

# Social Security Information-sharing: draft regulations

Report on the responses to the informal consultation on new arrangements extending data sharing powers between DWP and local authorities, in relation to the provision of welfare services and social security benefits.

June 2012

# Contents

1. Introduction .....	3
2. Description of the changes .....	5
Section 130 .....	5
Section 131 .....	6
3. Summary of responses.....	8
Overview .....	8
Analysis .....	9
4. Conclusions .....	23
5. Next steps.....	24

# 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 (LAs) and their service providers.

1.2 Sections 130-133 of the Welfare Reform Act 2012 [the 2012 Act] replace and expand existing data sharing legislation relating to the provision of welfare services, and add new provisions relating to council tax, and certain social security purposes. See section 2 for a full description of the changes.

1.3 Regulations have been drafted, using these new powers. DWP published an informal consultation in November 2011, seeking views from stakeholders on the scope of the draft regulations. Following consideration of the responses, The Social Security (Information-sharing in relation to welfare services etc) Regulations 2012 came into force on 29 June 2012. The Act and regulations can be accessed at <http://www.legislation.gov.uk/browse>

1.4 The consultation document asked for views about the following issues in particular:

## **Welfare services**

- Have we included the right list of purposes for which information may be held and used? What other purposes relating to information held and used do we need to prescribe?

## **Homelessness Functions**

- The legislation will allow data to be exchanged and used between different parts of a LA. Would it be useful to have a gateway allowing DWP to provide social security data to LAs in relation to homelessness function?

## **Reusing information**

- How long should information be kept with the possibility of it being reused in this way?
- Should this be set out in Guidance or should LAs be allowed to determine for themselves whether information is out of date?

## **Implementation and next steps**

- What issues would you like to see covered in the Guidance?
- Would your authority like to have very detailed Guidance?
- Would you prefer Guidance that just gives a general framework, leaving LAs to develop their practices locally?
- Are there any additional schemes or services you would like to see included in future data sharing regulations?

## **Social Security Information-sharing: draft regulations – consultation response**

1.5 The consultation took place between 21 November 2011 and 13 January 2012 and the consultation document was made available on the internet and publicised among various stakeholder groups including LAs, government departments and various consultative groups.

1.6 The Department is grateful to those who took the time to respond and it has taken them into account in developing its proposals. This report summarises the findings and sets out next steps.

## 2. Description of the changes

2.1 Section 130 of the 2012 Act permits LAs to supply certain information to DWP and to LA benefit teams for the purpose of assessing certain social security benefits. This will help to ensure claimants receive the correct benefit at the right time. It will make it easier for changes to be reported quickly, reducing the level of over or underpaid benefit.

2.2 Section 131 replaces and expands existing data sharing provisions between DWP, LAs, and others such as service providers, to help fulfil our commitment to making front line public services more efficient. By widening the category of welfare services for which claimant information can be shared, LAs will be able to make it easier for those with particular needs, such as elderly and disabled people, to receive the services they are entitled to. It will also provide the opportunity to reduce administrative costs and target funds appropriately. Since the consultation was published an amendment was made to this provision, extending it to enable data sharing in relation to council tax purposes. This will help to ensure delivery of local schemes that help people to pay their council tax bills.

2.3 Section 132 applies criminal sanctions for the unlawful disclosure of information under section 131.

2.4 Section 133 includes some supplementary provisions relating to sections 130 and 131.

### Section 130

2.5 This section introduces a new power that allows LAs to tell DWP, other parts of the LA or relevant service providers, when a person is admitted to or discharged from hospital or a care home, or needs overnight care at home, for the purposes of assessing awards of a relevant benefit<sup>1</sup>.

2.6 This will provide an additional route for reporting to the relevant benefit team changes relating to being admitted to or discharged from hospital or a care home, helping to ensure more awards are assessed promptly and accurately at a time when the claimant may not realise the need to report the change.

2.7 The provision relating to overnight care allows one part of the LA (typically this will be the social services department) to tell another part of the LA (the relevant LA HB team) whether a person needs a carer to stay overnight at the person's home. New HB rules came into force in April 2011 that entitles some disabled people to a

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<sup>1</sup> In this section “relevant benefit” means- universal credit, housing benefit, council tax benefit, attendance allowance, disability living allowance, income-based jobseeker’s allowance, income-related employment and support allowance, income support and state pension credit.

higher rate of benefit when they need an extra room for a non resident overnight carer. The ability to access data more easily will help to ensure that the claimant's application for help with housing costs in these circumstances is dealt with quickly and the correct amount is awarded.

2.8 Section 130 of the 2012 Act enabled prescribed information relating to the service and how it is funded to be shared. The regulations prescribe that certain information relating to the funding of a place in residential care can be shared, including whether the resident or the LA is meeting any of the costs. This will assist DWP to correctly assess the person's entitlement to Disability Living Allowance.

## Section 131

2.9 Section 131(1) introduces powers allowing the Secretary of State (DWP) to supply relevant information to a qualifying person (LAs, other prescribed persons and service providers), for purposes relating to welfare services or council tax Section 131(3) enables qualifying persons to use or share relevant information they hold for prescribed purposes relating to welfare services, housing benefit or council tax.

2.10 The regulations set out the purposes prescribed under section 131(1) and 131(3) of the 2012 Act. The effect is to enable data to be used or shared in relation to the following purposes:

- **Blue Badge scheme:** to help determine whether a person is entitled to special parking permit for disabled people. Those in receipt of the higher rate mobility component of Disability Living Allowance (DLA) are automatically entitled to a Blue Badge upon application.
- **Disabled Facilities Grant (England and Wales) and Disability Adaptations Grant (Scotland):** to help determine how much financial help a LA can provide towards the cost of adaptations to a disabled person's home. Grants are awarded to disabled people on a low income.
- **Discretionary Housing Payments:** to help decide if a person is eligible for financial help that is available to people on HB or CTB where a LA considers that help with housing costs is needed. An assessment of overall income is taken into account, along with other factors.
- **Homelessness Functions:** to help identify and support people who are at risk of becoming homeless for example because of changes to the Local Housing Allowance cap.
- **Non Residential Care:** to help calculate how much a person can afford to pay for a domiciliary care service. This covers services such as day care, home helps and meals. Under 'Fairer Charging' rules, people are expected to pay a charge for each service, which is subject to a means test.
- **Residential care:** to help calculate how much a person can afford to pay towards the cost of a place in care. A means test is used to determine how much a person must pay.

- **Support for troubled families:** information sharing to help identify families with multiple disadvantages who may require support to help turn their lives around, as part of the Troubled families programme which the department for Communities and Local Government lead on..
- **Support for people affected by new benefit rules:** information sharing to help identify people who are likely to be affected by changes in social security benefit rules, in particular people those that affect support for housing costs (benefit cap and social sector size criteria), and who may as a result need some help or advice.
- **Supporting People (England and Wales), and Housing Support (Scotland):** referred to in the regulations as 'Non Statutory' services in respect of services in England. To help decide whether a person is entitled to free or reduced cost services. The types of services provided are very similar across England, Scotland and Wales and include advice, counselling, help managing day to day affairs etc. The support can be free to people who are in receipt of HB and subject to a means test for everyone else.
- **Housing Benefit functions:** information sharing to help HB staff determine whether a claimant is having difficulty managing their affairs and might need to have rent paid direct to the landlord; whether the person is living in supported accommodation and is not therefore subject to LHA rules when their HB is assessed; whether a person is receiving HB and therefore entitled to free Supporting People services.

# 3. Summary of responses

## Overview

3.1 This section provides a summary of the responses that were received to the consultation, it includes some quotes from respondents and the Government's response where we feel clarification is needed. In total there were 73 responses, made up as follows:

Type of respondent	Numbers
Local authorities, or individuals working in local authority departments such as housing benefit, adult social care and housing	58
Other organisations, or individuals working in those organisations replying in a personal capacity	14
Private individuals	1

3.2 There was clear support for increased sharing of data between DWP and local authorities across the range of responses.

3.3 The responses focused on the area of welfare services and homelessness. This was to be expected given that the consultation asked specific questions about this. There was a clear consensus in favour of sharing information to help deliver these services.

3.4 Respondents also recommended that information be shared for a variety of other services and these are described further in the analysis section below.

3.5 While the majority of respondents supported an increase in data sharing, several expressed reservations to some aspects. These are described further and responded to in the analysis, but broadly speaking these respondents raised the following questions:

- Is there a risk that departments might restrict access to services if they are unable to get the data from DWP?
- Will people have the option to opt out if they are unhappy with their information being shared without consent?
- Will people be given enough advice to fully understand what their information will be used for?
- Is there a risk that the information shared by DWP will be used for decisions outside the prescribed welfare services?
- How accurate or reliable will the data be, especially if it is re-used?

## Analysis

3.6 The following section looks in detail at the responses to specific questions in the consultation.

### **Have we included the right list of purposes for which information may be held and used?**

3.7 A total of 30 organisations answered this question and 17 agreed that we had identified the right list of purposes for which information may be held and used, the others wanted an extension to the powers. Although there were reservations to aspect of the scheme no one objected to the prescribed welfare services.

3.8 Several local authorities stated that they would like a more general power to share information. One local authority said:

“We recommend that you state this is not an exhaustive list, and that there could be other legitimate purposes within that locality regarding information sharing”

3.9 This was echoed by iNetwork (previously NWEGG) who stated:

“We suggest that any prescribed lists/data sets which will be shared and detailed within legislation should be seen as **minimum** data sets which should be shared, as clearly there will be other legitimate information sharing taking place.”

### **DWP response**

3.10 We are not introducing a general power of the kind suggested here. Given the nature of the data we will be sharing we have taken the view that the purposes for which data will be shared should be specified. This is to give reassurance to Parliament and the public that personal data will only be used in the specific circumstances prescribed.

3.11 The primary power in the 2012 Act gives a definition of relevant information and states that we must prescribe the welfare services for which information is supplied and used. The powers we have introduced do not require us to prescribe individual data items that will actually be shared.

3.12 Although the regulations create the power to enable DWP to share data, it does not discharge us from the obligations placed upon all public bodies by the Data Protection Act and the Human Rights Act 1998. DWP will ensure its processes for sharing data are compatible with these requirements.

## Some additional issues were raised by respondents:

### Reliance on DWP data

3.13 Some respondents expressed concerns about reliance on DWP data when it is not needed Rethink Mental Illness said:

"If a claim is stopped by DWP (either correctly or in error), or is pending appeal, and this information is passed on to local authorities, we are concerned that this will result in support services accessed through local authorities being reduced or stopped without a full means assessment being done. This could result in people who would be eligible for these services on financial grounds having them withdrawn."

### DWP response

3.14 These provisions do not change the eligibility criteria for any of the services and, as now, LAs must determine whether a person needs a particular service and should follow the most appropriate route to ascertain a person's eligibility to a service. These new provisions simply permit LAs to seek verification of a person's social security award, without needing to get claimant consent first.

### Data sharing outside of the regulations

3.15 Rethink Mental Illness were also concerned about inappropriate data sharing outside of the remit of the services prescribed in the proposals. They went on to say that

"While we support the sharing of data in specific circumstances, we are concerned that this information does not influence any decisions of eligibility for support by local authorities outside the remit of the services prescribed in these proposals. We are particularly concerned that information about benefit status may be used by local authorities when assessing social care eligibility and would urge any guidance on the new proposals to explicitly address the importance of a needs assessment before any financial assessment is carried out"

### DWP response

3.16 Data can only be supplied to LAs where it is in accordance with the provisions in this new legislation. Section 132 of the 2012 Act makes it an offence to unlawfully disclose information supplied under section 131.

3.17 In deciding whether or not a person is considered eligible for social care, LAs will consider a range of factors such as health and personal circumstances to determine whether a person has a care need. If care is to be provided, they will look at whether that person is expected to contribute to the cost of such care, and that is when the financial assessment is undertaken. The new data sharing provisions do not interfere in any way with established processes for determining a person's need for care.

## Opting out

3.18 Two respondents were concerned about not giving the individual the opportunity to opt out if they were concerned that their data was used without consent or did not fully understand what their information would be used for. The Information Commissioners Office (ICO) recognised that a gateway (and not sharing on the basis of consent) for the purposes prescribed was appropriate. The ICO said:

“In our response to the call for evidence we commented on the Department’s concerns in relation to seeking informed consent and the limitations it presents. The Information Commissioner has stated that it is poor practice to offer individuals a ‘choice’ if the data sharing is to take place regardless of their wishes; also that consent is not appropriate where it cannot be freely given.

We therefore recognise the creation of a legal gateway that has been subjected to proper parliamentary scrutiny to allow data sharing to take place between the Department and local authorities, is an appropriate way forward. It will facilitate a streamlined system to benefit both for the individuals receiving, and the organisations responsible for, the services.”

## DWP response

3.19 As the regulations provide a gateway to share the information in the ways described above, where individuals wish to apply for one of the prescribed services and the LA requires certain personal information in support of that application, it will not be possible for the individual to withdraw ‘consent’ to their data being accessed. LAs will need to ensure that they provide clear advice to individuals explaining how their data will be used. People applying for one of the prescribed services will then do so in the knowledge that some of their data may be obtained from DWP or shared within the LA in accordance with the legal provisions.

## What other purposes relating to information held and used do we need to prescribe?

3.20 Some respondents suggested specific purposes we need to prescribe relating to information held and used, these included:

- To award a grant or concession
- Assessment and award of social housing applications
- Administration and maintenance of the register of electors
- Debt advice
- To collect debts owed to the LA
- Take up and income maximisation

## DWP Response

3.21 The 2012 Act does allow for further welfare services purposes to be prescribed, should it be agreed that a good enough case exists. We have selected this initial list of services as ones which had attracted the most support during our consultations and other discussions with LAs. We will monitor how these new rules work in practice and may consider extending them in the future if the need arises.

### **The regulations along with [section 131(3)(b) ] will allow data to be exchanged and used between different parts of the local authority. Would it be useful to have a gateway allowing DWP to provide social security data to local authorities in relation to homelessness functions?**

3.22 This question was answered by 49 respondents, and 45 stated it would be useful to have a gateway allowing DWP to provide social security data to LAs in relation to homelessness functions.

3.23 Oxfordshire County council said:

“We support the inclusion of homelessness functions in these proposals. We also believe that these proposals should enable welfare officers to redirect valuable time from unnecessarily burdensome information-sharing processes to achieving positive outcomes for vulnerable clients, most of who by the nature of homelessness will be going through crisis”.

3.24 The National Housing Federation that this provision should include:

“data to be transferred to local authorities to allow them to carry out responsibilities including helping homeless people, people living in supported housing and people requesting help from the local replacement to the social fund. This might also include a possible local role identifying people who cannot manage a monthly payment of universal credit or who need a direct payment of benefit to their landlord due to arrears or vulnerability.”

3.25 The four respondents who did not agree said it would not be relevant or of particular use and were not against the idea.

## DWP response

3.26 The regulations will allow a two-way gateway between the teams delivering the homelessness prevention service and other LA teams including HB teams to share information to help ensure LAs meet their statutory duty to provide certain advice and assistance to people who are homeless and may be at risk of becoming homeless. When Universal Credit is introduced we will regulate to ensure LAs can receive data from DWP to help them carry out their homelessness functions.

## **How long should information be kept with the possibility of it being reused in this way? Should this be set out in guidance or should LAs be allowed to determine for themselves whether information is out of date?**

3.27 The new provisions will give LAs the ability to reuse any information held for any of the purposes set out in the regulations. For example, DWP supplies information to one part of the LA so it can assess a person's contribution to non-residential care; shortly after the same person applies for a Disabled Facility Grant. The LA can reuse the information it holds in order to assess if the person is entitled to a Disabled Facility Grant without having to go back to the DWP with a separate request for information.

3.28 In response, seven respondents asked for very detailed guidance on the reuse of information. The ICO said:

“The Information Commissioner’s office strongly recommends that the Department should provide this guidance to local authorities in order to establish a consistent policy regime across all authorities; to do otherwise is likely to lead to inconsistencies in approach and the likely development of poor practice.”

3.29 Homeless link said:

“To ensure accuracy of data between LA areas we suggest that the DWP drafts firm guidelines concerning when particular types of information is no longer eligible for reuse. With our current system of contingent entitlements an individual’s mobility could be considerably curtailed unless all LA are collecting the same data in compatible formats”

3.30 Other respondents said they would like guide lines and best practice principles on the re-use of information that allowed LAs to develop their own policies.

3.31 Several others argued that LAs had developed their own retention policies and were best placed to decide whether it was appropriate to re-use information.

3.32 A number of respondents were generally concerned on the issue of re-use because of the number of changes a person can have in their circumstances that would affect their data. One LA said:

“I would think that the potential for information to be retained longer than is necessary would be great-compounded by the same data set being held by potentially several agencies. There would be a danger in individual data sets being updated/amended but not being communicated to all parties holding the same dataset. Potential breach of DP principle 4<sup>2</sup>. Retention and classification of any data would need to be comparable between the parties sharing the data.”

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<sup>2</sup> The fourth data protection principle- Personal data shall be accurate and, where necessary, kept up to date.

3.33 The National Information Governance Board argued that information should not be kept longer than it was needed for the purpose for which it was collected solely for reuse. Homeless link said:

“DWP needs to be mindful of information concerning people with chronic fluctuating conditions and people experiencing chaotic circumstances. With consumers exhibiting these characteristics we suggest that information is only considered eligible for reuse for a short period of time. We also recommend that the DWP develop a system where the data subject/claimant is empowered to request a reassessment of their circumstances.”

3.34 Other respondents said the retention policy would depend on what the information was being used for. Kirklees Council said:

“Whether information is current depends upon the purpose for which it was originally provided, whether that purpose requires the reporting of future changes by any party and whether there are mechanisms in place to prevent awards persisting beyond entitlement. It should be for authorities to decide whether they can rely upon the currency of any particular data set. If there is a requirement that government provide information for a particular purpose, government should not rely upon a previous notification to the same authority for the same or another purpose as justification for refusing to provide the information again.”

3.35 Several respondents recommended that reference should be made to the Local Government retention schedules guidance by the National Archives.

3.36 Due to the potential of information changing some respondents recommended use of DWP systems to be checked instead of reuse. Oldham council said:

“Clearly a number of data sets outlined will be changing frequently, which therefore means that it would be better practice that limited and secure access to source systems is provided. This would also support principle 4 of the Data Protection Act.”

## **DWP response**

3.37 In answer to the point made at para 3.32 above, we would not expect data sets to be held in this way. If a LA requests information, for example, for domiciliary care purposes, that information will be transferred onto the financial assessment form. It is this that will be retained. If, shortly after, the same person applies for a blue badge the LA can retrieve the information from the form. The form will be kept for as long as is necessary for business needs.

3.38 In answer to the point made at para 3.33, it is not the intention to share sensitive personal data such as detailed information about a person's health condition. Also, it is not within DWP's remit to provide guidance to LAs on how to determine eligibility for welfare services they are delivering.

3.39 LAs will become the data controller of the data that they receive for a prescribed welfare service; as such it will be for LAs to determine whether they are compliant

with the DPA. The information supplied by DWP will be the data we hold at the time of the request, and we will not be responsible for the accuracy of data held by the LA. We will provide guidelines but it will be up to LAs to decide whether updated information is required at a later date or whether the information they hold is accurate enough to be reused.

## **What issues would you like to see covered in the guidance?**

3.40 There are a variety of areas respondents would like to see covered in the guidance. The issues are covered in the following broad categories.

- Procedures for requesting information, including security requirements for sharing and storing information, including where services are contracted out
- Accurate recording and accountability procedures which minimise mistakes
- Links to DPA, FOI and other relevant legislation, when these might be used when these regulations can't be. Include explanations of offences/breaches
- Guidance on the re-use of information.
- Examples of when regulations might be used and also situations when it would not be appropriate.
- Explanation of certain terms, including 'qualifying person'
- How powers can be used in preparation for 2013- effective use of gateway to improve the service
- Communication to residents, including examples of privacy notices
- Explanation of roles, responsibilities and expectations of the DWP, LAs and customers.

## **DWP response**

3.41 All comments made will be taken into account when writing the guidance. While we will assist as much as we can and provide examples where appropriate, we cannot cover every eventuality and the guidance can't be a substitute for the LAs own legal advice. LA associations will be given an opportunity to comment on a draft version of the guidance before it is published.

## **Would your authority like to have very detailed guidance? Would you prefer guidance that just gives a general framework, leaving LAs to develop their own practices locally?**

3.42 The majority of respondents stated that they would prefer general guidance that provides a framework to develop their own guidance. One LA said:

"DWP guidance should set out the standard baseline framework as a minimum on which individual local authorities should be free to develop local practice"

3.43 Others thought that if guidance that was too prescriptive, it might lead to the regulations not being used. Aberdeenshire council said:

“Detailed guidance tends to be over prescriptive and can be used as an excuse to prevent the sharing of information thereby preventing the regulations achieving the desired outcome – a seamless service for the customer”.

3.44 Several respondents asked for something between the two, providing instructions on what could be shared and who with, giving examples, but allowing local authorities to develop local practice. Bolton council said:

“As data sharing is a sensitive and often complex area, it’s felt that the Guidance will need to contain a necessary level of detail to ensure there is confidence and consistency in the data sharing processes for all affected. At the same time, we would hope that this doesn’t prevent the development of effective local practices that are tailored to suit the needs of the local authority and its customers”.

3.45 Some respondents did ask for detailed guidance; the main reason was for consistency. One county council said it was important that data sharing does not become a postcode lottery.

3.46 One LA argued:

“For simplicity, fairness and clarity, it makes sense that a uniform approach is taken across the country based on detailed standard guidance which reduces the likelihood of misinterpretation about what should be shared, how rapidly it should be provided and even on the form this data could take”

3.47 The ICO advised strongly that the guidance should be detailed, complete and sufficient so that local authorities need not formulate their own policies and practices. The ICO went on to say:

“In our response to the call for evidence we stated that we had received enquiries from local authority officers about other data sharing initiatives regarding what the authority was signing up for and also queries about the wording of the paperwork that was involved. Such enquiries will likely be minimised if detailed guidance on the policy and practice of this data sharing arrangement is produced centrally by the department.”

## **Are there any additional schemes or services you would like to see included in future data sharing regulations?**

3.48 Respondents suggested several additional schemes and services they would like to see included in future data sharing regulations. These include:

### **Free School Meals**

3.49 Several LAs would like Free School Meals included in these regulations. Manchester said:

“Eligibility checking service is not an acceptable substitute for this. However simple, it remains an additional checking activity to get information that we already hold; it reduces the burden on claimants but there remains an unnecessary administrative burden for the local authority. Also it gives such limited information (entitled/not entitled) that local authorities cannot consider the risk of current or future fraud and error; for example, it may be that their information conflicts with that underlying the Hub response.”

## **DWP Response**

3.50 Legislation already enables DWP to supply data to LAs in England and Wales for the purpose of determining eligibility to Free School Meals. The method for doing this is not dependent on the provisions in the legislation. Government has decided that the best way for supplying the data for this purpose is through the Electronic Checking Service (ECS). LAs in England and to some extent in Wales, can use the ECS. This is operated by the Department for Education (DfE) and enables staff in local authorities with licensed access to it to check applicants’ eligibility for Free School Meals. Any problems with access to this service need to be taken up with DfE.

3.51 Legislation does not currently extend to Scotland and there may be a case for using the new powers to regulate in respect of this. However, the provision of Free School Meals is a devolved matter, and we have received no representations from either the Scottish Government or LAs in Scotland, on this matter.

## **Travel concessions**

3.52 Some respondents suggested social security data could be shared so LAs could assess entitlement to travel concessions, which included freedom pass<sup>3</sup>, free bus passes for older people (other than London) and disabled people and the taxi<sup>4</sup> card scheme.

## **Fuel poverty**

3.53 Respondents would like access to social security information to tackle fuel poverty, including deciding eligibility to the warm front grant

## **Education-related benefits**

3.54 In addition to Free School Meals (see para 3.49 above), other education-related services mentioned included school clothing grant, school visits and school travel for low income families.

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<sup>3</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>4</sup> The Taxi card 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.

## DWP response

3.55 In response to paras 3.52 to 3.54 above, this Department is looking at the issue of passported benefits, particularly in the context of the introduction of Universal Credit. Where data needs to be supplied to LAs or others in relation to determining eligibility for passported benefits, we will ensure the necessary legislation is in place.

## Council tax and debt collection

3.56 Several respondents commented that the consultation document did not mention data sharing for localised Council Tax support. Also, several respondents said it would be helpful to be able to share data with Council Tax teams to award exemptions and discounts. One authority stated that sharing data between housing teams and Council Tax teams would help to bring empty homes back into use.

3.57 Other respondents would like to use social security information to trace local authority debts (other than HB and CTB overpayments).

## DWP response

3.58 Since publication of the consultation document amendments were made to the draft legislation and the final version of section 131 of the 2012 Act now includes council tax as a relevant purpose. Council tax still needs to be prescribed in regulations and these will be introduced in the autumn of 2012.

3.59 Other than council tax, the regulations allow data sharing for prescribed welfare services. The tracing of debts is not a welfare service and these regulations cannot be used for that purpose.

## Social fund replacement

3.60 Some respondents asked about local social fund schemes.

## DWP response

3.61 DWP intend to lay regulations by April 2013 to enable data sharing to cover local schemes replacing elements of the social fund.

## Sharing information with social sector landlords

3.62 **New rules on under-occupancy in the social sector:** Oldham Council said:

“If the government is to continue with its proposed reductions, it is vital that registered providers and local authority benefit services work together to identify the impact and to take pre-emptive and mitigating action with those affected”

3.63 **Non dependent deductions:** respondents also want to be able to share information with social landlords about increases in non dependant deductions. Manchester council stated that the majority of the non dependants in their HB caseload are concentrated in the social rented sector. Their landlords would like to

be able to identify the tenants affected so that they could offer assistance and mitigate the risks to their rent collection.

### **DWP Response**

3.64 Following discussions with LAs and social sector landlords we have decided it would be helpful to have provisions that enable data to be shared for the purpose described below. The regulations we published as part of this consultation will be amended to include this new purpose:

- To enable a two way exchange of data between HB teams and landlords to identify existing claimants who are likely to be affected by new social sector size criteria rules, and provide advice and support as appropriate.

3.65 There are no plans at present to share data in relation to non dependents.

### **Disabled People: Right to Control**

3.66 The Local Government Association Social Security Advisory Group said:

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

3.67 They pointed out that a considerable amount of work was required, which could have been reduced if there had been a general power to share information across LA and the DWP. They would also like access to Lower Super Output Area data on those entitled to DLA and AA to inform the needs of this potential client group in the provision of assessment and services.

### **DWP response**

3.68 The new data sharing powers will enable much of the data required for Right to Control services to be supplied by DWP to LAs and between different parts of the same LA or different LAs. For example, Right to Control services include those provided by the Adult Social Care department in the LA, such as domiciliary (non residential) care and Supporting People services. The new measures will enable data to be used for both of these purposes. It may be possible to extend the range of purposes covered in the future should the need arise.

### **Supporting vulnerable families**

3.69 Several respondents suggested that data sharing should be extended more generally to cover social care provisions, including identifying families with complex needs and identifying children at risk.

### **DWP response**

3.70 In response to this, and as a result of discussions with the Department for Communities and Local Government, it has been decided to extend the purposes in

the regulations that were published as part of this consultation to enable data to be shared between DWP and LAs in relation to supporting families with multiple disadvantages.

### **Partially sighted/blind certificate**

3.75 Two respondents mentioned data sharing relating to the DLA mobility component and its extension to people with sight impairment. LAs require a 'certificate of impairment' to be registered as partially sighted/blind. If these could be shared with the DWP it could speed up the process for DLA mobility claims in these cases.

### **DWP response**

3.76 We are not aware of this causing a problem for most people. Where a person agrees, it is permissible for the LA to send a copy of their certificate to DWP. As numbers are not great this should not present a problem, but we are happy to review this if further advice comes to light.

### **Adult support and protection in Scotland**

3.77 The Angus Adult Protection Committee and North Lanarkshire Adult Protection Committee have asked for data sharing to be extended to take account of Section 4 of the Adult Support and Protection (Scotland) Act 2007. This imposes a duty on Scottish LAs to investigate the circumstances of "adults at risk". This sometimes includes gathering of detailed information of financial circumstances, including information about their pensions and benefits. Although the act requires any person holding financial records to give them to the council officer, Angus Adult Protection Committee have said:

"At present the DWP's position is that they are not obliged to comply with requests for information made under Section 10 of the Adult Support and Protection (Scotland) Act 2007 because Acts of the Scottish Parliament do not fall within the definition of "enactment" set out by Westminster Parliament."

3.78 They went on to say, that including this in regulations would be:

"a practical solution to a significant problem and assist in the protection of vulnerable adults in Scotland".

### **DWP Response**

3.79 The new legislation may go some way towards resolving this problem in Scotland. It will be possible to supply data to LAs in Scotland in relation to the provision of certain social care services to vulnerable adults, such as domiciliary (non residential) care and Housing Support. We will review this should LAs in Scotland feel they need further measures to enable the data sharing to take place.

## Take up, financial inclusion, income maximisation and tackling worklessness

3.80 Some respondents would like a more general power so that social security information can be shared for the purposes of promoting take up and income maximisation and tackling worklessness.

3.81 Homeless Link would like information to be shared for the purpose of assessing eligibility for early entry to the work programme and passporting some claimants onto JCP's enhanced service.

3.82 Some of the schemes respondents said they would like to use social security information for include assessing bursaries for 16-19 year olds, identifying 2 year olds who will be eligible for free early years provision from 2013 and assessing entitlement to the Independent Living Fund. Aberdeenshire council said:

“It would be helpful if the data sharing arrangements could be extended to include other local authority chargeable services, which have rebate schemes based on entitlement to DWP benefits as this would provide a seamless service and help protect the public purse.”

### DWP response

3.83 Some of the activities mentioned here can be carried out under existing legislation. We will clarify this in guidance. We will review this if it appears that further data sharing is required.

## Welfare organisations

3.84 Some respondents would like to be able to share data with welfare partners and LA contracted services. Homeless Link said:

“An improved gateway between DWP, LA and LA contracted services, for example homeless hostels, has great potential for establishing an automated system for assessing eligibility for the Shared Accommodation Rate Exemption. We also see this as an opportunity to create a similar for discerning whether a claimant is sufficiently ‘vulnerable’ to qualify for the housing component of Universal Credit to be paid to their landlord—for example where a record of an individual residing in a LA contracted homeless hostel acts as an automatic trigger for their eligibility for housing payments to be made straight to their landlord and their exemption from the SAR”.

3.85 Several respondents would like a more general power that allowed LAs to pass information to accredited external advice services where appropriate, for example to the Citizens Advice Bureaux.

### DWP response

3.86 Some of the purposes mentioned here may well be covered by the new measures, such as enabling landlords to identify people affected by new rules relating to Housing Benefit. Where LAs are contracted with a service provider to

## **Social Security Information-sharing: draft regulations – consultation response**

undertake certain functions on their behalf or deliver services, it may be possible to exchange data within the terms of that agreement. If LAs want to supply data they hold to external advice agencies they may well be able to do so. They would need to seek their own legal advice regarding that.

## 4. Conclusions

4.1 The majority of the responses to the consultation show that there is support for increased data sharing between DWP and LAs.

4.2 Many respondents would like data sharing to be expanded further, to include other services and in some cases give LAs a general power to share data to help their local communities and to protect against fraud and error.

4.3 We have decided to expand the regulations in relation to three new purposes (see para 5.1 below). We will not expand this current set of regulations any further but will monitor how they work in practice.

4.4 We do not think a general power is appropriate. The Government is committed to providing a data sharing gateway for prescribed welfare services 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. While we acknowledge that more general data sharing powers could enable LAs to provide more joined up services this needs to be balanced against the rights of individuals to have their data properly protected and only used or shared where necessary.

4.5 Some respondents expressed concern about maintaining data security, the risk of re-use and the importance of customers retaining control over their data and the importance of privacy notices to ensure they know what their data is being used for. We agree that this is a priority and will work with LAs to ensure data is handled safely and securely in accordance with Data Protection Act principles.

4.6 While some respondents would like the Department to produce detailed guidance, others would like good practise guidelines and would like the DWP to recognise that LAs are best placed to set up their own practices within the regulations. We will provide guidance setting out what the new legislation will permit, but as far as possible allow local authorities to use their expertise and judgement where appropriate.

## 5. Next steps

5.1 The draft regulations will be laid in Parliament in April with the aim of bringing them into force before the end of July 2012. Partly in response to this consultation, and to reflect discussions we have had with colleagues across government, the regulations published as part of this consultation will now be amended to include the following additional purposes

- to enable LAs and social sector landlords to support tenants affected by new benefit rules relating to occupancy, for people living in social housing;
- to enable LAs and social sector landlords to support tenants affected by new benefit rules relating to the cap on benefit levels;
- to enable LAs to deliver targeted support to vulnerable families as part of the Troubled Families Programme.

5.2 In addition, regulations using the new data sharing powers will be introduced in October 2012 to allow data sharing for support for council tax.

5.3 Guidance will be issued which sets out details about the new rules. This will be made available on the DWP website at: [www.dwp.gov.uk/local-authority-staff/housing-benefit](http://www.dwp.gov.uk/local-authority-staff/housing-benefit)

5.4 We have decided not to extend the regulations any further at present. We need to monitor how these new arrangements will work and consider whether there is a good case for prescribing additional purposes in the future.

5.5 We would like to thank everyone who took the time to submit comments in response to the Informal consultation. All of the comments received have been very helpful and will be taken into account when developing implementation plans, future regulations and the guidance.