

# Sharing customer data between DWP and local authorities

Report on the responses to the Call for Evidence on extending data sharing powers between DWP and local authorities in relation to the provision of welfare services and housing benefit.

November 2011

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# 1. Introduction

1.1 The Government is planning to extend current data sharing arrangements between the Department for Work and Pensions (DWP) and local authorities and their service providers.

1.2 Primary legislation is required in order to introduce new regulation-making powers, and this is being sought by the inclusion of four clauses in the Welfare Reform Bill, which was introduced in Parliament earlier this year. A copy of the Bill can be accessed at: <http://services.parliament.uk/bills/2010-11/welfarereform.html>

1.3 We published a Call for Evidence in March 2011, seeking views from stakeholders on the implementation of the new measures. We sought views from local authorities, their customers and customer representative groups, about the potential impact of the new data sharing arrangements.

1.4 In particular we asked local authorities for views about the following issues:

(a) How do you think you might use this new power? What kind of information would be useful to share and for what purposes?

(b) Do you work with other providers who deliver welfare services on your behalf? Do you think they would need to have access to customer social security information?

(c) Do you think that improved data sharing arrangements will help improve customer service, and support greater efficiencies?

(d) Do you experience any barriers or limitations as a result of rules about handling data, that impact on your ability to deliver high quality and efficient services? Could this new power help to remove or reduce some of those barriers?

(e) Do customers feel this will make it easier for them to apply for different services and benefits?

1.5 We also asked customers and their representatives for views about the following issues:

(f) Are you worried about how well your information will be protected? Are there concerns that personal information may be shared inappropriately?

(g) Would you like to see more use made of the information you have provided, in order to ensure you receive all the benefits and services you may be entitled to?

(h) Are you generally happy when you apply for a benefit or service, you know who is going to have access to your data and for what

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reason? Would you like to receive more advice about how your personal data is used by government?

1.6 In this report, the term 'customer' is used to describe applicants of a welfare service, claimants of a social security benefit, and service users who are already receiving some form of help and support.

1.7 The Call for Evidence was published on the internet and publicised among various stakeholder groups including local authorities, government departments, and various consultative groups.

1.8 This report summarises the findings from that Call for Evidence, and sets out next steps.

## 2. Description of the changes

2.1 The data sharing measures being developed will extend current powers in relation to the use of customer social security data, and also introduce a new power which will allow local authorities to share certain customer data with DWP and local authority Housing Benefit (HB) teams in certain circumstances.

### What is the current policy?

2.2 DWP is currently able to share social security data with local authorities for the purpose of administering Housing Benefit and Council Tax Benefit (HB/CTB).

2.3 Social security data refers to the data held by DWP for the purpose of its social security functions; for example, to help decide if a person is entitled to a social security benefit.

2.4 DWP and local authority HB teams can also supply information to other parts of a local authority to help determine eligibility and liability to pay for a limited category of welfare services. This provision has been used to assist local authorities in England and Wales to decide if a person is eligible for help under the Supporting People<sup>1</sup> scheme. It also allows local authority Supporting People teams to share information with local authority HB teams in order to decide if a person is vulnerable and requires housing costs to be paid direct to the landlord, or lives in supported accommodation and is exempt from Local Housing Allowance rules.

2.5 Currently, there is no general legal gateway allowing DWP or local authority HB teams to share social security data with local authorities to help them decide eligibility for or liability to pay for other types of welfare services. Also, local authorities have no general power to share customer information about welfare services with DWP for social security benefit purposes. Without a legal gateway, information can only normally be shared where the customer has given their consent. DWP usually requires written evidence that consent has been provided.

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<sup>1</sup> The Supporting People scheme was introduced on 1 April 2003, bringing together seven housing-related funding streams from across central government. Services are aimed at helping people with specific needs to remain living independently, administered by local authorities and delivered largely by the voluntary and community sector, and housing associations. The scheme operates in England and Wales, with similar provision in Scotland offered through Housing Support services. Since April 2011 central government funding in relation to Supporting People services has not been ring fenced, leaving local authorities complete discretion on how to best use their budget. To that extent, Supporting People as a national scheme no longer exists although many local authorities continue to provide these services.

## What is the change in policy?

2.6 The new powers will allow:

(a) DWP and HB teams to share social security data with local authorities for the purpose of deciding whether a person is eligible for a wider range of welfare services than is currently covered; or to assess if a person is required to pay towards that service; and

(b) local authorities to share customer information with DWP or HB teams when a person is admitted to or discharged from hospital or a care home, or requires overnight care at home; and for some other purposes in relation to the assessment of a social security benefit.

## Reason for change in policy

### **Sharing customer data for welfare services purposes**

2.7 Local authorities provide a range of support and assistance to people living in their area, and this may be linked to receipt of a social security benefit, because:

- the service is targeted towards people on low incomes, for example Disability Facilities Grants;
- eligibility is dependent on receiving a specific benefit, for example Blue Badge parking permits, or concessionary travel schemes;
- a charge is made for the service, and a means test is completed to determine how much a person can pay, for example towards the cost of a non residential service such as a home help or day care.

2.8 In addition, there may be localised schemes provided by local authorities or other organisations, where eligibility or entitlement is linked in some way to a person's income. An example is the new localised scheme to provide financial support to be introduced after elements of the national Social Fund scheme are abolished from April 2013.

2.9 Where local authorities and others delivering such services require details of a person's financial circumstances they will first of all request this from the customer. Very often the customer is unable to provide all their details and DWP or HB teams will be approached for confirmation of any social security benefit in payment. The new powers will allow regulations to be made, prescribing specific welfare services in relation to which DWP agrees to share customer social security information.

2.10 Being able to use data that is already held by government will make it easier for customers to apply for a range of local services and benefits. They will not have to provide detailed financial information repeatedly to different government offices. Local authorities will be able to access customer information that has already been provided to DWP or to the local authority

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HB department, without needing to seek the customer's consent every time. Removing the need to collect customer consent before data can be shared will make it easier for customers and for staff. It will speed up the decision making process and allow for administrative savings to be made.

2.11 Delays in obtaining details about a person's social security award can mean that where a charge is liable in respect of a service such as non residential care, the local authority often has to provide several weeks of free care until an accurate financial assessment can be completed, which represents a significant cost to them. In addition, some customers may be discouraged from accepting the provision of a service until they know how much it might cost them, thus denying themselves much needed help and support.

## **Sharing data to assess entitlement to a social security benefit**

2.12 Customers are required to report any relevant changes in their circumstances, including when they move into care or are absent from home due to a stay in hospital. Both of these events can be quite traumatic and customers may not realise the need to report them promptly, or they may not always be in a position to report the change themselves. As a result, benefit is often overpaid due to a delay in reassessing entitlement. Local authorities tell us that they often know before DWP when a person moves into hospital or residential care, particularly when that person is a client of the social services department.

2.13 Moves into hospital or residential care account for a large proportion of benefit overpayments. Customers find the process of being notified about overpayments and being asked to repay them, very stressful. It is far preferable to ensure the right benefit is paid at the right time.

2.14 This measure would provide an additional route for certain changes (moves to hospital or residential care) to be notified to the relevant benefit team, helping to ensure more awards were reassessed promptly and accurately.

2.15 In addition, new rules came into force from April 2011 which will allow people on HB to receive a higher rate of benefit where they need an extra room for an overnight carer.

2.16 Customers who live in the private rented sector receive help with their housing costs calculated under Local Housing Allowance rules. Awards are assessed in part by reference to the number of rooms a customer is deemed to require. Prior to April 2011, no allowance was made where a customer lived in a property with an additional bedroom that is used by a non-resident carer (often referred to as a sleepover room). In some cases the additional cost has been met by social services or by the local authority through a Discretionary Housing Payment.

2.17 Customers who want to be considered for the additional room rate need to provide evidence that they have a disability or health condition that requires the provision of an overnight carer. A large number of customers will have sought help through their local social services department, and will have a care plan specifying that overnight care is required.

2.18 This measure will allow social services departments to confirm that overnight care is required. This will help to ensure that the customer's application for help with housing costs is dealt with quickly and that the correct amount is awarded. There will be no exchange of sensitive personal data relating to the health of the customer. All that is required by the benefit team is a simple yes/no confirmation that overnight care is required.

## **Why sharing data on the basis of consent is not appropriate**

2.19 While consent is not defined in the Data Protection Act, the European Data Protection Directive defines an individual's consent as '*any freely given specific and informed indication of his wishes by which the data subject signifies his agreement to personal data relating to him being processed.*' Many of the customers who are likely to be affected by the new data sharing arrangements are elderly, or disabled. Some will have learning difficulties or mental health conditions. Customers need to understand what they are being asked so that the consent is 'informed'. It is difficult to obtain consent unless people fully understand what it is they are consenting to.

2.20 It is possible for customers to consent to their personal social security data being shared by DWP or local authority HB teams with other parts of the local authority. In practice this is usually quite costly unless the volumes are small. Local authorities must agree in advance with the relevant DWP or HB team how consent should be handled and what form the consent should take. This process causes significant administrative problems.

2.21 Consent forms may only allow data to be shared for one specific purpose on one particular date, and unless this is recorded properly staff may not realise the limitations of the consent form. Staff who are unsure whether it is appropriate to share data in a particular circumstance will usually refuse to do so. It is a serious offence to share data where the law does not allow this. While this does ensure customer data is protected, it often means that legitimate activities are delayed or compromised in some way, leading to reduced customer services, potential underpaid or overpaid benefit, and extra work for staff.

2.22 The scale of the data being shared is considerable. Dealing with this work on a case by case basis is inefficient and gives rise to possible inconsistencies in decision making. Having a legal gateway will ensure everyone is clear about the circumstances where personal data can be shared; it will allow a streamlined system to be put in place to ease the

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administrative problems; and with training and guidance to support the new rules, it will provide extra reassurance that personal data is being handled legally and securely.

## 3. Summary of responses

### Overview

3.1 This section provides a summary of the responses that were received to the Call for Evidence, and includes some quotes from respondents. In total there were 84 responses, broken down as follows:

- Local authorities, or individuals working in local authority departments such as housing benefit, adult social care, concessionary travel and welfare/money advice: 62
- Other organisations, or individuals working in those organisations replying in a personal capacity: 18
- Private individuals: 4

3.2 There was clear support across the range of responses for increased sharing of data between DWP and local authorities. This included support for the Call for Evidence's specific suggestions for sharing information about overnight care and admission to, or discharge from, hospital or residential care.

3.3 The Call for Evidence also mentioned specific welfare services where it might be appropriate to extend the ability to share information: assessments for domiciliary (non residential) care; the Blue Badge parking permit scheme; and Disabled Facilities Grants. Again, there was a clear consensus in favour of sharing information to help deliver these services. Respondents also recommended that information should be shared for a variety of other services, and these are described further in the Analysis section below.

3.4 While support for increased data sharing was clear, it was not unequivocal in some cases, and several responses expressed reservations about any wider sharing of information. These are described further in the Analysis, but broadly speaking these reservations were about:

- the personal nature of the information that might be shared, and the importance of protecting it;
- the ability of DWP and local authorities to guarantee secure handling and management of this information; and
- whether it is really proportionate for the information to be shared without obtaining specific consent to do so.

### Analysis

3.5 The following section looks in detail at the responses to specific questions in the Call for Evidence. It is split into two sections; responses from

local authorities; and responses from customers or their representative groups.

## Responses from local authorities

**How do you think you might use this new power?**

**What kind of information would be useful to share and for what purposes?**

**Do you experience any barriers or limitations as a result of rules about handling data, that impact on your ability to deliver high quality and efficient services?**

**Could this new power help to remove or reduce some of those barriers?**

3.6 The Call for Evidence explained that the new data sharing power would allow regulations to be made so that DWP and local authority HB teams could share social security information with other local authority departments to assess eligibility for welfare services. These welfare services are to be prescribed in regulations, and local authorities and other stakeholders were invited to recommend what these should be. We have summarised below the views expressed in relation to these specific services.

## Notification of admission to or discharge from hospital or residential care

3.7 The Call for Evidence specifically mentioned using the data sharing power to allow local authorities to share information with DWP and HB teams about a person's admission to, or discharge from, hospital or residential care.

3.8 Respondents were in favour of this proposal. They pointed out that customers may be unable to notify HB teams about admission to hospital or residential care, for a number of reasons, and overpayments may be made, which in turn may cause difficulties for people. This could be mitigated if social services teams were able to notify their HB colleagues of admission or discharge, removing the burden of doing so from people who might temporarily be unable to manage their day to day affairs. However, one local authority warned that, while it was not opposed to notifying admissions to care homes that it funded:

*'the authority is often not aware of admissions to hospital and so would often not be in a position to tell the DWP when that happens.'*

3.9 Several respondents suggested that the NHS, perhaps confined to Primary Care Trusts, as well as social services teams, should be able to notify HB teams of admission or discharge. Another response, from an Arms Length Management Organisation (ALMO) managing social housing for a council, also suggested that their staff are often also aware of hospital or care

admissions and discharges, and recommended that ALMOs should be allowed to share this type of information, so reducing HB overpayments.

### **Confirmation of the need for non-residential overnight care**

3.10 The Call for Evidence also suggested that the new power might be used to permit HB staff to confirm with social services teams that a claimant receives regular overnight care provided by a non resident carer. This is proposed because new provisions were introduced in April 2011 that enable local authorities to take account of an extra bedroom that is used by an overnight carer who does not live with the claimant, when assessing their entitlement to HB. Again, respondents were in favour of this proposal.

### **Financial assessments for domiciliary and residential care services**

3.11 Around half of local authorities said that customer social security information was needed in order to assess the contribution a person is able to make towards the cost of their care, both non residential (under the 'Fairer Charging' guidelines) and residential.

3.12 Several local authorities highlighted that the current restrictions on sharing data mean that they often have to provide services free of charge pending receipt of information about a person's circumstances. This means that local authorities may be out of pocket for providing these services: money that might have been saved had it been possible to obtain the information needed more quickly.

3.13 The current restrictions on sharing information between DWP and local authority financial assessment teams also do not fit well with the way that many customers now access care services. One local authority argued that:

*'As more and more service users make use of individual budgets as a way of managing their care it is essential that all possible bureaucracy and red tape is removed from the process of assessing their potential contribution to that budget. The ideal end state for any financial assessment process would be that a service user would simply have to provide their national insurance number in order for an immediate notification of charge to be processed.'*

3.14 The Local Government Association (LGA) said that:

*'a number of local authorities and their partners are involved in the delivery of Right to Control services as part of the Trailblazer pilots<sup>2</sup>. Effective data sharing arrangements with all partners (which may include DWP, ILF<sup>3</sup>, district/borough councils and social care departments of County Councils) are vital to ensure the intended streamlined and seamless service is delivered.'*

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<sup>2</sup> For more information on Right to Control and the Trailblazer pilots, see: <http://odi.dwp.gov.uk/odi-projects/right-to-control-trailblazers.php>

<sup>3</sup> The Independent Living Fund: see <http://www.dwp.gov.uk/ilf/>

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3.15 They also pointed out that considerable work was needed to enable this under the current data sharing rules, work that:

*‘could have been reduced had there been a general power to share information across local authorities and the DWP as proposed by the paper which could include Right to Control and the delivery of community care services.’*

3.16 Local authorities mentioned that a change in the law to give assessment teams access to social security information could provide administrative savings. Commonly staff have to visit customers to make an assessment, perhaps more than once, and one local authority that covered a large rural area pointed out that this can be particularly difficult, time-consuming and costly for them.

3.17 Local authorities also agreed with the suggestion that the delays in assessing the contribution that people should make to their care costs can deter them from accepting a service that they need because they do not know whether they will be able to afford it.

3.18 There was consensus among local authority respondents that teams making assessments of the contributions of customers to the cost of their non residential or residential care needed access to social security information, and that this would result in a more efficient service where:

- customers would know more quickly what contribution to costs they would be expected to make, and would be able to make informed decisions about whether to take up a service;
- customers would not have to undergo another separate means-tested assessment on top of that already completed for a social security benefit;
- local authorities would make savings because they would be less likely to need to provide a care service temporarily free of charge pending assessment; and
- local authorities would also make administrative savings through not having to visit people to collect information that had already been gathered elsewhere, and through the development of joint teams to assess entitlement to a range of services.

3.19 For example, Renfrewshire Council said that:

*‘the proposals could pave the way for the centralisation of financial assessment in local authorities, whether for the purposes of Housing Benefit and Council Tax Benefit, Housing Support services, or personal care...’*

3.20 Social services teams also commented that enhanced information sharing would have a positive impact on increasing the numbers of people taking up their benefit entitlement. One local authority welfare rights and money advice team suggested that it would help their income maximisation

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work if they also had access to social security information. Another respondent said:

*'As part of the Department of Health's Fairer Charging Guidance for LAs (2003) LAs must undertake a full benefits check as part of the [assessment] process and maximise income for all relevant customers. Access to benefits data would mean that a customer's current benefits awards could be viewed and checked prior to visiting to assist in claiming any additional benefits...'*

3.21 Several respondents referred to the Common Financial Assessment Project jointly led by Sefton Council and the North West E-government Group (NWEgg), that:

*'aims to improve the way the financial assessment process in adult social care re-uses data held by councils and the DWP and increases productivity through better use of mobile working.'*

3.22 One respondent said that this project:

*'identified significant savings in terms of time to local authority staff through enhanced data sharing and estimated that 40% of home visits could be avoided.'*

3.23 The National Association of Financial Assessment Officers (NAFAO) said that:

*'the benefits calculated by NAFAO and ratified by a pilot scheme in the North West estimates savings in the region of £95m, primarily due to efficiencies and reducing inbound call traffic to DWP centres.'*

3.24 In terms of the information needed, local authorities would need DWP to share more than simply confirmation of entitlement to a social security benefit because the financial assessment of a person's ability to pay for care services requires comprehensive details of their circumstances. This would include details of:

- benefits in payment;
- income and capital; and
- other people in the household (including details of income and capital).

3.25 The LGA warned against changing the current responsibility of customers to notify a change of circumstances to relevant organisations as a consequence of the greater sharing of information between DWP and local authorities. Making a point about the trust and confidence that social care departments have to build with their customers, it said:

*'This independence and relationship of trust and confidence could be compromised leaving many advocates and local authority staff in an extremely difficult and conflicting position, facing the possibility of being held accountable for a failure to notify a change of circumstances.'*

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And, again stressing the importance of maintaining effective relationships with customers:

*'It ought not to be a condition of receiving support from Social Care that clients agree that all personal details and changes are notified to the DWP...'*

### **The Blue Badge parking scheme<sup>4</sup> and concessionary travel**

3.26 Around a third of local authorities responded to the consultation to advocate sharing social security information with staff who administer the Blue Badge parking permit scheme for disabled people. Local authorities need confirmation that a customer receives the higher rate mobility component of Disability Living Allowance (DLA) to assess a person's eligibility for a Blue Badge. Current rules on data sharing mean that they rely on customers being able to provide a letter notifying them of their current DLA entitlement.

3.27 Frequently a customer will not have a current DLA award letter, and assessors have to obtain the customer's consent to approach DWP for confirmation, which they then have to do by post or fax. Local authorities stated that this is an inefficient process, which takes up the time of both DWP and local authority staff. This results in administrative costs that could be saved if an automated system of providing the data could be developed. Local authorities pointed out that this would also improve the service for customers.

3.28 Local authorities also commented that giving relevant access to basic DWP information to confirm whether a customer for a Blue Badge is receiving the DLA high rate mobility component would increase their ability to ensure that only those entitled to a Blue Badge were given one. Because the Blue Badge scheme enables a permit holder to make significant financial savings on parking costs, it is a target for fraudulent activity, and it is not uncommon for forged DLA award letters to be submitted. By enabling a secure electronic method to confirm DLA receipt, local authorities will be able to frustrate this form of fraud.

3.29 One local authority argued that data should be shared in both directions between DWP and local authorities, since local authorities often have information that might affect not only whether a person is eligible for a Blue Badge, but also whether they are entitled to a DLA mobility component in the first place. It pointed out that:

*'DWP could benefit equally by drawing on information held by local government and health authorities about DWP applicants... DWP should avail itself of this local information both to make accurate eligibility decisions, and to prevent the awarding of benefits to people who make fraudulent applications.'*

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<sup>4</sup> The Department for Transport is making major reforms to the Blue Badge scheme in England that complement the proposal for wider data sharing to deliver this service. See: <http://www.dft.gov.uk/transportforyou/access/bluebadge/reform/>

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3.30 Some responses suggested that staff administering the Blue Badge scheme should have ongoing access to DLA information, and should not be confined to one-off access to decide on an initial application. If this were the case, they would be able to check that a Blue Badge holder had continuing entitlement at any time during the permit's period of validity.

3.31 Some respondents who wrote about the Blue Badge scheme also recommended that access to DLA information should be extended to the two other disability-related travel concessions, the Freedom Pass<sup>5</sup> and the Taxicard<sup>6</sup> scheme.

### **Local Authority support to replace elements of the current Social Fund**

3.32 Paragraph 2.8 of the Call for Evidence described plans to provide local authorities with responsibility for administering a local support scheme to replace elements of the Social Fund. Referring to the recent consultation [Local support to replace Community Care Grants and Crisis Loans for living expenses](#)<sup>7</sup>, the LGA said that data sharing would be a 'key feature' of such a scheme. This was also mentioned by Bradford Metropolitan Borough Council.

### **Other welfare services**

3.33 Some local authorities asked that social security information be made available to help with determining assessments for Disabled Facilities Grants, discretionary Improvement Grants for elderly and disabled people who rent their home in the private rented sector, and Supporting People<sup>8</sup> grants. Eligibility for these is decided on the basis of income and personal circumstances, and early confirmation of eligibility for certain social security benefits would speed up the application process.

3.34 Similarly, access to information would help local authorities in their work to tackle fuel poverty. One local authority suggested that giving relevant teams access to details of pensioners receiving the Guarantee Credit element of Pension Credit would help them to identify people eligible for help from the Warm Front Scheme<sup>9</sup>.

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<sup>5</sup> See [http://www.direct.gov.uk/en/TravelAndTransport/Publictransport/BusAndCoachTravel/DG\\_10036264](http://www.direct.gov.uk/en/TravelAndTransport/Publictransport/BusAndCoachTravel/DG_10036264)

<sup>6</sup> The Taxicard scheme allows people with permanent and severe mobility difficulties, who are unable to use public transport and who have no other means of travel, to travel by taxi at reduced fares.

<sup>7</sup> This call for evidence set out the Government's proposals on local delivery of assistance to replace Community Care Grants and Crisis Loans for general living expenses.

<sup>8</sup> See [http://www.direct.gov.uk/en/DisabledPeople/HomeAndHousingOptions/SupportedHousingSchemes/DG\\_4000297](http://www.direct.gov.uk/en/DisabledPeople/HomeAndHousingOptions/SupportedHousingSchemes/DG_4000297)

<sup>9</sup> See [http://www.direct.gov.uk/en/Environmentandgreenerliving/Energyandwatersaving/Energygrants/DG\\_10018661](http://www.direct.gov.uk/en/Environmentandgreenerliving/Energyandwatersaving/Energygrants/DG_10018661)

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3.35 Several local authorities mentioned that social security information is needed for education-related services - notably Free School Meals.<sup>10</sup> Other education-related services mentioned included education grants and uniform grants, pre-school support and after-school activities.

3.36 The LGA mentioned current difficulties in obtaining information from DWP with regard to care leavers, when the local authority is considering either paying a personal allowance because the care leaver's social security benefits have been stopped or delayed, or buying essential items for them, but need to know the outcome of a Community Care Grant application. DWP has published a guide - [Working with Representatives](#)<sup>11</sup> - that advises staff about providing information about customers to their representatives, but the LGA says that local authorities frequently often have difficulty liaising with DWP, and that staff working in DWP often have little or no knowledge of this guide.

3.37 The LGA says that this difficulty also arises in other situations where local authority staff are acting as client representatives:

*'social work teams, adults with learning disability or community mental health teams etc who may be acting as advocates for people generally at risk of destitution and frequently who are unable to manage direct communication with DWP.'*

3.38 One local authority's Adult Care Services team also suggested that improved data sharing could help them to assist vulnerable people by enabling them to obtain information:

*'where current appointees may be obstructing, i.e. for safeguarding cases or they are unavailable. It is useful to gain information from the DWP source as clients don't always have or know the details or breakdown. Relatives are not always available or are the cause of potential financial abuse issues.'*

3.39 The Head of Safeguarding Adults for Leeds Council highlighted the need for good liaison arrangements between local authorities and DWP in this area, to develop:

*'a shared understanding on information sharing in the context of Safeguarding Adults (so that protecting their information is not seen as more important than protecting them from abuse, particularly financial abuse), and a shared understanding of the appropriate role for DWP when requested to share information held by DWP, under the Mental*

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<sup>10</sup> It should be noted, however, that the Department for Education already operates the Eligibility Checking Service (ECS) that provides information enabling staff in local authorities with licensed access to it to check applicants' eligibility for Free School Meals.

<sup>11</sup> See <http://www.dwp.gov.uk/docs/repsguide.pdf>

*Capacity Act, to enable protection arrangements to be developed for individuals at risk of abuse or harm.'*

### **Strategic planning to tackle family poverty and worklessness, and to maximise benefit take up**

3.40 Numerous local authorities recommended that the new information sharing arrangements are extended in relation to initiatives aimed at helping residents to take up potential entitlement. The LGA said that:

*'being able to use data actively in terms of income maximisation and being able to gauge/assess outcomes would be a significant improvement to local authorities and promote a mutual flow of information between organisations and their partners ... we would hope that the new power would facilitate and support this area of work.'*

3.41 One local authority said that current limitations on data sharing meant that it could not identify individuals to contact and could therefore do no more than identify particular wards with high numbers of benefit recipients. Consequently, it had:

*'sent information to everyone within that community. This seems to be a relatively inefficient means of communicating the availability of a service for which only a minority were eligible.'*

3.42 Another local authority said that:

*'... there is strong emphasis upon early intervention approaches to tackling poverty, moving from crisis management to prevention and ultimately breaking cycles of poverty. There may be opportunities to promote early intervention and proactive approaches through the new regulations and its associated processes.'*

3.43 Some local authorities and other stakeholders also wanted information to be shared to aid their work to tackle worklessness. The Employment Related Services Association<sup>12</sup> said that the new data sharing arrangements:

*'will be a key element for joining up budgets and co-investment, something the welfare to work industry strongly advocates.'*

3.44 New Economy<sup>13</sup> said that:

*'previous efforts to focus resources on priority client groups have been hampered by inadequate access to DWP data and moves to develop Community Programme/co-case management will require partners to address multiple causes of poverty in a coordinated fashion across multiple agencies. Data sharing has the potential to become a key enabler in these new service delivery models.'*

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<sup>12</sup> see: <http://www.ersa.org.uk/>

<sup>13</sup> a commission of the Association of Greater Manchester Authorities (AGMA). See: [Commission for the New Economy : Commissions : AGMA Policy and Research Unit](#)

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3.45 The Commission goes on to propose that:

*'a 'general principle' of data sharing should be established - i.e. DWP data should be shared with a qualifying person unless there is a good reason not to.'*

3.46 Another local authority argued that:

*'What appears to be missing throughout the call for evidence is reference to data sharing with regard to the strategic planning and delivery of welfare to work services. More targeted identification of worklessness customers through enhanced customer data sharing with DWP could for example support targeted direct marketing and outreach support for our hardest to reach customers and enhance employment outcomes. .... Importantly, this would also provide better intelligence to support local authorities with strategic and operational planning for the development of their Child and Family Poverty Strategy.'*

3.47 This was echoed in another response, which said that:

*'regulations prescribing the welfare services covered by these provisions should explicitly include welfare to work activities', and argued that 'any potential conflict between those regulations and the Social Security Administration Act 1992 are avoided by the expedient of repealing the relevant sections of that Act' [that is, those covering unlawful disclosure of information, since the respondent argued that the Data Protection Act already provides adequate protection].*

**Do you work with other providers who deliver welfare services on your behalf?**

**Do you think they would need to have access to customer social security information?**

3.48 Some local authorities stated that they did not work with other providers in delivering the particular service about which they were responding to the consultation, and therefore that for them there was no need for information to be shared more widely. Among local authorities that did mention working with third party providers, opinion was split about the need for, or desirability of, sharing information with them.

3.49 One local authority that worked with other providers to deliver welfare services advocated that information should be shared with them, but acknowledged the importance of keeping sensitive information secure. It therefore suggested:

*'graded access procedures in which less sensitive data (e.g. name, date of birth, post code) are made readily available, whereas*

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*application to more sensitive datasets (e.g. medical records, finances) are subject to a more stringent assessment process.'*

3.50 The local authority argued that security has not kept pace with technology, and that therefore the legislation should:

*'include a section on compliance, enforcement and sanctions in order to create the right culture and consequently a robust compliance policy.'*

3.51 Another local authority said that:

*'there is a strong argument for allowing accredited voluntary agencies access to this data but this would need to be subject to satisfactory security arrangements being in place.'*

3.52 Similarly, another local authority wrote that it worked with a number of partners that either delivered welfare services, or whose clients were users (or potential users) of them. These partnerships operate at the levels of strategic planning and commissioning, or of operational delivery. The authority argued that improved data sharing would improve take-up of welfare and employment opportunities, referring to the experience of the Total Place initiative<sup>14</sup> to call for:

*'a more holistic approach to welfare provision and financial assessments.'*

3.53 One county council said that providers with which it works in promoting welfare-to-work:

*'have specifically identified restrictions on data sharing as inhibiting the success of their project.'*

3.54 One provider of benefit and customer services for several local authorities said that partnership working with other public, voluntary and private sector organisations already took place to deliver services, and this was likely to expand. It suggested that this might cause problems for local authorities as the data controllers, with legal responsibilities for the security of the information they held:

*'What is the plan if the range and number of these providers change? Will this become a far too arduous task for those designated as the data-controllers? We would recommend giving more attention to these questions and considering a shared or delegated responsibility for the relevant partners.'*

3.55 Another response, which was not in favour of giving third party providers access to information, also pointed to the importance of the role of a local authority as a data controller:

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<sup>14</sup> See [http://www.hm-treasury.gov.uk/psr\\_total\\_place.htm](http://www.hm-treasury.gov.uk/psr_total_place.htm)

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*'In situations where the disclosure of social security information is required and is necessary for the performance of a service, under contract between the council and the service provider, the Data Protection Act ... views the service provider as an extension of the council for the purposes of the provision of services on behalf of the council. This means that the council is legally responsible for that personal data, and is required to ensure that the service provider keeps such information secure.'*

3.56 The response from the NAFAO included the comment that:

*'where LAs have contractual arrangements for the provision, [third party access to information] may be required. Responsibility would need to rest with the LA to determine and ensure adherence to regulations.'*

3.57 Local authorities in favour of sharing information with third party providers tended to be those that were responding to the consultation from the point of view of strategic planning to tackle family poverty and worklessness, rather than in relation to the delivery of a particular means-tested service, such as the Blue Badge scheme. However, even among these not all were in favour. One local authority said that it:

*'retains a clear commitment to tackling poverty and has agreed a number of priorities for 2011/12 in response to the challenges presented by welfare changes to promote more efficient advice services and enhance the strategic focus upon poverty, [but] it would not necessarily be appropriate for partners to have access to Social Security data without the customer's explicit consent.'*

3.58 Similarly, the response from the Liverpool City Region Employment and Skills Partnership said that:

*'Local Authority responsibility for the safety and security of any personalised data would be paramount. Joint working could be enhanced and outcomes be improved without the necessity or risk of further data sharing with our local partners.'*

**Do you think that improved data sharing arrangements will help improve customer service, and support greater efficiencies?**

3.59 The consensus of responses was that improved data sharing could have the beneficial effects suggested in the Call for Evidence. Respondents agreed that customer service could be improved and that administrative efficiencies could be achieved by cutting the amount of work that currently has to be done to assess eligibility for the services local authorities deliver.

3.60 One local authority suggested that the majority of the suggested improvements in customer service and administrative efficiency could be achieved without changing the law if the various agencies and providers addressed poor practice and procedure to work better together. However, the authority agreed that powers to permit more information sharing could help

*'...but it must be done legally and fairly. At present this means that under the Data Protection Act it should be possible for a service user to refuse to share their data. Customers should have information to explain the consequences of doing this - but they do have a right to refuse.'*

<b>Do customers feel this will make it easier for them to apply for different services and benefits?</b>
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3.61 The responses from local authorities clearly agreed that there would be benefits for their residents through the quicker, more efficient delivery of welfare services that would be facilitated by increased data sharing. None argued that increasing data sharing would be a step too far, but several pointed out that the confidential nature of personal information must continue to be respected, and that people should know what information might be shared, with whom, and how.

3.62 Many respondents mentioned that people often assumed that information they had already supplied would automatically be shared with another service provider, particularly if the departments concerned were part of the same local authority. Service users were variously described as 'surprised', 'frustrated', 'annoyed' or even 'angry' when they discovered this was not the case. One local authority said that this had even resulted in customer complaints.

### **Responses from service users and representatives**

3.63 There were fewer submissions received responding to the three questions that the Call for Evidence posed for service users and representatives than were received from local authorities. This is perhaps unsurprising, since local authorities have considerable interest in the data sharing proposals. Although the analysis below was drawn from just 17 responses, it should be noted that these included important responses from

the Information Commissioner's Office<sup>15</sup> (ICO) and the Parliamentary and Health Service Ombudsman<sup>16</sup>.

**Are you worried about how well [your] information will be protected?  
Are there concerns that personal information may be shared  
inappropriately?**

3.64 Several respondents expressed concern about data protection and inappropriate sharing. Sense Scotland said that:

*'at present, there is very low confidence in the ability of either the DWP or local authority departments to safely store and process information ... There needs to be far better performance in this area before additional sharing of information takes place.'*

3.65 The National Association of Occupational Pensioners, in expressing concerns about data protection, said that:

*'the incidence of sensitive data being lost and reported in the media reinforces these concerns.'*

3.66 Another respondent said that:

*'it would need to be very clear what purpose information may be used for and how this information will be kept secure.'*

3.67 Two respondents pointed out that there already exists the risk that dishonest DWP or local authority employees might misuse or steal personal information. One of these said that:

*'extensive data sharing will certainly open up the opportunity for the information falling into a wider net of nefarious employees in the DWP and in the Council offices ... the penalties on processing staff should be greater than proposed in your paper.'*

3.68 On the other hand, the ICO response said on the subject of sanctions that:

*'The Commissioner welcomes the inclusion in the Welfare Reform Bill of measures relating to the unlawful disclosure of information.'*

3.69 However, overall responses were in favour of increased data sharing. A welfare benefits adviser for a housing organisation said:

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<sup>15</sup> The Information Commissioner's Office is the UK's independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals:

<http://www.ico.gov.uk/>

<sup>16</sup> See <http://www.ombudsman.org.uk/>

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*'it is always a concern that data could be lost, or fraudulently used. However, on balance this could be a very useful service where a client has a chaotic lifestyle, which many of the most vulnerable members of society do.'*

3.70 A respondent who receives assistance as a carer said that recently:

*'an officer familiar with my circumstances came and did a detailed annual assessment as to whether there had been any changes in my condition, my circumstances, or the data they had on their records. I am in favour of this refreshed reliable review data being made available to other relevant local authority departments and the DWP, to avoid errors and misunderstandings...'*

3.71 The ICO response included the comment that:

*'The Information Commissioner recognises ... that the creation of a legal gateway, that has been subjected to proper Parliamentary scrutiny, to allow such data sharing to take place is an appropriate way forward as it will facilitate a streamlined system to benefit both the individuals receiving, and the organisations responsible for, the service.'*

**Would you like to see more use made of the information you have provided, in order to ensure you receive all the benefits and services you may be entitled to?**

3.72 There were no responses to these questions from individual service users. Few organisations answered this question directly, and none expressed disagreement with the proposals. One respondent said in response to a different question:

*'where the sharing of information improves the ability to maximise benefits and service entitlement this is likely to be welcomed. There may be some reluctance for information that can be used to recover overpayments or to cease services.'* This response then cited the Tell Us Once<sup>17</sup> project as *'an example where sharing of information captured in one process and shared can create efficiencies and provide a better customer service.'*

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<sup>17</sup> See [http://www.direct.gov.uk/en/NI1/Newsroom/DG\\_188740](http://www.direct.gov.uk/en/NI1/Newsroom/DG_188740)

**Are you generally happy that when you apply for a benefit or service, you know who is going to have access to your data and for what reason?**

**Would you like to receive more advice about how your personal data is used by government?**

3.73 Respondents that addressed these questions commonly argued that customers must know when, how and why their information might be shared. The response from Sense Scotland recognised potential benefits from improved data sharing, but argued strongly that information should be shared only with people's informed consent:

*'The need to obtain consent to sharing information should be retained for any additional areas to those which currently exist - with an explanation of any benefits that may arise for the person, what safeguards are in place, and what the customer can do if they believe their personal information has not been safeguarded.'*

The National Association of Occupational Pensioners also said that customers must be informed of how their information might be shared:

*'A statement of how the data is used, stored and shared should be sent to all claimants as part of the application pack.'*

3.74 The importance of safeguarding personal information was also reflected in the comments of respondents on future implementation and regulations. A respondent who works in the Pension, Disability and Carers Service said that

*'For benefits like Attendance Allowance and Disability Living Allowance, many customers express strong feelings about the privacy of information .... I think that any ultimate policy change should make it clear precisely what is to be shared.'*

Sense Scotland said that:

*'We would be very concerned at carte blanche being provided in relation to regulations on the sharing of information.'*

3.76 The Parliamentary and Health Service Ombudsman specifically addressed the issue of the future implementation of wider data sharing, referring to her report [A Breach of Confidence](#), which concerned a case where incorrect information was shared between public bodies, to the detriment of the person concerned. The Ombudsman makes two recommendations. On the subject of new processes and guidance for wider data sharing, she says:

*'Good governance is essential to gain and maintain the confidence and trust of those individuals at the heart of any new data sharing arrangements. [A Breach of Confidence](#) illustrates the need for processes for checking the accuracy of information before it is shared,*

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*for keeping an audit trail and for making sure inaccurate data is corrected by all those holding it.'*

3.77 And for resolving customer complaints, she says that the agencies sharing information should:

*'agree a customer-focused protocol to deal with complaints that cross organisational boundaries and arise from the sharing of information between them, and which accords with the practices advocated by the Information Commissioner.'*

3.78 On the subject of governance and security, the ICO struck a similarly cautious note:

*'It is an important point ... that whilst the creation of the legal gateway [to permit wider data sharing] establishes the 'lawfulness' of the initiative in meeting the requirements of the Data Protection Act; with regard to the disclosure of personal data all other requirements of the Act must be complied with.'*

3.79 And, as regards the data to be shared:

*'... the Information Commissioner would wish to be assured that appropriate security and also information governance measures are put in place.'*

## Privacy Notices

3.80 Section 3 of the Call for Evidence stated that:

*'We will ensure that Privacy Notices are amended to make clear where social security data is being shared with local authorities for use in assessing entitlement to a welfare service.'*

3.81 Numerous responses, both from local authorities and other organisations mentioned the importance of Privacy Notices. The ICO said that they:

*'welcome the Department's intention to ensure that Privacy Notices are amended to make clear where social security data is being shared...'*

and recommended the good practice guidance on the drafting and distribution of Privacy Notices contained in its ['Privacy Notices Code of Practice'](#).

3.82 One local authority response which, while not overtly opposing the proposals, was very cautious of them, said that:

*'This Bill is aiming to remove some rights under the Data Protection Act from some people. This is potentially a dangerous precedent ... The Bill needs to provide reassurance that information can be shared between DWP and [a] Council as long as:*

- the customer has been properly informed*
- consent has been sought and not refused.'*

3.83 This authority also said that effective information sharing protocols should be established, referring to the '[Wales Accord on the Sharing of Personal Information](#)',<sup>18</sup>.

3.84 Sense Scotland said that:

*'a consent form provided at the outset could ask the customer for what purposes they would be happy for information to be shared - e.g. a menu of benefits could provide tick boxes and include such items as the ability to automatically send out a Blue Badge, refer for a visit from a social worker or money adviser etc. These could be renewed on a cyclical basis.'*

3.85 It further argued that customers should also be notified on each occasion when data has been shared if a customer indicates they want this on the consent form.

## **Future consultation**

3.86 Both the ICO and Sense Scotland recommended that the further proposed consultation of local authorities mentioned in the Call for Evidence about the future draft regulations to implement the new data sharing provisions should be widened to include others. The ICO, for example, said that it:

*'would also recommend that, if possible, the data subjects likely to be affected by this initiative are also consulted.'*

3.87 The TUC recommended a report should be published:

*'on how well the safeguards have worked for the existing provisions on informatin sharing.'*

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<sup>18</sup> The Wales Accord on the Sharing of Personal Information provides a framework for sharing personal information among service-providing organisations directly concerned with the health, education, safety, crime prevention and social well being of people in Wales.

## 4. Conclusion

***‘All data should have a function and purpose as opposed to solely being a “nice to have”’***

4.1 The evidence and arguments submitted in the responses to the consultation showed that there was clear support across the spectrum of stakeholders for increased data sharing between DWP and local authorities where the purpose is clear and the data is transmitted securely. Respondents described how this facility could improve the delivery of a range of welfare services, to the benefit both of the organisations delivering them and service users.

4.2 Importantly, numerous respondents mentioned that people applying for services were willing for the information to be shared, and several mentioned the surprise of applicants when they found out that current restrictions meant that this could not be done in a straightforward way. Wider scope to share data would mean that people might not have to supply detailed information about their circumstances again if this was already held elsewhere. And there would be a reduced need to ask them to obtain evidence, such as proof of receipt of a social security benefit, which could expedite the application process and mean that vulnerable people were less likely to be deterred from persevering with the application process.

4.3 From the point of view of service providers, respondents identified the administrative savings that might be made, for example from the reduced need for laborious and time-consuming liaison by phone, post or fax, or from the brigading of certain services within local authorities. Several responses pointed out that the effectiveness of local liaison between DWP and local authorities was currently variable, and that new data sharing arrangements could help to improve and make more consistent the way in which they worked together to deliver their various services.

4.4 Wider data sharing could also help to ensure that people received the support they needed quickly, and service providers could respond more quickly to changes in circumstances so that the right support was given at the right time. This in turn could mean that underpayments and overpayments were reduced.

4.5 As well as supporting greater data sharing for the services specifically mentioned in the Call for Evidence, there were numerous suggestions for sharing information beyond these, particularly to facilitate strategic planning and the work of local authorities to tackle poverty and worklessness.

4.6 However, the support for wider data sharing was not unequivocal, and several respondents pointed out that the information that might be shared was personal in nature. It must be correctly managed, and there was some criticism of the track record of DWP and local authorities in this regard. Also,

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no more information should be shared than was necessary for providers to deliver their services. Other responses mentioned the importance of Privacy Notices in the process, to ensure that customers were fully informed about how and when information might be shared, and their right to withhold consent to this happening if they wished.

4.7 The Government agrees with all of these cautionary points and will continue to ensure that any data sharing takes place within the legal framework, including the provisions set out in the Data Protection Act. Before any new data sharing arrangements are put in place, procedures will be developed and agreed with local authorities to ensure all personal data is handled safely and securely and within the legal framework.

## 5. Next steps

5.1 The Welfare Reform Bill is still being considered by Parliament. If Parliament approves these clauses, we plan to introduce regulations which will come into force in April 2012.

5.2 A draft set of regulations will be made public in the autumn, and we will circulate these for further consultation with stakeholder groups. As a result of this and other consultations with local authorities and others, we have decided that the regulations should be drafted to allow data sharing to help local authorities make decisions in relation to the following services:

- Blue Badge parking permits;
- Supporting People services (England and Wales);
- Housing related support (Scotland);
- Disabled Facility Grants (England and Wales);
- Adaptation Grants for disabled people (Scotland);
- Domiciliary Care;
- Residential Care;
- Discretionary Housing Payments; and
- Providing services that help to prevent or reduce homelessness.

5.3 We will also ensure that draft guidance that will accompany the new legislation is made available to local authority representative groups and other key stakeholders, in advance of it being published in 2012.

5.4 We would like to thank everyone who took the time to submit comments in response to this Call for Evidence. All of the comments received have been very helpful and will be taken into account when developing implementation plans and in particular the guidance we will be producing, in relation to the new powers.

# Annex A

## List of Abbreviations

ALMO	Arms Length Management Organisation
DLA	Disability Living Allowance
DWP	Department for Work and Pensions
ECS	Eligibility Checking Service (for free school meals)
HB	Housing Benefit
HB/CTB	Housing Benefit and Council Tax Benefit
ICO	Information Commissioner's Office
LA	Local authority (council)
LGA	Local Government Association
NAFAO	National Association of Financial Assessment Officers
NHS	National Health Service

# Annex B

## List of organisations that responded

Aberdeenshire Council

Advocacy Service for Older People

Angus Council

Association of Public Authority Deputies

Barking & Dagenham Council

Birmingham City Council

Blackpool Council

Bradford Metropolitan District Council

Bury Council

Caerphilly Borough Council

Cambridgeshire County Council

Cheshire West & Chester Council

Cornwall Council

Croydon Council

Cumbria County Council

Doncaster Council

Durham County Council

EK Services

Employment Related Services Association

Essex County Council

Gloucestershire Council

Hackney Council

Hampshire County Council

Herefordshire Council

Hillingdon Council

Information Commissioner's Office

Isle of Wight Council (with other contributing organisations)

Islington Council

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Joint Employment & Skills Partnership  
Kensington & Chelsea Council  
Leeds City Council  
Leicestershire County Council  
Lewisham Council  
Local Government Association  
Manchester City Council  
Middlesbrough Council  
Mydex  
National Association of Financial Assessment Officers  
National Federation of Occupational Pensioners  
Neath Port Talbot County Borough Council  
Newcastle City Council  
New Economy (and Manchester Councils)  
North Yorks County Council  
Nottinghamshire County Council  
Oldham Council  
Parliamentary & Health Service Ombudsman  
Peabody Housing  
Pembrokeshire Council  
Poole Housing Partnership  
Redbridge Council  
Redcar & Cleveland Borough Council  
Renfrewshire Council  
Rhondda Cynon Taff Council  
Sefton Council  
Sense Scotland  
Southampton City Council  
Stockport Metropolitan Borough Council  
Stockton-on Tees Council  
Suffolk Coastal Council  
Tameside Metropolitan Borough Council  
Tees Valley Unlimited

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Tower Hamlets Council

Trades Union Congress

Trafford Council

Wandsworth Council

Wigan Council

Wirral Council

York Council