlawful disclosure of data, it is proposed that a new criminal offence for unlawful disclosure is introduced which is consistent with existing criminal sanctions provided for under: (i) section 19 of the Commissioners for Revenue and Customs Act 2005, together with (ii) section 123 of the Social Security Administration Act 1992, (iii) section 50 of the Child Support Act 1991 and (iv) section 39 of the Statistics and Registration Service Act 2007 (“SRSA”) which governs information held by the UK Statistics Authority/Office for National Statistics. Those found guilty of an offence will continue to face imprisonment for a term up to two years, a fine or both.
19. To reflect the fact that there is greater sensitivity with respect to data held by HMRC, additional safeguards in line with existing disclosure models are proposed to protect HMRC data once it has left the department. This ensures that HMRC still retains discretion on any proposed further uses and disclosures of HMRC information, and that unless specifically authorised, the recipient may not exceed what HMRC would be able to disclose, if approached directly for information.
20. It is proposed that where appropriate data measures will be supported by a statutory Code of Practice, which will set out if, how and when data can be disclosed under each power. To reduce the risk of confusion caused by producing multiple codes, we envisage producing two codes - one that covers research and statistics proposals and another code to cover the other provisions. Primary legislation will set out the requirement to consult the Information Commissioner, and where appropriate Ministers in the Devolved Administrations and other relevant experts before issuing or revising these Codes. The proposed legislation will require copies of the Codes to be laid before Parliament. Compliance with these Codes would be a requirement for any public authority seeking to participate under these proposals; failure to abide by the Codes may result in a public authority being removed from the relevant schedule and losing the ability to disclose or receive data under the power.
21. Each Code of Practice will set out key safeguards relevant to the proposal discussed during the open policy-making process. The Code will reinforce the need for authorities using the power to follow the Data Protection principles as well as guidance issued by the Information Commissioner. Each Code will reinforce the Data Protection principle of proportionate usage and will challenge proposed data sharing arrangements whether aggregate, general or de-identified data would meet needs rather than using identified data. Where it is determined that identified data is required for the purposes of the data share, the challenge will then be whether binary checks/data matching will suffice. Bulk data transfers should only take place where there is a strong case to do so and objectives cannot be met through other methods, and only then with the condition that there are the appropriate secure processes, systems and data transmission methods to ensure that it can take place safely.
22. A key principle that will apply to each of the Codes will be transparency. Privacy Impact Assessments will need to be produced in accordance with the Information Commissioner’s Office (ICO) guidelines for each proposed data sharing arrangement under the powers and will need to be made available for public scrutiny.
23. Each Code will set out that public authorities must have the appropriate data security and processes to demonstrate that they are fit and proper to disclose or receive information under the proposed new powers. This will include the need to set out accountability for each data sharing arrangement under the powers, with the roles and responsibilities of all participants clearly identified and defined.

### *Relationship with existing and planned legislation*

24. The package of legislative proposals has been designed to sit alongside rather than override existing powers or legislation which provide powers for public authorities to access or disclose information. Creating powers that provide the flexibility to respond quickly to new needs, should reduce the need to establish new specific express statutory gateways. Some departments, such as the Home Office, rely heavily on their common law powers. The intention is that the proposed powers will not impact on this and the illustrative clauses include savings provisions to preserve such common law powers. However, the proposed new powers offer these departments reciprocal arrangements to access data in consistent and transparent ways with public authorities constrained by statute.
25. The European Union is currently working towards introducing a General Data Protection Regulation (GDPR), which aims to consolidate and unify general rules for data protection within the scope of EU law as well as a Data Protection Directive (DPD) which covers the processing of personal data for law enforcement purposes. Negotiations on the GDPR and DPD have concluded, the text has been agreed and they are expected to be adopted in due course; both will apply two years after the date on which they enter into force. The GDPR will apply directly to all EU countries including the United Kingdom. The DPD, which will have a limited application to the United Kingdom, will be implemented into national law. The details of implementation are currently being considered.
26. Public authorities accessing and disclosing information under the proposed powers will need to ensure compliance with the Human Rights Act 1998, in particular Article 8 of the European Convention on Human Rights and other relevant measures relating to data protection set out in law.

### *Scope of proposed powers*

27. Types of bodies covered by the powers vary for each proposal. The proposals have been developed to support the widest range of public authorities possible as well as provide flexibility to align to plans around local devolution.
28. Health and care data plays a critical role in the design and delivery of public services and in driving improved outcomes for citizens. However, health and care data is particularly sensitive and rightly needs additional protections. For health and care data to be included, additional safeguards regarding confidential personal information are likely to be required and we need to ensure these are in line with Dame Fiona Caldicott's review due in early 2016. Cabinet Office and Health officials will work together to explore ways in which health and care data may be integrated into the proposed legislation in a way that incorporates an extra layer of safeguards consistent with Dame Fiona's recommendations.
29. Proposals relating to fraud and debt include private bodies that fulfil a public function on behalf of a public authority within the scope of their proposed data sharing powers. Public services are often outsourced and this complex delivery chain needs to be taken into account into the design of new powers. Safeguards have been included in the proposed legislation where appropriate to ensure that data can only be used by such a body for the specific purposes for which data is disclosed under the power. Furthermore, only data held by the body relating to the service they are contracted to

provide for a public authority can be disclosed under the data powers. A penalty for unlawful disclosure will apply for any breaches.

#### *Territorial extent*

30. Some of the proposals to introduce new powers to share data impacts on matters that are devolved to the governments of Scotland and Wales and the Northern Ireland Executive. Under the current devolution settlements, some of the proposed new powers to share data are devolved matters for the governments of Scotland and Wales and the Northern Ireland Executive. Discussions have taken place with officials in the devolved administrations about the proposals and how they might allow for UK-wide coverage should their Ministers and legislatures wish to adopt this legislation<sup>1</sup>.
31. There are clear benefits to citizens and the devolved territories if powers to share information are extended across the UK. It is essential that the research and statistics proposals help researchers, statisticians and public authorities better understand the social and economic landscape of the whole UK as well as enabling ONS as the UK's national statistics institute to meet European Union requirements to produce aggregate statistics for the UK as a whole. Discussions with officials in the devolved administrations are on-going about how the needs of all territories can be best met by legislation.
32. Fraud and debt matters often cross territorial borders and require better multi-agency cooperation to address them.

#### *Definitions*

33. Discussions around issues relating to data are complicated by the use of different terminology and variations in how the terms are interpreted. For the purpose of this document the key terms and their definitions are as follows:
  - Data - Information which is collected, considered and used to help decision-making.
  - Identified (or personal) data - information which relates to and identifies a particular person (including a body corporate such as a company or institution that is considered to have its own legal rights or responsibilities).
  - De-identified data - data that does not directly identify a living individual, and so does not amount to "personal data" under the first limb of "personal data" under the Data Protection Act. This data could nonetheless potentially amount to personal data under the second limb of the definition if the individual to which it relates could be identified from the combination of that data with other data held or likely to be held by the data controller.
  - Anonymisation - a process of rendering data into a form that does not identify individuals and where identification is not likely to take place.

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<sup>1</sup> Proposals relating to civil registration relate to England and Wales only.

## THE DETAILED PROPOSALS

### A - *Improving public services*

#### i) Improving public service delivery

34. Public service delivery is dependent on timely and accurate data to ensure that citizens receive the services they need in a timely manner. Public authorities are reliant on the existence of appropriate legal gateways to access data held elsewhere in the public sector for the purposes of improving service delivery to citizens. The current legal landscape of data sharing for public service delivery is complex and inconsistent across public services and organisations. This hinders the ability of public authorities to offer citizens timely and appropriate interventions and to respond quickly to a changing social and policy environment.
35. The proposed legislation will create a single gateway to enable public authorities to share personal data for tightly constrained reasons agreed by Parliament, so long as its purpose is to improve the welfare of the individual in question. It will ensure that public authorities have accurate data for the purposes of delivering timely and effective interventions to citizens and make the best use of taxpayers' money.
36. The proposed power is intended for use in situations where:
  - a. The objective could not be met without data sharing;
  - b. It is not realistic and practicable to use consent to achieve the intended outcome or use of consent would not meet the criteria of free and informed decision making; and
  - c. Sharing and analysis of de-identified data would not achieve the intended outcome.

#### Troubled Families Programme

The Troubled Families Programme is a catalyst for local services to change the way they support families with multiple and complex problems. The original programme (2012-2015) helped over 116,000 families and the programme has now been expanded with the aim of supporting up to a further 400,000 families with multiple, high-cost problems by 2020. To be eligible, each family must have at least two of the following six 'headline' problems:

- Parents or children involved in crime or anti-social behaviour;
- Children who have not been attending school regularly;
- Children who need help (those in need or subject to a Child Protection Plan);
- Adults out of work or at risk of financial exclusion or young people at risk of worklessness;
- Families affected by domestic violence and abuse; and
- Parents or children with a range of health problems.

Before the Troubled Families Programme, supporting families with such multiple problems was expensive, and often ineffective. Many different services would intervene again and again, largely independent of each other – and lasting change was seldom achieved.

The programme encourages a new way of working: it incentivises services to come together, working with and understanding the needs of the *whole family* instead of constantly reacting to their individual problems – and to co-ordinate support accordingly. To do this effective data sharing between local public services is essential, however local authorities, who lead the local programmes, consistently report that poor data sharing remains a significant risk to the successful delivery of the programme.

Effective data sharing processes (supported by a clear legal gateway) would support the delivery of the Troubled Families Programme and beyond as public services are increasingly required to work together to support individuals and families with multiple problems.

37. The proposed gateway is permissive, which means that the specified public authorities able to use the power can decide whether they wish to disclose data or not. This provides the specified public authorities the discretion to make their own assessment of proposed data sharing arrangements, and factors such as resourcing to enable the data share.
38. The proposed legislation stipulates that identified data received by a specified public authority can only be used for the purpose it was disclosed to them. It is proposed that there are very limited circumstances when information can be used wider than the original purpose, which include if the information has already lawfully been made available to the public, or if the data subject has consented to its use for other purposes, or protecting national security.

*Purposes for which information may be disclosed*

39. The proposed power is designed to support the public sector's ability to respond quickly to emerging social and economic needs. The power includes the ability for the relevant Minister to modify or add objectives for which information may be disclosed under the power. Criteria that any new objectives must meet will be set out in primary legislation. The purpose of the objective must be to improve outcomes for citizens and result in an offer of a service. Furthermore, it cannot be used for punitive purposes, or where the benefit is to the wider community rather than individual citizens. This reflects the policy agreed in the open policy process. It is captured in the proposed legislation by a number of criteria to ensure that the spirit of the policy is fully retained and to prevent unintentional misuse. The objective must have as its purpose:
  - (a) the improvement or targeting of a public service provided to individuals of a particular description, or
  - (b) the facilitation of the provision of a benefit (whether or not financial) to individuals of a particular description, and
  - (c) the improvement of the well-being of individuals.

Further detail is provided on what is meant by well-being of individuals, which might be, for example, physical, emotional or social well-being.

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

40. Two initial objectives are set out in the proposed legislation. These objectives have been identified through extensive discussions between public authorities as issues where current legislation is restrictive and where further legislation permitting the sharing of data may positively impact on the well-being of citizens. They reflect immediate government priorities and serve to demonstrate the extent and breadth of benefits that this power will deliver. They cover:

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

*Who the power applies to*

41. Critical to the effectiveness of the proposed legislation is ensuring that the ‘right’ bodies are able to use it. The proposed legislation includes a Schedule which details which public authorities can use the power (the definition of public authority is discussed below). The Schedule is amendable through secondary legislation, with the relevant Minister able to remove a public authority from the Schedule if they have participated in data arrangements without regard to the Code. As an additional safeguard the proposed legislation includes the requirement for the relevant Minister to consult the Information Commissioner and other appropriate persons before making such secondary legislation and any such secondary legislation will require approval by both Houses of Parliament.
42. The definition of public authority determines the criteria for which bodies can be added to the Schedule. It is intended to be broad enough to encompass all relevant public authorities. To achieve this the legislation defines a public authority as ‘a person who exercises functions of a public nature’.

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

43. During the open policy-making discussions, representatives from civil society groups expressed the view that the scope of powers should exclude the sharing of information with non-public sector bodies that fulfil a public service on behalf of a public authority. A number of public authorities involved in the discussions felt that this restriction failed to recognise that significant parts of public services are delivered by non-public sector bodies (such as private companies and civil society organisations) and as a result the effectiveness of the power to help improve the lives of citizens would be limited. Furthermore, increasing the scope of the power to cover non-public sector bodies will ensure the application of consistent conditions and safeguards for accessing information and align the public service delivery proposals to those proposed to tackle fraud and debt.

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

*Code of practice - principles specific to this proposal*

44. It is proposed that the Code for the public service delivery power will specifically include the following sections:

- a. Principles for use of the power. This would include details on when the power is intended to be used;
- b. Guidance for successful implementation. This would include details such as what a business case for data sharing under the power should cover and best practice examples; and
- c. Additional safeguards. This would include details of additional safeguards, such as the requirement to publish Privacy Impact Assessments. These supplement the safeguards which have been built into the power itself (such as the permissive nature of the power) as well as those in existing legislation, such as the DPA.

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

ii) Providing assistance to citizens living in fuel poverty

- 45. A key strand of Government assistance for fuel poverty involves a rebate that is applied by energy supply companies to their customers' energy bills. This is currently administered under the Warm Home Discount scheme (WHD), which sees around two million GB households receive a £140 rebate each winter.
- 46. The best way to guarantee that this assistance reaches those who need it is to provide it *automatically*. Relying on citizens to step forward and apply always results in some people missing-out, and too often these are the most vulnerable in society.
- 47. Automatic rebates can only happen if the state can inform energy companies (through a data match) which of their customers should receive it. Well over a million pensioner households currently received WHD rebates in this way, because a specific data sharing gateway has been created in primary legislation<sup>2</sup> to enable it to happen.
- 48. The Government proposes to introduce a new measure that would allow a wider group of citizens to benefit from automatic energy bill rebates for the first time. In particular, low-income citizens of working age and families with children. In addition, this measure would unlock the ability to prioritise assistance for citizens living in the coldest homes.

**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 or for any other reason?**

- 49. The data sets could include HMRC tax credit data and basic property characteristics data held by the Valuation Office Agency and DECC, and data relating to homes off the gas grid. The proposed public service delivery power would allow these data sets to be matched together within Government to identify the priority customers, as it fits within the objectives and will result in citizens being offered a service which aims to improve their wellbeing. This additional measure would then allow the final step, whereby the state informs the licensed energy suppliers (or other organisations responsible for delivering fuel poverty assistance) which of their customers should receive assistance.

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<sup>2</sup> Warm Home Discount Core Group data sharing powers are in s.142 and s.144(2) and (4) of the [Pensions Act 2008](#).

## **Assisting citizens living in fuel poverty**

Fuel poverty is a situation faced by 2.3 million households in England alone. In essence, the most severe cases of fuel poverty result from a combination of two factors: having a low income and living in a home that has higher-than-typical energy costs.

The impact of living in cold homes can be profound. It has long been understood that certain people, such as the very young, the very old and people with long-term disabilities or illnesses, are particularly at risk from cold homes. It is an issue the Government is committed to addressing. Amber Rudd, Secretary of State for Energy and Climate Change, stated, *"I am determined to help keep homes warmer for less, save carbon and meet our important fuel poverty targets. We need a long-term, coherent and affordable policy framework that ensures that Government support is targeted at those who need it most."*

The Spending Review announced the continuation of support for a range of actions to address fuel poverty. This includes assistance for improving the energy efficiency of the home (e.g. with better insulation or more efficient heating systems); and direct energy bill support in the form of a rebate. These policies represent around £1bn of investment per year which, although substantial, is still a finite resource that needs to be targeted as effectively as possible on those who need it most.

Government datasets exist that could significantly improve the way fuel poverty assistance is targeted. For example, information held by HMRC and the Department of Work and Pensions can enable many those on the lowest incomes to be identified automatically. DECC and the Valuation Office Agency (VOA) also hold information about the basic physical characteristics of domestic properties, which can enable the coldest homes to be identified without the need for expensive and intrusive on-site surveys.

The data measure to tailor public services, together with the proposal for fuel poverty data sharing would allow these datasets to be matched together and pave the way for highly accurate targeting of those in fuel poverty, so that those citizens can be prioritised for assistance.

50. It is also important to recognise that this is not a new process. WHD rebates have been provided to pensioner households in this way since 2011. Not only has it helped to ensure that those entitled to support receive it, it has also helped to slash the administrative costs by an order of magnitude - evidence suggests automatic payments cost under £1 per customer to deliver, compared to costs of up to £30 per customer for the non-automated method.
51. The current data matching process has worked well and fuel poverty stakeholders have called for the approach to be adopted more widely. However, it will nonetheless be important to ensure safeguards are in place, including ensuring information about customer eligibility is not misused.
52. The overarching safeguard would be a legal restriction on how recipients (e.g. suppliers) are permitted to use the information. The proposal would be to forbid the energy companies from using the information for any purpose other than the provision of assistance to citizens living in fuel poverty. Confidentiality restrictions will be placed on the information with criminal sanctions if breached.

- 53. A further, powerful disincentive would be to withhold the information from them in future. This would increase their costs of delivering the fuel poverty assistance schemes relative to their competitors. Enforcement action may also be possible under the Data Protection Act if the information is misused. Energy suppliers are also subject to regulation by Ofgem, which has a wide range of enforcement powers.
- 54. Risks can also be minimised through the design of the data matching process itself. For example, it is important to note that *none of the datasets involved would be shared outside the public sector*. The only information shared between energy suppliers and Government would be a simple “eligibility flag” along with customers’ names and addresses (or equivalent unique identifiers). The current Warm Home Discount data match also involves preliminary steps that narrow down the pool of customers involved before any identifying data is exchanged.
- 55. In addition to the WHD scheme, Government also obligates energy companies to promote energy efficiency measures<sup>3</sup> to the same fuel poor households. In principle, the above safeguards could be used to forbid the companies from using WHD eligibility to also promote the assistance they provide for energy efficiency. However, on the basis that energy efficiency assistance is also of considerable benefit to those citizens, there would seem to be a clear rationale for allowing suppliers to use the eligibility information for both schemes. This could lead to a greater proportion of this £640m/year scheme reaching those who need it most.

**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?**

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

iii) Increasing access to civil registration information to improve public service delivery

- 56. Improving public sector access to civil registration information (such as birth, marriage, civil partnership and death information) on a more consistent and transparent basis across government will enable more convenient and secure citizen access to government services. The current legislative position has developed piecemeal over many years and as a result is not clear, consistent or efficient for government or citizens. Introducing new legislation would pave the way for removing the current reliance on paper certificates (e.g. birth certificates) for citizens to access different government services. This has the potential to reduce the risk of fraud opportunities associated with forged or altered certificates being used to fraudulently access a public service. It also has the potential to streamline and speed up processes for citizens and government.
- 57. Civil registration is the system by which government records all births, stillbirths, adoptions, deaths, marriages and civil partnerships. The Registrar General for England and Wales is responsible for delivery of the system, which is administered through the General Register Office working with 174 local authorities in England and Wales. These local authorities provide the frontline registration service to the public.

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<sup>3</sup> Information about the Energy Company Obligation: [www.ofgem.gov.uk/environmental-programmes/energy-company-obligation-eco](http://www.ofgem.gov.uk/environmental-programmes/energy-company-obligation-eco)

58. The Acts of Parliament governing civil registration are out-dated; primarily the Births and Deaths registration Act 1953, the Registration Service Act 1953, and the Marriage Act 1949. There are some specific statutory gateways in other legislation (e.g. the Immigration Act 2014), which allow for certain civil registration information to be accessed for defined purposes. Where no such statutory gateway exists, information cannot be shared, even when it would support fulfilling public functions. As a result, the overall regime is not flexible, transparent, consistent or efficient for government and citizens.
59. The proposed legislation would allow for civil registration information to be shared on a discretionary basis within the public sector to assist public authorities to fulfil their functions. Fees in respect of the disclosure of the information would be set out in regulations and it is intended that these be set on a cost recovery basis. Safeguards would be in place to ensure that access to information would only be permitted with specified public authorities, the list of which could be modified by adding or removing public authorities by regulations. Restrictions on sharing various categories of civil registration information (relating to adoptions, for example) would also continue to apply. In addition, a statutory Code of Practice would be prepared in consultation with the Information Commissioner to set out how information can be shared.
60. These proposals would not change how civil registration information is currently obtained or held. The intention would be to have provisions in place that would allow consideration to be given to transparent sharing of information where it would assist specified public authorities (government departments and local authorities, for example), with their public functions. The proposed legislation would support the delivery of a number of benefits, including:
- a. providing greater choice to citizens over how they access government services. Electronic sharing of civil registration information would reduce the demands placed on citizens to provide hard copy certificates.
  - b. the ability to introduce public sector reforms at greater speed because controlled information sharing powers would already be in place, removing the need to introduce legislation for individual data sharing arrangements.
  - c. supporting the wider Government agenda of digital by design - as registration data, in particular digital birth data, is increasingly recognised as an enabler to designing digital services, because digital records can remove a requirement to obtain hard copy certificates.
  - d. improving the accuracy of government data sets to prevent potential distressing communications being sent to the families of recently deceased relations.
  - e. protecting the public against identity theft by sharing information electronically to reduce the risk of fraud in relation to forged or altered certificates, or someone producing a document which is not their own; and
  - f. increasing efficiencies across Government, both central and local by providing other parts of government with secure and controlled access to digital civil registration data. This would support efficiency objectives contained in the civil service reform plans, and wider public sector modernisation agendas. Provision of electronic data to support the delivery of

digital public services could therefore contribute to realising the Government's Digital Strategy savings that are estimated to be in the region of £1.7 to £1.8 billion a year.

61. During open policy-making discussions, concerns were raised that the proposed new powers would create a citizen database. Since the introduction of civil registration in England and Wales in 1837, records of births, marriages, deaths and other events have been held separately with no linkages. There is no intention to change this or create a citizen database and furthermore it would not be feasible in practice. Systems of civil registration in Scotland and Northern Ireland (and outside the United Kingdom) are separate and different - this means that births, marriages and deaths taking place outside England and Wales are not registered in England and Wales so in many instances there is not a complete set of registered life events that could be linked. Civil registration data is also held in a number of different formats (with only about half the records digitised). The proposals for sharing information electronically only relate to where information can be supplied in electronic format.
62. The proposed new permissive power would allow for the access to civil registration information by civil registration officials and specified public authorities. The proposed legislation would set out that civil registration officials may only disclose information if it is satisfied that the information is required to fulfil one or more public functions.
63. In some circumstances information would only be shared with the consent of the individual. For example, where a public authority wishes to conduct a check against an individual birth record instead of requiring the individual to submit a birth certificate, consent might be required. However, in other circumstances (particularly the sharing of bulk data) it would not be practicable to obtain the consent of each individual.

#### **Example of how information could be shared on a case-by-case basis**

A couple have recently had a new baby daughter. Following registering the birth of their daughter they applied for Child Benefit. They were really pleased to find out that they no longer had to send their child's birth certificate to HMRC as a new digital service would match their daughter's birth records against birth information held by the General Register Office. The whole experience was far better than their previous experience of claiming Child Benefit when they had to purchase a new birth certificate to send to HMRC in the post to replace a lost certificate. As a result they had to wait a number of weeks before receiving their entitlement letter and birth certificate. This time the process of claiming Child Benefit was straightforward, secure and hassle free.

**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?**

**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 families of a deceased person)?**

64. The proposed legislation provides a definition of civil registration officials and includes a list of public authorities able to receive information under this power. Public authorities specified in this list include government departments, local authorities in

England and Wales. The proposed legislation provides the delegated power for the relevant Minister to modify the definition of specified public authorities by secondary legislation.

*Protective measures specific to this proposal*

65. Proposed protective measures to ensure access to registration data is controlled, proportionate and fully considered include:
  - adherence to the current UK legal framework including the Data Protection Act and the Human Rights Act; and
  - adherence to a statutory Code of Practice that would require:
    - completion of Privacy Impact Assessments, Data Sharing Agreements and Memoranda of Understanding with each party concerned;
    - deletion of bulk data that has been supplied for any specified purposes once the data has been used for that purpose. This would be a mandatory requirement in accordance with the terms of the Memorandum of Understanding; and
    - prevention of sharing sensitive records in accordance with current information sharing policies (e.g. sharing information that could link adoption records with original birth records).
66. The Registrar General for England and Wales would prepare the statutory Code of Practice in consultation with Information Commissioner. Civil registration officials would be required to have regard to the Code when disclosing information. Before issuing or revising the Code, a copy would be laid before Parliament.

## **B. Tackling fraud and debt**

### i) Combating fraud against the public sector

67. Tens of billions of taxpayer's pounds are lost through fraud against the public sector every year. It is difficult to give an exact figure as there are unquantifiable considerations such as the activity of the shadow economy, but estimates vary from approximately £20bn to £67bn. This represents a significant loss both in terms of taxpayer's money and potential business revenue and more needs to be done to address the problem.
68. At present there are numerous express gateways which allow specific public authorities to share types of data for the purposes of combating different types of fraud, including fraud against government. However, departments have designed them to be specific to ensure a smooth passage through parliament and as a result they lack the flexibility to adapt to changing circumstances. Establishing new powers can lead to lengthy delays and frustrate the ability to respond to emerging fraudulent practices or trial new multi-agency approaches to established problems.

#### **Mortgage Fraud**

Land Registry's fraud investigation team became aware of the activities of a criminal gang in Bedford. The gang's methodology was to install someone into a rental property as a tenant, find out the owner's name and submit documentation from the tenant requesting a change of name on formal government documentation, e.g. driving licence, passport, then using this validly issued document as ID for which they would obtain a loan or mortgage on the tenanted property or seek to sell it.

As the lack of data sharing powers restricted the ability of groups to share data to proactively prevent fraud from happening, the Land Registry had to wait until there was a suspicion of fraud and then rely upon police powers to pursue the case. Had there been legislation in place to provide for data sharing across government organisations, actions could have been taken earlier to reduce the risk to the public and protect government documents from being abused.

#### **Tenancy fraud**

Statutory gateways currently enable the Department for Work and Pensions to share data with Local Authorities for the purposes of Housing Benefit administration. Local Authorities currently use this data for (amongst other things) investigating Housing Benefit fraud.

There are, however, no statutory gateways enabling DWP to share data with Local Authorities for the purpose of investigating or pursuing Tenancy fraud. Data held by DWP would be very valuable for this purpose.

69. The proposed new power will enable better sharing of information to combat fraud against government. It is anticipated that wider use of data sharing could improve the prevention, detection and investigation of fraud by:

- a. aiding better targeting and threat-profiling of potentially fraudulent individuals
  - b. saving taxpayers' money by streamlining processes; and
  - c. increasing the ability for Government to act more quickly on fraud and simplifying the legislative landscape.
70. The proposed new power will give public authorities faster access to data to pilot and test ways of preventing and combating fraud against the public sector. The proposed legislation defines the purpose of the power and takes the definition of fraud from the Fraud Act 2006. In the proposed legislation taking action in connection with Fraud is defined as preventing, detecting, investigating, prosecuting, bringing civil proceedings and taking administrative action.
71. Only specified public authorities listed in a Schedule would be able to disclose data under this proposed power. The proposed legislation sets out the definition of public authority. Public services are increasingly delivered by third parties and as a result these third parties either hold key information that needs to be shared with other public authorities or need to access and match key information held by public authorities to combat fraud. Recognising this complex delivery chain, the definition has been drafted to cover these private bodies that provide services to a public authority. As a safeguard the proposed legislation limits that these types of bodies can only use the data for the function that it exercises for a public authority.
72. A definition of personal information for the purpose of the power is included in the legislation. To ensure that the disclosure of data under this power is consistent with the Data Protection Act 1998, it is proposed that the legislation explicitly states that data cannot be disclosed under the new power if it contravenes the DPA or Part 1 of the Regulation of Investigatory Powers Act 2000.

*Code of Practice - principles specific to this proposal*

73. Organisations will need to make a business case for any data access arrangement established under these proposed powers. A business case will need to be issued from the organisations involved in the proposed data access arrangement to the relevant Minister. Information that will need to be set out in the business case include the proposed data sharing methodology, costs and benefits, alternative options considered, and any research-based work that demonstrates the concept.
74. It is proposed that the Code will set out the governance that will need to be in place to ensure that each data-sharing project is commenced, assessed and continued or closed as appropriate. At an operational level, this would include the usual data governance structures of Departmental Information Asset Owners and Senior Information Responsible Owners and at a Ministerial level agreement on key decisions. However, at a strategic level, a group would be established that could steer the overall direction of travel of data disclosures under the new powers, take a view on proposed data sharing projects, assess the value of the projects and make recommendations to stop or to carry on and scale up projects at appropriate junctures.
75. It is proposed that the Strategic Steering Group would include representatives from Government, interested Civil Society Organisations and independent observers. The group would meet at key points prior to and during data sharing projects during their pilot phase in order to look at the evidence collected (from business cases, measurements and feedback) and make recommendations. It is proposed that

Ministers should have regard to the advice from this group when making decisions on data sharing arrangements under the power.

76. It is proposed that the Code will set out criteria according to which the relevant Minister would assess the success of data projects enabled by the powers and determine whether it should proceed or be terminated. The Code will also set out that proposals for data access under this power must set out a minimum length of time for data disclosures to run before the project can be evaluated (further work will be carried out to understand any unintended consequences of including a specific length of time).
77. Data disclosures under this power will be run according to a three stage process, moving from validation to light analytics, to detailed analytics. At each stage the number of people under consideration would be reduced. Organisations participating in data access arrangements under the new powers would run the following process:
  - A. Stage 1 ‘Validation’ – An individual wishes to transact with Government, or a public authority wishes to batch process its data to check for potential fraud indicators. At this stage the specified organisation would be able to check the information that they have been provided against information held by any other specified organisation in order to check its validity ('validation'). They would receive a binary ‘yes/no’ response as to whether the information provided agrees with the information held by other participating organisations. Those that do agree do not require any further intervention. Those that are not validated in this way move to Stage 2;
  - B. Stage 2 ‘Light Analytics’ – Results that have not been able to be validated against other organisations’ information would give details about exactly what information has not been able to be validated, revealing the information held about that field by participating organisations to the organisation carrying out the transaction. This information would be restricted to only the field where information has not matched. At this stage, the pilot organisation in collaboration with the individual whose data this relates to may be able to weed out information that is erroneous. Where this can’t be done the transaction would move to Stage 3<sup>4</sup>; and
  - C. Stage 3 ‘Detailed Analytics’ – Greater information about the individual is made available to the organisation (from other participating organisations). This would allow the organisation to build a picture that aids the investigation (such a process does not replace actual investigation of cases) of whether there is an issue of deliberate intent that may require further investigation (potential fraud), or whether this is a genuine error. The organisation would then be able to gather information that would aid investigation into potential fraud, which would allow a case to be built or help to eliminate the suspicion of fraud. Once a suspicion of fraud exists then existing pathways are open to the organisation.

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<sup>4</sup> It may be practical and desirable to run stages 1 and 2 simultaneously, so that where there isn’t a match the return discloses the stage 2 information automatically. This certainly makes sense for both individual ‘real-time’ transactions and batch processing of information. This will depend on the technical capabilities of the organisations involved. However, these have been kept separate as they are theoretically different points in the process and in some instances the technical capabilities involved will mean that it is not possible to do this without delay between the two stages.

78. To evaluate the success of pilots, feedback to be captured as part of the process will include:
- A. Measures: At each stage output and outcome measures need to be taken that clearly determine where a case has resulted in either 'no further action' or progression to the next stage. At both stages 2 and 3 it would be important to note the reason why no further action has been taken (for example, 'error within the data identified/corrected') which would allow those assessing the pilots to understand the effectiveness of the intervention.<sup>5</sup>
  - B. Feedback: At the start of the process (Stage 1), particularly where the pilot is seeking to perform checking at point of transaction, feedback would be sought from the citizen, explaining to them what is happening, and seeking their views on how they view the intervention (did they think that this would have happened anyway, if not how comfortable are they with the process etc.).<sup>6</sup> Whilst consistency of approach would be important, data from this may be context-specific so it would be important for expert input in how best to collect this information so that it could be collected sensitively and objectively. Sometimes it may be the case that transactions do not go ahead as a result of feedback being sought, where this is the case this would need to be recorded and analysed as part of the overall assessment of the pilots.
79. It is proposed that the Code will ensure that the principle of transparency underpins the whole process by setting out that:
- a. all participating organisations must submit themselves to audit by the Information Commissioner;
  - b. all participating organisations must publish Privacy Impact Assessments in relation to their data disclosures once the power is commenced;
  - c. all participating organisations must periodically publish the measurement data coming from the data sharing arrangements; and
  - d. all recommendations of the Strategic Steering Group being published and made available online.

**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?**

*Power to amend who can use the power*

80. The proposed legislation will provide the relevant Minister with the power to add or remove a public authority (or private body fulfilling a public function to a public authority) from the list of bodies able to use the powers. The Minister would be able to do this through secondary legislation, which will require approval by both Houses of

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<sup>5</sup> Although in the majority of cases, 'error' will need further investigation to fully establish and rectify, there are likely to be a number of data errors that will be picked up through this process and the impact of this will need to be measured.

<sup>6</sup> Tipping off individuals who are seeking to commit fraud prior to interview under caution would need to be minimised as far as possible, hence front-loading this process at the least intrusive stage. Such feedback gathering would have to be done in as sensitive a way as possible in order to mitigate this risk, but may have to accept that this would be an 'ideal' in some situations.

Parliament. It is proposed that the legislation will set out that Minister must consider whether any new body to be added to the list has appropriate systems and procedures in place to handle data securely, and when removing a body factor whether they have adhered to the Code of Practice.

#### *Review of the power*

81. It is proposed that the power be reviewed three years after it comes into force, with a decision then taken whether to amend or repeal the power. Criteria for reviewing the power would be published by the relevant Minister. It is proposed that the review itself would be carried out in consultation with the Information Commissioner's Office and other appropriate persons and the results published and laid before Parliament.

**Question eleven: 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?**

82. The view taken during the open policy-making discussions was that the legislation should be sunset after an agreed period. In developing the proposals further it was felt that carrying out a review and then providing the relevant Minister the power to repeal the legislation avoids the need to reintroduce the powers in primary legislation if the powers proved to be effective in combating fraud against the public sector. Finding an appropriate legislative vehicle to re-introduce the powers could be difficult and could result in significant delays. The approach taken in the proposed legislation is consistent with the spirit of what was agreed during the open policy-making process.

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

83. Debt owed to the public sector is due by individuals and businesses, and comes from a wide range of sources including overdue tax liabilities, outstanding fines, benefit or tax credit overpayments, and court confiscation orders but is not limited to these areas. Billions of pounds of debt is owed to the Government.
84. Public authorities already have the ability to share debt data. Around 86 legal gateways to share debt data have grown organically across the public sector over a number of years. However, these gateways are restrictive, often misinterpreted, and are complex and time consuming to use<sup>7</sup>.

#### **Assessment of eligibility for a fee remission**

The Ministry of Justice (MoJ) have a requirement to assess whether users are eligible for help with their court or tribunal fee – known as a fee remission.

Each year, there are around 200,000 fee remission applications, with around 75% of those given to individuals in receipt of a Department for Work and Pensions (DWP) qualifying benefit. Previously, these individuals have had to provide hard copy evidence that they are in receipt of a qualifying benefit from DWP or their application

<sup>7</sup> Department for Work and Pensions report, *Legal Powers - Data Sharing Survey Results*, February 2012

would be rejected. This cost both the public and the courts and tribunals time and money.

The Courts and Crime Act 2013 contains a power to enable DWP and HM Courts & Tribunals Service (HMCTS) to share data within the benefit and tax systems for the purposes of processing fee remissions. This has allowed HMCTS to develop a new digital system which now allows a digital check to be completed directly with DWP systems to confirm a user's benefit status. This is quicker, has cleared outstanding applications and has reduced the number of applications rejected because hard copy evidence was not provided. HMCTS expect this improved service to achieve administrative savings of around £1m a year.

85. Currently, only HMRC and DWP have reciprocal debt data sharing gateways in place through the Welfare Reform Act. The public sector does not have an equal holistic view of debtors, or the money they owe. If these barriers were removed to enable faster and more effective debt data sharing, this could enable:
- a. bespoke advice and support to multiple debtors;
  - b. a single tailored fair and affordable repayment plan for multiple debtors; and
  - c. greater efficiency, effectiveness and consistency in public authority debt operations.

#### **Accessing data to confirm those not eligible to make student loan repayments**

Student Loans Company (SLC) has approximately 300,000 debtors at any one time that have been traced by HMRC as 'not in employment status'. Improving access to data between the SLC and DWP would allow SLC to confirm customers who are claiming non-taxable benefits, and who are subsequently not eligible to make repayments to SLC. A positive match which confirms a customer is in receipt of non-taxable benefits alongside the 'not in employment status from HMRC' would lead SLC to conclude that the customer is in the UK and not in employment, and therefore not eligible for repayment. It is assumed that if these customers commence employment, HMRC will identify this and inform SLC. Permitting access to data would support greater efficiency as SLC would be able to focus on tracing customers who have not been traced by DWP.

SLC and DWP carried out a data pilot in June 2014<sup>8</sup>. The pilot involved SLC sending information on 104,317 customers to DWP for matching. DWP were able to find a record of 104,092 (99.8%) customers in their systems, and confirm that 26,204 (25%) of customers were in receipt of non-taxable benefits. Work is now ongoing to consider how the matching of data can be introduced as a regular monthly check for new customers, and to recheck customers who remain in the 'not in employment status' for 12 months.

There is currently no legal gateway that will allow DWP to routinely provide SLC with DWP personal data, and new legislation would be required to remove the legal

<sup>8</sup> The pilot used existing provisions for data sharing where in the event that customers fail on their statutory duty to inform SLC of changes to personal circumstances, and where customers are in breach of loan obligations by not responding to requests for information from SLC, SLC can share customer data with external third parties to assist with recovery.

barriers to realise these benefits and enable SLC to extend the pilot as a regular check and extend the scope to include checks against wider sets of data.

86. The proposed legislation would enable specified public authorities (and private bodies who fulfil a public function on behalf of a public authority) to share identified debt data to:
  - a. identify those individuals or businesses with multiple debts to government, so we can provide greater support to those who have difficulties repaying;
  - b. avoid multiple contacts from government with individuals and businesses in relation to outstanding debts; and
  - c. ensure more efficient and effective cross Government debt recovery and management.

Only debts that are legally collectable and enforceable (i.e. all appeals processes and disputes have been concluded) would be in scope of the proposed power.

87. As the Government has regulatory requirements to treat people and businesses fairly, the proposed legislation is not intended to create any further detriment to a multiple debtor. Citizens with multiple debts may be vulnerable individuals who struggle to make repayments. Furthermore, their well-being may be adversely impacted by contact by different public authorities to which they owe a debt. Improving the way the public sector manages debt can help support a single debtor view which could result in a coordinated government approach to recovering debt, which supports better wellbeing.
88. The National Audit Office recommended in its 2014 report ‘Managing Debt Owed to Central Government’ that the Government should look to introduce a “single debtor view” to assist with better debt management. The “single debtor view” is the idea that debts owed to public authorities are treated as being owed to a single body. For example, a person who owes £100 to their local authority and £100 to HM Court and Tribunals Service should be treated as owing £200 to the Government. The debt should be collected as one debt, rather than multiple public authorities chasing up multiple debts from one individual.
89. These powers will support steps to create a single debtor view to help government differentiate between those debtors who cannot pay, and those who simply will not pay. Establishing a single debtor view will support work to establish single repayment plans. A debtor who cannot pay because of hardship or other barriers, can be given the appropriate support and advice, and could avoid building up further debt. A debtor who can pay would have a more manageable repayment plan which includes the whole debt. For debtors who have the means to pay their debt, but choose not to pay, government can accurately assess and use risk-based interventions to recover the debt.
90. The proposed legislation will create a similar power in approach to the one proposed to combat fraud against the public sector. The purpose of the proposed power is defined as taking action<sup>9</sup> in connection with debt owed to a specified public authority. Debt is

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<sup>9</sup> The proposed legislation defines ‘taking action’ as identifying debt, collecting debt, bringing civil proceedings and taking administrative action against such debts owed to the specified public authorities. These actions are constrained to the disclosure of information relating to people or organisations that have already been confirmed to owe a debt to a public authority listed in the schedule.

defined as a sum of money owed to a specified person or the Crown, all or part of which remains unpaid on or after the date when payment was required. This effectively constrains the power to the purpose of recovering overdue debt. The definition aligns to the recent work carried by government to define overdue debt, and includes debt being recovered through a payment plan. The proposed power will not allow public authorities to share data on individuals who do not owe debts as defined to public authorities, but provide the opportunity for public authorities to identify if the debtor has multiple or overlapping debts with public authorities.

91. As a permissive power, specified public authorities able to use the powers, will have the discretion to participate in a data pilot. The policy has been developed recognising the increasingly complex public service delivery chain. The scope of the power covers private bodies that provide services to a public authority. The proposed legislation limits that these types of bodies can only use the data for the service it provides to the public authority and in relation to taking action in connection with debt owed to it. The scope of the power is consistent with the proposal for combating fraud.

*Code of practice - principles specific to this proposal*

92. The Code will set out the process for how each data sharing arrangements will be proposed and piloted under the power. The process will not be specified in primary legislation, but all specified bodies must abide by the Code if they are to disclose or receive data under the powers. All proposed data sharing arrangements under this proposed power must be set out in a Business Case, which will need to be approved by the relevant Minister. Business Cases must specifically set out means for capturing insights throughout the process to understand issues causing and relating to multiple debts to government and public perceptions on the better use of data to recover debt. Furthermore, data sharing arrangements must as part of their objective look to identify ways to offer support to those debtors who have difficulties repaying multiple debts to government.

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

**Question thirteen: How can Government ensure that proposals for pilot data projects and the evaluation of projects under the debt power are effectively scrutinised against objectives?**

*Review of the power*

93. Alike the fraud power, It is proposed that the gateway be reviewed three years after it comes into force, with a decision then taken whether to amend or repeal the power. Criteria for reviewing the power would be published by the relevant Minister. It is proposed that the review itself would be carried in consultation with the Information Commissioner's Office and other appropriate persons and the results published and laid before Parliament.

**Question fourteen: 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?**

### **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?**

*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.
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?**

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?**

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

109. To meet the challenges of modern administration and society, policy development, delivery and evaluation must be based on good and timely numerical evidence based on the findings from research and statistics. Current legislative barriers around

accessing data for statistical purposes make these needs nearly impossible to meet. Arrangements in the UK also lag far behind international best practice, given that many major national statistical offices already have access to sources of administrative and other data for the purposes of their national statistical office producing official statistics and statistical research.

110. The UK Statistics Authority (Statistics Authority) was established under the Statistics and Registration Service Act (SRSA) 2007. It is the governing body of the Office of National Statistics (ONS) and sets out its powers. The ONS is the UK's largest independent producer of National and other official statistics and is the national statistical institute for the UK. The ONS is responsible for collecting and publishing statistics related to the economy, population and society at national, regional and local levels and conducts the Census in England and Wales every ten years. The SRSA sets out clearly that identified data can only use the data for the purpose of its functions and not for wider operational purposes. Furthermore, the Act provides statutory protections for identified data, including strict criminal penalties for unlawful disclosure.
111. The SRSA contains powers to allow certain identified data to be provided to ONS. The SRSA allows limited types of information relating to births and deaths and NHS registration in England and Wales to be supplied for restricted purposes<sup>10</sup>.
112. The SRSA currently allows HMRC to disclose any information it holds in "connection with any function of the Revenue and Customs" to the Statistics Authority. The Statistics Authority can use information disclosed by HMRC for all its functions<sup>11</sup> with the exception of providing statistical services. Furthermore, current powers narrowly limit the supply of personal information to information relating to the import or export of goods to or from the United Kingdom<sup>12</sup>. The legislation proposes to remove this restriction (specifically subsection 5) to broaden the scope of data that can be disclosed to the Statistics Authority by HMRC. As ONS provides research functions as well as statistical services, the legislation also proposes to remove the restriction on information being disclosed only for the purpose of its statistical functions.
113. Where no other data sharing gateway or power exists, or where the disclosure of information is expressly prohibited, the SRSA<sup>13</sup> allows the Minister for the Cabinet Office to make regulations, called Information Sharing Orders (ISOs), to authorise any public authority to disclose information to the Statistics Authority to enable the Statistics Authority to carry out one or more of its functions. These powers have a number of significant limitations, including:
  - a. ISOs may only remove a barrier contained in a rule of law or an Act passed before the SRSA, and therefore not one that came into being after 26 July 2007. As a result ONS is unable to use the Information Sharing Order mechanism to access information where the prohibition on disclosure came into force after that date. Therefore this gateway is increasingly unable to meet current and likely future needs.
  - b. The need to seek approval from Parliament before ONS accesses data makes it difficult to carry out the necessary feasibility work required to develop the case needed to secure Parliamentary approval.

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<sup>10</sup> Sections 42, 43 and 44 of the SRSA

<sup>11</sup> Section 22 of the SRSA

<sup>12</sup> Subsection (5) of the SRSA

<sup>13</sup> Section 47 of the SRSA

- c. Before an ISO can come into effect, it must be approved by Parliament through the affirmative resolution procedure. The Parliamentary procedures around affirmative resolutions has been found to add at least an additional six months to the overall time taken before data can eventually be shared with ONS and sometimes much longer (the time taken for ONS to secure access to the data extends to approximately 18 to 24 months).
- d. Under current legislation<sup>14</sup>, ISOs may not be used to give ONS access to information to provide statistical services<sup>15</sup>. This restriction is thought to have originated in a desire to ensure a level playing field in securing survey work. However, it also prevents ONS from acquiring information for the purposes of providing statistical services to public authorities.

#### **Improving the quality of migration and population statistics**

Data from administrative sources have contributed to a cross-departmental programme of work to improve the quality of statistical estimates of the population and migration. For example, information from the Department for Work and Pensions, the Department of Health and the Higher Education Statistics Agency have been used by ONS to develop new statistical methods to create much-needed local authority estimates of long and short-term international migration. These new data sources have also contributed to the development of new demographic models to underpin official migration and population estimates, and to improve the timeliness and quality of the statistical outputs in this area. Further access for ONS to other administrative sources can facilitate additional improvements to both national and sub-national population estimates and projections, and to the robustness of ONS's statistical estimates of long- and short-term migration, and for the decisions taken on the basis of these statistical estimates, including funding decisions and the allocation of resources.

#### *Disclosure of information to the Statistics Authority solely for its functions*

- 114. The process of making an information sharing order is a cumbersome, inflexible and slow process. It does not support the modern production of statistics. Proposed new legislation would replace information sharing orders with a power for public authorities to provide identified information to the Statistics Authority. Such a power would remove the burdens and delays created by the current information sharing order regime and facilitate ONS's access to data held by public authorities for the sole purpose of producing aggregate National and official statistics and statistical research. The reuse of administrative data held by public authorities has significant potential to reduce annual costs to ONS from running large-scale and mandatory business surveys and the decennial Census as well as potentially reducing the costs to businesses from being required to complete surveys to provide information which is already held elsewhere by government.
- 115. It is proposed that a new section 45A will be inserted into the SRSA. The proposed legislation sets out that this power is permissive. Public authorities may only exercise this power to disclose information to the Statistics Authority if they are satisfied that the information is required by the Statistics Authority to exercise their functions, which

<sup>14</sup> Section 47(2) of the SRSA

<sup>15</sup> Defined in section 22 of the SRSA

includes the key principle of producing and publishing official statistics that serve the public good.

116. It is also proposed under the new legislation that the Statistics Authority cannot use information provided under this power for their statistical services without the consent of the public authority which provided the information. Furthermore, the Statistics Authority cannot disclose the information to an approved researcher without the consent of the data provider.

*Power to compel disclosure*

117. Complete, accurate and timely statistics are critical to good government. Statistics and research help us to understand the nation and the modern economy and make the right policy, funding, operational and economic decisions. To safeguard against the possibility that not all public authorities will provide the information needed in the specified format and timetable, it is proposed that new powers are required to compel disclosure where the Statistics Authority considers to be appropriate. It is a power which the Statistics Authority intends to use only if it is satisfied there is insufficient good reason why information cannot be provided. It is proposed that a new section 45B be inserted into the SRSA to create this power.
118. The proposed new section 45B sets out that the Statistics Authority may issue a notice to a public authority requiring the disclosure of specified information in a specified format and period of time. The proposed power would apply to any public authority with the exception of Crown bodies.

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

119. To ensure the security of supply of key information which is used to produce National and other official statistics, it is proposed that a notice may require the public authority to consult the Statistics Authority if the public authority proposes to make changes to the relevant processes for collecting, organising, storing or retrieving information. It is proposed that this requirement will run for the period of time that the notice is effective. The purpose of this proposal is for the Statistics Authority to be given sufficient notice of a change which might compromise the quality, reliability and statistical integrity of official statistics outputs which rely on the information supplied. There is no intention to prevent a public authority subsequently making changes to their systems as they may require; the public authority however must consult the Statistics Authority sufficiently in advance so the Statistics Authority is aware of proposed changes and can discuss these with the provider of the data concerned.
120. It is proposed that the power's territorial extent will cover the devolved administrations in Scotland, Wales and Northern Ireland, in particular to enable the Statistics Authority to securely share information with the statistical offices in the devolved administrations solely for their statistical functions, to enable them to meet their statistical needs arising out of devolution and to produce their own devolved statistics. Discussions will continue with the relevant governments. It is also proposed that the Statistics Authority will have a duty to seek the agreement of the relevant ministers in the devolved administration when compelling information from a public authority with devolved functions.

121. To develop a complete picture of, and better understand the modern economy and society it is essential that official statistics and research draws on the wealth of data held by businesses and other bodies outside of the public sector. This is not a new requirement. The Statistics of Trade Act 1947 has provided certain government departments with the legal powers to obtain information for the ‘appreciation of economic trends and for the discharge of their functions’. The power is constrained to these purposes and does not provide the Statistics Authority with powers to gather information for its other statistical functions, such as those relating to the population census and the other official statistics it produces. Section 1 of the 1947 Act makes it lawful to serve a notice on any person carrying on an undertaking to require that person to supply estimates or returns “in such form and within such time as may be specified in the notice”. The power is currently used to survey businesses and other bodies and includes the ability to pursue criminal proceedings if an undertaking fails to provide an estimate or return as required. The proposal is that a new power be created to broaden the scope of data that can be requested and allow more modern methods of data collection which can move current processes away from outmoded, burdensome and expensive surveys. It is proposed that the power be introduced as a new section 45C into the SRSA.

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

- a. **the administration burden experienced and the costs incurred in completing the survey, and**
  - b. **ways in which the UK Statistics Authority should seek to use the new powers to further reduce the administrative burdens on businesses who provide data to ONS for the purposes of producing National and other official statistics.**
122. The legislation proposes that the Statistics Authority may issue a notice to an undertaking to disclose specified information in a specified format and period of time. Undertaking is defined as any person carrying on a trade or business or any charity. To bring not for profit organisations into scope of the power, the definition makes clear that the person or organisation need not carry out the trade or business with a view to profit. The proposed power will apply only to large and medium-sized enterprises, and will therefore not apply to small or micro businesses or sole traders. The Statistics Authority will only look to request data from undertakings that hold data which it assesses to be of value to the production of National and other official statistics and statistical research. The legislation will require the Statistics Authority to lay before Parliament a code of practice and a statement of the principles and procedures by which it will exercise its new powers including to ensure that notices are targeted to appropriate undertakings.
123. It is anticipated that once new flows of data have been established, the provision of information to the Statistics Authority will be more efficient and cost effective, and will facilitate the production of better quality, more timely and accurate National and official statistics about the UK economy and society. To minimise the burden placed on the Statistics Authority to issue multiple notices it is proposed that a notice may ask for information to be provided at specified intervals over a given period when the notice is effective.
124. The security of supply of key information used to produce National and other official statistics will be as important for information provided by undertakings as it is for information provided by public authorities. It is proposed that the same approach be

taken with undertakings so that a notice may require the undertaking to consult the Statistics Authority if it proposes to make changes to the relevant processes for collecting, organising, storing or retrieving information. It is proposed that this requirement will run for the period of time that the notice is effective. The purpose of this proposal is to notify the Statistics Authority if there is a risk to the provision of information. There is no intention to prevent an undertaking making changes to their systems as they may require.

125. The proposed legislation requires the Statistics Authority to publish a Code of Practice providing guidance on factors to be considered before changing processes that collect, store, organise or retrieve data which is supplied for the production of National or other statistics. The Code applies to all public authorities, including Crown bodies. In preparing or revising the Code, the Statistics Authority must consult the relevant Minister, the Information Commissioner's Office, Ministers in the devolved administrations and other appropriate persons. The Code, and revised versions must be laid before Parliament.

**Question twenty: What principles and factors should be considered in preparing the Code of Practice?**

126. Under the proposed new legislation, the Statistics Authority could only issue a notice if the information is required to exercise one or more of its functions as set out in the SRSA. Public authorities and undertakings who receive a notice would not need to comply if providing that information might prejudice national security, contravene the Data Protection Act 1998 or is prohibited by the Regulation of Investigatory Powers Act 2000.
127. It is proposed that the legislation would introduce criminal penalties applicable to (non-Crown) public authorities and undertakings if they fail to comply with a notice they have received without reasonable excuse. Introducing a criminal offence rather than a civil penalty regime would be consistent with existing criminal sanctions for failing to return a survey under the Statistics of Trade Act 1947. The proposed legislation sets out that on a summary conviction the person or body will receive a fine not exceeding level one on the standard scale of criminal penalties, which is £250. A second or subsequent conviction failure to comply with a notice will result in a penalty of an unlimited fine in England and Wales and a fine of up to £5000 in Scotland or Northern Ireland. The Statistics Authority needs to have confidence that the information provided to it is accurate. Where a person intentionally provides false information in response to a notice, they will face a criminal penalty of two years' imprisonment, an unlimited fine, or both.

*Protective measures specific to this proposed power*

128. Information received by the Statistics Authority as a result of issuing notices can only be used by the Statistics Authority for the purposes of one or more of its functions, and cannot be used for its statistical services<sup>16</sup> without the consent of the data provider. Furthermore, information cannot be provided to an approved researcher without the consent of the data provider.
129. To help public authorities and undertakings understand how these new powers will be operated, it is proposed that the Statistics Authority will consult on and publish a statement which sets out the principles about how the powers will be exercised as well

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<sup>16</sup> Under section 22 of the SRSA

as the accompanying procedures. The statement will be prepared and revised as necessary following consultation with the relevant Minister, the Information Commissioner, appropriate Ministers in the devolved administrations and other relevant persons.

130. The Statistics Authority intends to operate transparently in its use of its new powers, for example by routinely publishing information about the sources of new data that are being accessed and their statistical uses. ONS has a strong record in securely handling the data it receives, not least in its rigorous protection of personal census information. ONS imposes strict controls around physical, personnel and procedural security in access to any identifiable data it holds. All of ONS's statistical outputs are subject to statistical disclosure control which prevents the identification of any individual, household or business, and their attributes, in any of those outputs.

## **Summary of consultation questions**

### Improving public service delivery

1. Are there any objectives that you believe should be included in this power that would *not meet* these criteria?
2. Are there any public authorities that you consider would not fit under this definition?
3. Should non-public authorities (such as private companies and charities) that fulfil a public service function to a public authority be included in the scope of the delivering public services power?
4. Are these the correct principles that should be set out in the Code of Practice for this power?

### Providing assistance to citizens living in fuel poverty

5. Should the Government share information with non-public sector organisations as proposed for the sole purpose of providing assistance to citizens living in fuel poverty?
6. Would the provision of energy bill rebates, alongside information about energy efficiency support, be appropriate forms of assistance to citizens living in fuel poverty?
7. Are there other forms of fuel poverty assistance for citizens that should be considered for inclusion in the proposed power?

### Access to civil registration to improve public service delivery

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

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

10. Are there other measures which could be set out in the Code of Practice covering the proposed new power to combat fraud to strengthen the safeguards around access to data by specified public authorities?
11. It is proposed that the power to improve access to information by public authorities to combat fraud will be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the Fraud gateway be operational for before it is reviewed?

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

12. Which organisations should Government work with to ensure fairness is paramount when making decisions about affordability for vulnerable debtors who owe multiple debts?
13. How can Government ensure the appropriate scrutiny so pilots under the power are effectively designed and deliver against the objectives of the power?
14. It is proposed that the power to improve access to information by public authorities for the purpose of better managing debt owed to government will be reviewed by the Minister after a defined period of time. This time will allow for pilots to be established and outcomes and benefits evaluated. How long should the debt power be operational for before it is reviewed?

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

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

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

18. Is two years a reasonable maximum period of time for the duration of a notice for the supply of data to the UK Statistics Authority for the purposes of producing National and official statistics and statistical research?
19. If your business has provided a survey return to the ONS in the past we would welcome your views on:
  - (a) the administration burden experienced and the costs incurred in completing the survey, and
  - (b) ways in which the UK Statistics Authority should seek to use the new powers to further reduce the administrative burdens on businesses who provide data to the ONS for the purposes of producing National and other official statistics.
20. What principles and factors should be considered in preparing the Code of Practice on matters to be considered before making changes to processes that collect, store, organise or retrieve data?