

Title: Introduction of new powers for bodies to disclose identified data for the purpose of taking action in connection with debt owed to a specified public authority IA No: Lead department or agency: Cabinet Office Other departments or agencies: HMRC, DWP, HO, BIS/SLC, CLG, DfT/DVLA and MoJ and private bodies who fulfil a public function on behalf of a public authority	Impact Assessment (IA)		
	Date: 01/02/2016		
	Stage: Development/Options		
	Source of intervention: Domestic		
	Type of measure: Primary legislation		
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Summary: Intervention and Options	RPC Opinion: Not Applicable
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Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as Two-Out?
£m	£m	£m	Yes/No In/Out/zero net cost

What is the problem under consideration? Why is government intervention necessary?

In the the 2013 report 'Managing Debt Owed to Central Government' the NAO estimated that c£22bn of debt was owed to Central Government. Cabinet Office estimates that this rose to c£24bn by March 2015. It is understood that 10% of this overdue debt (approx. £2.4bn) is owed by multiple debtors who owe a debt to more than one public authority. Current data sharing arrangements significantly limit the ability of public bodies to share debt data, creating an information failure. This reduces Government's ability to understand if a debtor owes multiple debts, to provide appropriate support and to recover the debt. The Government needs to intervene to remove these barriers.

What are the policy objectives and the intended effects?

The policy objective is to improve the management of debt in the public sector by increasing flexibility and the reducing the time and complexity involved in establishing the sharing of data. We intend to confer a permissive power on public bodies listed in a schedule in the legislation to authorise data sharing between them for identifying, collecting and taking action on debt owed by individual or organisation to a public authority. Creating a clear purposive gateway will provide public bodies with assurance as to what is legally permissible and in turn allow greater flexibility for Government to act more quickly to (a) recover debt, (b) develop a single debtor view, and (c) provide targeted support to those who struggle to repay their debts.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

1) Option 1 – Do nothing: The status quo would be maintained, whereby specific statutory gateways are created when there is a need for them.
 2) Option 2 - Introduce new legislation that enables Public Authorities to share any data for any purpose, if there is a public benefit and is within the bounds of the Data Protection Act and Human Rights Act.
 3) Option 3 - Non-legislative work to change cultural boundaries: simpler guidance, brokerage of data-sharing agreements or other such provision.
 4) Option 4 (preferred option) - Introduce new legislation which enables the sharing of data between public authorities within clearly set constraints (who can share, what they can share and for what purpose). This option reduces data sharing complexity and cost as Public Authorities use the purposive gateway rather than individual gateways. It also balances this benefit with the protection afforded to the individual.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: Month/Year					
Does implementation go beyond minimum EU requirements?				Yes / No / N/A	
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		Micro No	< 20 No	Small No	Medium No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)				Traded: N/A	Non-traded: N/A

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible SELECT SIGNATORY: _____ Date: _____

Summary: Analysis & Evidence

Policy Option 1

Description: Do nothing

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate:

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate			

Description and scale of key monetised costs by 'main affected groups'

In line with impact assessment guidance the do nothing option has zero costs or benefits as impacts are assessed as marginal changes against the do nothing baseline.

Other key non-monetised costs by 'main affected groups'

In line with impact assessment guidance the do nothing option has zero costs or benefits as impacts are assessed as marginal changes against the do nothing baseline.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate			

Description and scale of key monetised benefits by 'main affected groups'

In line with impact assessment guidance the do nothing option has zero costs or benefits as impacts are assessed as marginal changes against the do nothing baseline.

Other key non-monetised benefits by 'main affected groups'

In line with impact assessment guidance the do nothing option has zero costs or benefits as impacts are assessed as marginal changes against the do nothing baseline.

Key assumptions/sensitivities/risks	Discount rate	
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BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs:	Benefits:	Net:	Yes/No	IN/OUT/Zero net cost

Summary: Analysis & Evidence

Policy Option 2

Description: Providing for a broad, Government-wide presumption to share data through legislating

FULL ECONOMIC ASSESSMENT

Price Base Year 2015	PV Base Year 2015	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: 0

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0	0	0

Description and scale of key monetised costs by 'main affected groups'

N/A

Other key non-monetised costs by 'main affected groups'

It is expected that public sector bodies affected by the legislative change will face one-off familiarisation and training costs associated with the change in legislation. Public sector bodies will also incur administrative costs associated with an increased volume of data sharing requests – this is expected to be most significant under this option as it has the broadest scope for sharing data. However, it is expected that any data sharing burden would be at least partially offset by benefits associated with improved management and recovery of debt (see below).

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0	0	0

Description and scale of key monetised benefits by 'main affected groups'

N/A

Other key non-monetised benefits by 'main affected groups'

Public sector bodies will benefit from a decrease in the administrative costs of sharing data (i.e. staff time in researching or establishing legal data sharing gateways). The public sector will be able to improve its management and recovery of debt from multiple debtors, enabled through public sector bodies' ability to share data more quickly.

Key assumptions/sensitivities/risks

The key risk of a legislative change lies in the possibility of future legal challenge with respect to the Data Protection Act or the Human Rights Act. This is most significant under this option as it enables a wide range of data sharing. Related to this, there is a risk in data loss and associated personal costs to citizens as well as reduced trust in government. A further risk is in incorrect use of data.

Discount rate

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs:	Benefits:	Net:		

Summary: Analysis & Evidence

Policy Option 3

Description: Non-legislative work to change the culture around data sharing in the public sector

FULL ECONOMIC ASSESSMENT

Price Base Year 2015	PV Base Year 2015	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: 0

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0	0	0

Description and scale of key monetised costs by 'main affected groups'

N/A

Other key non-monetised costs by 'main affected groups'

Public sector bodies will face one-off costs related to the development and implementation of a culture change/training programme. This would involve training delivered to staff who are or could be involved in data sharing. Assuming a successful shift to increasing the level data sharing within the existing legal framework, public sector bodies will also face ongoing administrative costs associated with sharing data, but it is expected that these would be at least partially offset by benefits associated with recovery of debt.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0	0	0

Description and scale of key monetised benefits by 'main affected groups'

Other key non-monetised benefits by 'main affected groups'

Assuming a successful shift to increase data sharing within the existing legal framework, public sector bodies will benefit from a decrease in the administrative costs of sharing data (i.e. staff time in researching or establishing legal data sharing gateways where gateways already exist). The public sector will be able to improve its recovery of debt from multiple debtors enabled through public sector bodies' ability to share data more quickly. The magnitude of these benefits is expected to be lower than under options 2 and 4.

Key assumptions/sensitivities/risks

Discount rate

BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs:	Benefits:	Net:	No	NA

Summary: Analysis & Evidence

Policy Option 4

Description: Constrained powers to share data for specific purposes within specified but flexible groups

FULL ECONOMIC ASSESSMENT

Price Base Year 2015	PV Base Year 2015	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: 0

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0	0	0

Description and scale of key monetised costs by 'main affected groups'

Other key non-monetised costs by 'main affected groups'

It is expected that public sector bodies affected by the legislative change will face one-off familiarisation and training costs associated with the change in legislation. Public sector bodies will also incur administrative costs associated with an increased volume of data sharing requests – these are expected to be lower than under option 2 as data sharing is limited to instances where data is used to recover debt owed to Government. Again, it is expected that any data sharing burden would be at least partially offset by benefits associated with recovery of debt

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0	0	0

Description and scale of key monetised benefits by 'main affected groups'

Other key non-monetised benefits by 'main affected groups'

Public sector bodies will benefit from a decrease in the administrative costs of sharing data (i.e. staff time in researching or establishing legal data sharing gateways). The public sector will be better able to form a single debtor view and improve its recovery of debt from multiple debtors enabled through public sector bodies' ability to share data more quickly.

Key assumptions/sensitivities/risks

Discount rate

The key risk of a legislative change lies in the possibility of future legal challenge with respect to the Data Protection Act or the Human Rights Act. Related to this, there is a risk in data loss and associated personal costs to citizens as well as reduced trust in government. A further risk is in incorrect use of data in policy-making.

BUSINESS ASSESSMENT (Option 4)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs:	Benefits:	Net:	No	NA

Evidence Base (for summary sheets)

Problem under consideration

Debt owed to the government is due by individuals and businesses, and comes from a wide range of sources including overdue tax liabilities, benefit or tax credit overpayments, outstanding fines, penalties and court confiscation orders, but is not limited to these areas.

In the 2013 report *Managing Debt Owed to Central Government* [1] the NAO estimated that around £22bn of overdue debt was owed to Central Government in March 2013. Around 90 per cent of debt is owed to HMRC and DWP. Recent Cabinet Office data suggests that Central Government debt rose to around £24 billion[2] in March 2015, against total collected revenue of around £600 billion[3]. Debt is an asset and Government has a duty to manage its debtors effectively as part of good financial management.

There are already sufficient data sharing powers for data to be shared between HMRC and DWP, which covers around 90% of the £24bn. However, the remaining 10 per cent of debt (around £2.4bn) is owed to other public authorities such as local government, where current legislation is more restrictive. Public authorities need to work together more intelligently to manage debt better.

We estimate that a significant number of people who owe debts to public authorities are likely to be vulnerable and may have difficulty managing their finances. Better cross-agency management of debt has the potential of providing greater support to citizens by supporting affordable structured repayment plans and reducing contact from debtors, which often result adversely on their well-being.

Public authorities already have the ability to share debt data. Around 86 legal gateways to share debt data have grown organically across the public sector over a number of years. However, these gateways are restrictive, often misinterpreted, and are complex and time consuming to use[4]. Public authorities sometimes face delays of up to six years to understand the legislative landscape and then establish an appropriate gateway.

What is clear is that the size of the problem is significant and that more needs to be done to recover debts that are owed.

Rationale for intervention

Sharing identified debt data should facilitate:

- cross public sector coordinated action to identify multiple debtors, so we can provide greater support to people and businesses who have difficulties repaying multiple debts they owe to Government, thus supporting their wellbeing;
- more efficient and effective cross Government debt management, including the recovery of debt, to save taxpayers' money by streamlining processes and simplifying the legislative landscape.
- ability to identify and overcome the barriers to creating a single debtor view so that the relevant public authorities owed a debt have a holistic view of a debtor and take appropriate coordinated interventions.

These debts are legally collectable and enforceable, and all appeals processes and disputes will have been concluded.

There are clear calls to increase the effectiveness and/or the efficiency of current data sharing from across the public sector and some private sector organisations. The Law Commission scoping report, *Data Sharing between Public Bodies*[5], describes how the law surrounding data sharing is complex, with powers to share data scattered across a very large number of statutes. They may be set out expressly or implied. The report indicated that there are problems in practice and that there are differing interpretations of the law governing the sharing of data. In addition to the complex legal landscape, other issues include a reported lack of flexibility (the difficulty in adapting to changing circumstances in a timely fashion given legislative processes) and the time taken to create new data sharing relationships.

Given that 10% of debt (equal to around c£2.4bn) is owed by a debtor who owes multiple debts to more than one department, different Government departments and public sector organisations may wish to contact the same people. As 90% of debt is owed to HMRC and DWP, which already have data sharing arrangements, this leaves around £240m of debt owed to other Government departments, who would benefit considerably from being able to share data on debtors.

Public authorities will often work independently to recover their debts, which can result in debtors being contacted multiple times by different agencies. This is inefficient for the public sector and can have adverse effects on those individuals (who are often the most vulnerable in society) who have difficulties repaying their debts. The report 'Managing Debt Owed to Central Government' the NAO recommended that the Government should look to develop a single debtor view.

Creating a single debtor view could help Government differentiate between those debtors who cannot pay, and those who simply will not pay. A debtor who cannot pay because of hardship or other barriers, can be given the appropriate support and advice, and could avoid building up further debt. A debtor who can pay would have a more manageable repayment plan which includes the whole debt. For debtors who have the means to pay their debt, but choose not to pay, the Government can accurately assess and use risk-based interventions to recover the debt.

People and businesses that are experiencing genuine difficulties paying their debts can be offered the right support and advice, and a managed payment plan can be tailored to take their personal circumstances into account, whilst also increasing the likelihood of recovering the full debt. It would also mean that resources could be shared, thus reducing the amount of time and associated costs it takes to identify a debtor. However, issues around hierarchies and prioritisation of the repayment of debts poses a number of challenges. Running pilots can help identify the issues, including the legal, political and cultural barriers that need to be overcome.

Debt data sharing could help recover debt earlier, meaning that aged debt and potential losses due to write offs, could reduce, and debtors will be able to repay their debt more effectively. Data sharing will also help to locate debtors, driving more effective debt collection.

The strengthened evidence base from data sharing could also inform better decision making, using more tailored approaches such as behavioural insights, to make interventions more effective.

Policy objective

The policy objective is to increase the recovery of debt owed to Government, whilst ensuring we are collecting multiple debts from our debtors under affordable structured repayment plans, by increasing the flexibility of legislation and reducing the time and complexity involved in sharing data. We intend to do this by making it easier to allow parties to share data to identify and collect debt, bring civil proceedings and take administrative action as appropriate. This could offer significant savings, whilst ensuring vulnerable debtors receive the right advice and support to help ensure affordable repayment plans.

Whilst the emphasis of any solution will be on flexibility, time and simplicity; it will be balanced by the need to protect the rights and privacy of individuals. Therefore we will ensure that principles of necessity and proportionality are understood and upheld.

The policy seeks to provide a legal gateway, which makes it easier for organisations to understand what is permissible by way of data sharing for the purposes of taking action in connection with debt owed to a specified public authority. The gateway will be 'purposive' (one that is constrained by the purposes for which the data will be used). New powers would be permissive and supplement, rather than replace, existing powers. The gateway will allow one or more public authorities specified in a schedule to share identified information in alignment with Data Protection Act principles (e.g. adequate, relevant and not excessive to the purpose for which they are processed).

Who the policy is meant to apply to

The policy is to introduce a general power that covers specified public authorities. Organisations included in the schedule at introduction include HMRC, DWP, HO, BIS/SLC, CLG, DfT/DVLA, MoJ, local authorities, and private bodies who fulfil a public function on behalf of a public authority. We anticipate

posing the question in the proposed consultation document about whether the schedule should be extended to other organisations, which could usefully contribute to achieving policy objectives.

Description of Options considered

Option 1: Do Nothing: Allowing the creation of a number of specific statutory gateways, where there is a need for them.

This option is essentially about maintaining the current status quo and making provision for each data-share required for the purposes of sharing data to take action in connection with debt owed to a specified public authority, through existing individual statutory gateways or by creating new statutory gateways.

Costs: Whilst such an option meets an immediate need it does not simplify the current legislative landscape or create a more flexible regime, nor does it reduce the time taken to create new data-sharing agreements as there would still be a need to create specific legislation with each one. The cost associated with creating specific legal gateways is significant, in terms of Official, lawyer and Parliamentary time spent firstly in understanding the complex legal landscape, creating an appropriate gateway suitable for the specific needs and then passing the gateway through Parliament. The delay this creates in being able to take action in connection with debt owed to a specified public authority also represents a cost, whilst the gateway is being established.

Benefits: Specific gateways (created through secondary legislation) are least burdensome when it comes to producing evidence that such a gateway is required; in order to be added to statute it will be subject to Parliamentary scrutiny and therefore deemed necessary. To do so, it is expected that the case for the gateway will be clearly set out, providing assurance that such a measure was proportionate and necessary before it was created.

Option 2: Providing for a broad, Government-wide presumption to share data;

This option operates under the principle that data is an asset for the whole of Government. The proposal would essentially allow any public authority under the scope of this legislation to share any data for any purpose, so long as it was for the benefit of the public and was within the bounds of the Data Protection Act (DPA) and Human Rights Act (HRA).

Costs: There will be a transitional cost to Public Authorities in scope in terms of familiarisation with the new legislation, and potential training in how to provide the required information. We would also expect an ongoing cost related to the time spent gathering the required data together upon request. Specifically we would anticipate a higher amount of data sharing post legislation which would require more resources to service it adding to the administrative burdens of departments as they service a higher demand. As under this option departments will be required to share data for any purpose that benefits the public, the number of new requests has the potential to be significantly more.

Individual costs could accrue in terms of the possible impact on individual privacy and human rights. This would potentially lead to a reduction in trust, with possible consequences for health services, social care, policing and criminal justice amongst others and an increased likelihood of legal challenge (and therefore increased legal cost) based on the Human Rights Act.

Benefits: This option allows the most flexibility, shortest timescales for agreeing on a data share and will reduce legislative complexity the most. Benefits summarised here come from both the administrative cost savings, and anticipated increase in debt recovered:

Administrative cost savings: We would expect an administrative saving from the reduction in the number of future data sharing agreements between Departments that would need to be set up individually compared with the hypothetical 'do nothing' scenario.

Overall, we might expect the net impact on Departments to be a net saving as increases in the volume of data sharing as a result of the legislation is expected by Departments to be outweighed by a reduction in the cost of sharing each element of data, and in setting up individual agreements.

Identification of Multiple Debtors: This option would enable the identification of multiple debtors. Currently, we estimate that multiple debtors owe around £2.4bn, with 10% (£240m) of this debt not covered by existing data sharing agreements. This power would enable named Public Authorities to share information which would help to provide a single debtor view. This in turn will help to take a more effective coordinated intervention to recover debt where possible and to support those who are struggling to repay.

These indicative cost and benefit figures will be tested during the consultation and the final stage impact assessment will include a fuller assessment of the costs and benefits of each option.

Option 3: non-legislative work to change cultural boundaries: simpler guidance, brokerage of data-sharing agreements or other such provision (e.g. communities of practice);

This option recognises the issue that a number of the barriers to effective data-sharing are cultural: overly-cautious interpretation of statute, trust in how other organisations will use data, incentives to withhold the supply of data, a lack of confidence in the integrity of the data being shared and a lack of consistent standards in definitions, formats and collection methodology. All these add to the issue of Departments being reluctant to share with each other and more broadly.

There is some work being carried out in this wider, cultural field. The Department of Communities and Local Government has established a 'Centre of Excellence' for data sharing across the Public Sector to share best practice and help overcome some of the cultural drivers that prevent data being shared.

Costs: There will be a cost in terms of creating, disseminating and training staff with the new guidance. However, this does not reduce *actual* legislative complexity, or the time taken, or the flexibility of any legislation of itself. As legislation would still be required, there would still be Parliamentary time and Administrative costs of setting up agreement when needed, as in the "do nothing" case.

Benefits:

This option would reduce *perceived* complexity of the legislation as clearer guidance is developed and best practice shared which will reduce *cultural* barriers to data sharing.

Option 4: Constrained powers to share data for specific purposes within specified but flexible groups.

In this area, the proposal is for constrained powers to share data for the specific purposes of taking action in connection with debt owed to a specified public authority. It is envisaged that this power would have a scope that could permit a range of public authorities to take part. **This is the preferred option.**

The scope of this would be controlled by a prescribed list of organisations which would only be amended following an Order by a Minister. Details of the proposed solution are:

- To create a permissive legislative vehicle that allows a specific group of organisations to share any data to take action in connection with debt owed to a specified public authority;
- To ensure that this facility is constrained:
 - i. ensuring that organisations are only on the list if they can prove their need to be on it;
 - ii. creating a Code of Practice that prescribed organisations must comply with in order to be able to maintain their prescribed status, this includes the publication of privacy impact assessments and auditing by the Information Commissioner and operating data sharing arrangements in alignment with DPA and HRA principles;
 - iii. constraining the categories of information shared, in particular exempting non-relevant data classed as sensitive personal data for the DPA (race/ethnic origin, political opinions, religious beliefs or other similar beliefs, Trade Union membership, physical or mental state or condition) and "patient information" as per the NHS Act s251(10); and
 - iv. preserving the unlawful disclosure sanctions of those organisations that have them - DWP and HMRC.

In this area, the proposal is for constrained powers to share data for the specific purposes taking action in connection with debt owed to a specified public authority. It is envisaged that this power would have a scope that could permit a range of public authorities to take part.

The scope of this would be controlled by a prescribed list of organisations which would only be amended following an Order by a Minister. Details of the proposed solution are:

- To create a permissive legislative vehicle that allows a specific group of organisations to share any data to take action in connection with debt owed to a specified public authority;
- To ensure that this facility is constrained:
 - i. ensuring that organisations are only on the list if they can prove their need to be on it;
 - ii. creating a Code of Practice that prescribed organisations must comply with in order to be able to maintain their prescribed status, this includes the publication of privacy impact assessments and auditing by the Information Commissioner and operating data sharing arrangements in alignment with DPA and HRA principles;
 - iii. constraining the categories of information shared, in particular exempting non-relevant data classed as sensitive personal data for the DPA (race/ethnic origin, political opinions, religious beliefs or other similar beliefs, Trade Union membership, physical or mental state or condition) and “patient information” as per the NHS Act s251(10); and
 - iv. preserving the unlawful disclosure sanctions of those organisations that have them - DWP and HMRC.

Costs: Costs are similar to those described in option 2. Although because this option has additional constraints on the power to share data, the individual cost in terms of the impacts on privacy and human rights is likely to be much lower.

As with option 2, there will be transitional costs to Public Authorities in scope in terms of familiarisation with the new legislation, and potential training in how to provide the required information. We would also expect an ongoing cost related to the time spent gathering the required data together upon request; a higher amount of data sharing would require more resources to service it adding to the administrative burdens of departments as they service a higher demand.

Benefits: The benefits are similar to that outlined in option 2. There will be a benefit in terms of debt that is recovered, which could be up to £240m (as outlined in option 2). This option will also help to meet the policy objectives whilst simplifying the legislative landscape.

As with option 2, there will also be an administrative cost saving associated with not having to set up individual data sharing agreements between Departments compared with the hypothetical ‘do nothing’ scenario.

This option constrains the purposes for which data can be shared, and who can share that data. This option would therefore be less likely to reduce the public trust and confidence in Government’s ability to handle sensitive data: The constraints and safeguards would serve to reassure individuals that such a data-share would be done in a necessary and proportionate manner and that action would be taken should this not happen. Increasing the constraints will also serve to increase trust between organisations within the schedule, serving to reduce some of the cultural barriers to sharing data.

Finally, as legislation need not set out fully all categories of data being shared, it allows a greater agility when seeking to share changing categories of data. This, coupled with a more flexible set of parties that can share data for the purposes, will increase the likelihood of recovering debt from those who can repay, helping to achieve the overall policy aim of establishing a single debtor view to ensure a coordinated response in recovering debt owed to Government.

These indicative cost and benefit figures will be tested during the consultation and the final stage impact assessment will include a full assessment of the costs and benefits of each option.

The proposed changes are intended to improve public sector bodies' ability recover debt by reducing the time and complexity involved in sharing data. The risks that these changes will bring about are common to any data sharing process, namely:

- a) Loss of data;
- b) Incorrect use of data – with biased or incorrect conclusions being drawn and policy ineffectively designed as a result;
- c) Challenge from individuals whose data has been shared.

The use of data sharing has increased substantially in recent years and it is encouraged within Government to make better use of existing information. This has meant a better understanding of the risks associated with it. As a result, a number of measures have been developed to mitigate these risks. These mitigation measures are either required by law or considered as good practice and include among others:

- Organisations sharing data have the appropriate organisational measures in place as established by the Data Protection Act. It is good practice to:
 - design and organise security to fit the type of personal data disclosed or received and the harm that may result from a security breach
 - be clear about which staff members in the organisations involved in the sharing are responsible for ensuring information security
 - have an appropriate monitoring and auditing procedure in place
 - be ready to respond to any failure to adhere to a data sharing agreement swiftly and effectively
- Organisations sharing data have the appropriate technical measures in place as established by the Data Protection Act. It is good practice to:
 - make sure that the format of the data you share is compatible with the systems used by both organisations
 - check that the information that is shared is accurate before sharing it
 - establish ways for making sure inaccurate data is corrected by all the organisations holding it
 - agree common retention periods and deletion arrangements for the shared data
 - train staff so that they know who has the authority to share personal data, and in what circumstances this can take place.
- The various organisations involved in data sharing will each have their own responsibilities and liabilities in respect of the data they disclose or have received. It is therefore good practice:
 - for a senior, experienced person in each of the organisations involved in the sharing to take on overall responsibility for information governance, ensuring compliance with the law, and providing advice to staff faced with making decisions about data sharing
 - to have a data sharing agreement in place that includes:
 - The purpose of the sharing
 - The potential recipients or types of recipient and the circumstances in which they will have access
 - The data to be shared
 - Data quality – accuracy, relevance, usability, etc
 - Data security
 - Retention of shared data

- Individual's rights – procedures for dealing with access requests, queries and complaints
- Review of effectiveness/termination of the sharing agreement, and
- Sanctions for failure to comply with the agreement or breaches by individual staff.

Overall, the appropriate mitigating measures depend on the type of information that is shared and the organisations that are sharing them. Therefore, any future policy that requires the use of data sharing should specify what mitigating measures are more appropriate to reduce risks.

Summary and Preferred Option:

Option 1 (Do nothing option) This has a number of drawbacks. It is essentially about maintaining the status quo of a network of specific data-sharing relationships; the creation of more would inevitably lead to a greater complexity in the overall architecture of data-sharing legislation. This would therefore not meet the aim of simplification which could be argued is a major driver of the cultural barriers to sharing data. Further, this option does not provide an inherent flexibility. Specific statutory gateways, particularly if they follow the current pattern, would not be able to accommodate the need for change of data-sharing in the area of debt. The only way of accommodating this would be to keep creating new statutory gateways. This does not reduce the time it takes to create new relationships, nor does it seek to reduce complexity. On balance this option would not be the preferred option in this policy area.

Option 2, whilst providing the most flexible approach in terms of future-proofing data sharing, would also attract criticism for its broadness. This can be deduced from the reaction to the attempt at a similar, but slightly constrained, broad power set out under Clause 152 of the Coroner's and Justice Bill 2009. The clause failed to get through Parliament as it was deemed to have very little supporting evidence for such a large power, with very little constraint attached. A further argument, again employed on Clause 152 of the Coroners and Justice Bill, is that of its effect on the Data Protection Act and Human Rights Act. It is unlikely that such a presumption in favour of sharing data could be deemed to be proportionate in every case and could interfere with privacy. On balance this option would not be the preferred option in this policy area.

Option 3 is necessary to facilitate data sharing but is being carried out elsewhere within Government. This option is not sufficient, as it does not remove the legal barriers which limit the ability to share data.

Option 4 provides the best approach to meeting the Government intention. Any such system would require governance around it as there will be decisions to be made about the ability of an organisation to share data, the necessity of that data to be shared for the prescribed purpose and the ongoing value of such a data-share. Given its ability to provide reduced complexity, greater flexibility and a degree of constraint that has not been attempted before, **this is the preferred option** that will meet the main challenge of this policy.

The proposals seek to create a permissive legislative vehicle that allows a specific group of organisations to share any data for the purposes of taking action in connection with debt owed to a specified public authority. To ensure that this facility is constrained: ensuring that organisations are only on the list if they can prove their need to be on it; creating explicit reference to the DPA and HRA; and creating a specific need to uphold principles of proportionality and necessity when sharing data.

[1] <https://www.nao.org.uk/wp-content/uploads/2015/02/Managing-debt-owed-to-central-government.pdf>

[2] Actuals from annual accounts, with the other Government departmental estimate from the the year end Consolidated Data Request (CDR).

[3] Whole of Government Accounts page 7:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/419973/PU1786_WGA_2013-14_Accounts.pdf

[4] Department for Work and Pensions report, *Legal Powers - Data Sharing Survey Results*, February 2012

[5] <http://lawcommission.justice.gov.uk/areas/data-sharing.htm>