

# **Digital Economy Act, Part 5: Information Sharing Codes and Regulations Consultation**

Summary of Responses and Government Response

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Cabinet Office

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## Executive Summary

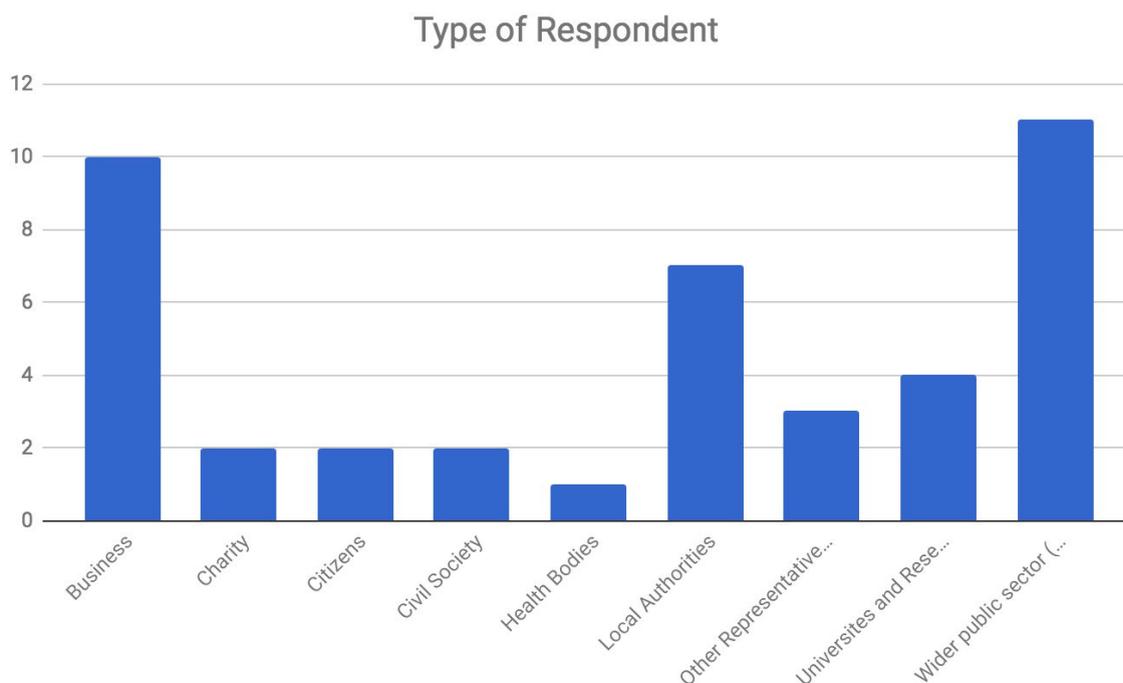
1. This document is a summary of the responses the Cabinet Office, General Register Office and UK Statistics Authority received to their joint public consultation, [Digital Economy Act, Part 5: Data Sharing Codes and Regulations](#), published on 21 September 2017.
2. The consultation sought views on the following draft codes of practice and a statement of principles under Part 5 of the Digital Economy Act 2017:
  - Public service delivery, debt and fraud
  - Civil registration (England and Wales)
  - Research (including accreditation criteria)
  - Statistics (including code on changes to data systems and statement of principles about the UK Statistics Authority's use of powers regarding access to information)
3. The consultation also sought views on draft regulations for the public service delivery provisions.
4. The Digital Economy Act received Royal Assent in April 2017. A six week public consultation on the codes of practice and regulations, which underpin the Act, closed on 2 November 2017. It was supported by two open engagement sessions held on 26 and 27 October 2017, which were attended by around 70 representatives from the public sector, civil society, academia and industry. The Act also required that views be sought from statutory consultees named in the Act.

## Overview

5. The consultation received 38 formal responses. They have been read and categorised in relation to the questions asked in the consultation. A number of respondents provided more general comments about the proposals outside of the scope of consultation questions. All comments have been given full consideration as part of the Government response as well as for the purpose of further developing the Codes and other guidance. The Codes and regulations are greatly improved as a result of all those who took the time to respond to the consultation as well as those that participated in the engagement sessions held in October 2017.
6. Under the legislation governing each of the Codes, certain named persons must be consulted before they can be laid before Parliament. These include the Information Commissioner, and in most cases the views of Ministers in the three Devolved Administrations must also be sought. The Information Commissioner welcomed the inclusion of a publicly available register of information sharing agreements under the

Act. The Information Commissioner noted that the Codes included a number of references to the General Data Protection Regulation which needed to be amended to help ensure clarity around its requirements and avoid confusion to practitioners. The Codes will be updated to address these and other concerns raised by the Information Commissioner. Responses from Scottish and Welsh ministers, and the Department of Finance in Northern Ireland, were similarly positive. Officials from across the UK Government will continue to work constructively with those from Devolved Administrations.

7. Whilst the Government has given full consideration to the views expressed by these named persons, and mentioned them where relevant in this response, they have not been included in the quantitative analysis of responses. This is because together with the Information Commissioner, several Codes require the views of UK Government Ministers and Her Majesty's Commissioners for Revenue and Customs which the Government believes should not be treated in the same way as those of organisations and members of the public.
8. The table below provides a breakdown of responses to the public consultation by the type of respondent.



9. The majority of responses agreed that the Codes were clear and easy to understand, but most respondents also made suggestions on additional content. The suggested areas for improvement and greater clarity fall into five broad themes:

- a. clearly setting out the process by which information sharing is established under the powers (including better use of graphic illustrations)
- b. describing how the information sharing regime under the Digital Economy Act 2017 differs from other powers (i.e. what additional steps need to be taken)
- c. ensuring consistency in references to the General Data Protection Regulation
- d. clarifying the scope of the Codes: for example, whether they extend to information sharing by private utility companies
- e. underlining the exclusion of information from health and adult social care bodies

10. The following section provides a summary of the responses received to the consultation. The detail of each proposal is set out in the consultation document. Annex C provides a breakdown of responses for each question. Many respondents limited their responses to answering questions relating to specific areas of interest and as such response rates will vary across consultation questions.

# Public Service Delivery, Debt and Fraud

## General comments

The majority of responses to questions relating to the public service delivery, debt and fraud Code of Practice were supportive. Feedback provided within written responses and during the open-engagement sessions in support of the public consultation commented on the significant improvements made to the Code from the first draft published in October 2016. In summary, respondents felt that the Code could be improved by:

- providing more clarity for practitioners about how the powers should be exercised, through either additional content or information flow diagrams
- ensuring that it is more consistent in its references to the General Data Protection Regulation
- underlining the restrictions of the use of information from certain health and adult social care bodies

The Information Commissioner also suggested the inclusion of a new data-sharing principle: before taking decisions as to whether personal information should be used as part of an information sharing proposal, it should be considered whether sharing is necessary in completing that objective.

The Government welcomes the responses and helpful suggestions and will revise the code accordingly.

## Question 1. Overall, do you find this Code of Practice clear and easy to understand?

Thirteen responses were received to this question. Of these, eleven found the Code of Practice to be clear and easy to understand, with two respondents disagreeing. Those who answered 'yes' included four representatives from local government, three from the water industry, two from business and one from the Chartered Institute of Public Finance and Accounting. Of those who answered 'no', one was from civil society and one was from a private citizen.

A small number of those who responded 'yes' qualified their answers with additional text to the effect that, whilst they broadly agreed that the Code was clear and easy to understand, improvements could be made. One respondent from a local authority commented that:

“Overall, though the Code succinctly explains the powers for sharing and the processes for Information Governance staff. Operational staff found the code not to be clear enough.”

Another respondent who answered 'no' included a comment that the Codes should be clear that the outcomes of sharing data under these powers will be sufficiently beneficial for public authorities to commit the resources to complete the process for data sharing.

Of those respondents who did not provide a direct response to this question, it is worth noting the remarks from the Information Commissioner, who noted that her comments on previous versions of the Code “have been reflected in the current version of the codes, which has helped result in clearer and more consistent guidance for practitioners.”

### Government response to question 1

The Government welcomes the broadly positive comments from the significant majority of responses to this question. In response to feedback, the sections within the Codes relating to processes have been reviewed and now provide a clearer description of what practitioners need to do.

### Question 2. Does the Code explain clearly the process for sharing information under these powers?

Eleven responses were received to this question. Of these, nine found the Code of Practice to be clear and easy to understand, with three respondents disagreeing. Those who answered 'yes' included four representatives from local government, two from the water industry, two from business and one from the Chartered institute of Public Finance and Accounting. Of those who answered 'no', one was from civil society, and the second was from a private citizen.

Of those who replied 'yes', several qualified their answers with additional text. One representative from the water industry commented that although the Code provides a helpful, high-level understanding of the process for sharing information, more detailed guidance may be required — a view which was shared by another respondent:

“The Code of Practice provides a helpful high level understanding of the process for sharing information under these powers. However, to deliver the benefits of better services that are tailored to people’s needs, it is likely that further levels of detail will need to be explored and potentially more detailed guidance provided.”

Another respondent who answered 'yes' to this question noted that the Code has been aligned with the Information Commissioner’s Data Sharing Code of Practice, and that information sharing under this power will comply with the Data Protection Act 1998 (and

General Data Protection Regulation when it comes into force). They felt that aligning the Code in this way is of particular importance.

## Government response to question 2

The Government is pleased to note that a high proportion of those who answered this question gave broadly positive responses. Feedback was received from respondents representing a number of different sectors. All suggestions for improving the code were carefully considered and, where appropriate, incorporated into the revised version of the Code. Supplementary guidance will also be made available as necessary in response to the needs of public authorities as they prepare to exercise the powers.

## Question 3. Is there anything which you think is missing from the Code or which requires greater detail?

A total of sixteen responses were received to this question, with fourteen answering 'yes' and two answering 'no'. Those responses which expressed the view that there was something lacking from the Code were provided from a wide range of sectors, including local authorities, the energy and water industries, other private sector organisations and civil society.

Respondents felt that the Code could be improved in a number of areas including:

- consistent references to the General Data Protection Regulation
- improving the clarity of the Code through the greater use of flowcharts or graphical illustrations
- clarifying the scope of the Code, for example whether it applies to energy suppliers
- underlining the restriction on the use of information from non-devolved health and adult social care bodies

## Government response to question 3

The Government welcomes the constructive feedback provided by respondents from a number of sectors. The Code has been revised to ensure that these comments have been fully taken into account. The revised Code will provide greater clarification about its scope, consistent references to the General Data Protection Regulation and will state clearly that information from non-devolved health and adult care bodies cannot be disclosed under the powers. The revised Code will incorporate additional data flow diagrams to help practitioners understand and comply with the guidance.

In addition, the UK government will establish a review board to examine proposals for new objectives under the Public Service Delivery power. The new board will ensure a consistent strategic approach is maintained towards the use of the public service delivery powers. Its scope will extend to non-devolved or England only objectives and it will report to the relevant UK Ministers.

**The Code includes a set of principles for sharing information under the Public Service Delivery, Debt and Fraud powers, together with certain requirements to ensure that information shared under these powers is handled in a way that is transparent and fair.**

Question 4. Are these the right principles for information sharing in the context of public service delivery, debt and fraud?

Eleven respondents answered this question, with nine replying 'yes' and two replying 'no'. Of those replying 'yes', four were from local authorities, one was from the wider public sector, three were from business, and one was from the 'Other representative groups' category.

Amongst the comments received to this question, the view was expressed that the principles should give more prominence to consent of the data subject being sought for their data to be used. It was also felt that the references to minimising the use of data to that which is necessary for each data share might inhibit data sharing under this Code. In addition, the Information Commissioner suggested adding a new principle, that before taking decisions as to whether personal information should be used as part of an information sharing proposal, it should be considered whether information sharing is necessary in completing that objective.

#### Government response to question 4

The Government welcomes the responses to this question, which indicate that a considerable majority of those who responded agree that the principles for information sharing under the Code are correct. The Government accepts the suggestion from the Information Commissioner that, as a first principle, prospective participants in a data share should consider whether information sharing is necessary to achieve the desired objective. When proposing a new objective under the PSD powers, the assessment of whether the sharing is necessary would initially be made by the prospective parties to the data share, who will provide information setting out justification for the new objective to the review board. That information would be considered by the review board, and ultimately the Minister would determine whether the objective is approved. Any new or amended objectives must be made by way of affirmative regulations, so this assessment will also be subject to parliamentary scrutiny.

The Government believes that the current wording around minimising the use of data is consistent with data protection legislation, to ensure that data is only shared where it is necessary and proportionate to achieving its objective.

Question 5. Are the requirements for transparency under this Code appropriate and proportionate given the range of interests of those who use the powers and those who are interested in how they are used?

Ten respondents answered this question, with eight answering 'yes' and two answering 'no'. Of those who answered 'yes', four were from local authorities, three were from business and one was from the other representative group.

Those who answered 'no' felt that further guidance was necessary to explain more about how the transparency requirements would be used. In particular, one respondent felt that greater prominence should be given to considering whether the use of citizens' consent would be possible to achieve a particular objective rather than using these powers. Another response expressed the view that citizens' trust might be encouraged by explaining more about the potential benefits to be derived from information sharing.

#### Government response to question 5

The Government welcomes the responses to this question, which indicate that a considerable majority of those who responded agree that the transparency requirements under this Code are appropriate and proportionate. The revised Code will be published alongside an introductory note setting out how Part 5 of the Digital Economy Act 2017 will operate in the context of existing legislation and the use of citizens' consent. It will also include an explanation of the purposes of the powers in Part 5 of the Act, and of the kind of benefits that they have been designed to bring about.

## Civil Registration

### General comments

Ten formal responses were received concerning the Civil Registration Data Sharing Code of Practice. Additionally, views were expressed during the open engagement sessions held in support of the public consultation. The majority of respondents were broadly positive on the content in the Code and found the Code to be clear. In summary, suggestions on how the Code could be improved included:

- providing additional guidance on data controller responsibilities
- providing further advice on the General Data Protection Regulation
- developing a more privacy-friendly application process that supports decision-making in relation to establishing the necessity of a disclosure

Only one response was received from a civil society group. This response sought for changes to be made to the Code, including the introduction of an 'opt out' of information sharing by individuals and also for the publication of procedural guidance relating to the Code. The Information Commissioner was pleased to note the inclusion of references to data protection legislation and Information Commissioner's Office (ICO) guidance which has helped result in clearer and more consistent guidance for practitioners. The Information Commissioner suggested that changes should be made to the Code to take more account of the forthcoming General Data Protection Regulation and wider data protection legislation. This will ensure that practitioners are aware of the new legal framework and comply with it.

**Question 6. Overall, do you find this Code of Practice clear and easy to understand?**

A total of ten responses were received to this question. Of these, seven found the Code of Practice to be clear and easy to understand, with three respondents disagreeing. Those who answered 'yes' included five representatives from local government, one from the wider public sector, and one from other representative groups. Of those who answered 'no', one was from civil society, a second from a local authority, and another from a private citizen.

A small number of respondents recommended the need to include clarity on data controller responsibilities at the various stages of the process and there was also a suggestion to expand on the definition of 'public authority' in the Code.

**Government response to question 6**

The Government welcomes the responses to this question. The majority of respondents felt that the Code was clear and easy to understand. The Code will be revised to provide greater clarity around data controller responsibilities.

**Question 7. Does the Code explain clearly the process for sharing information under these powers?**

A total of ten responses were received to this question. Of these, six felt the Code of Practice clearly explained the process for sharing information under the powers, with four respondents disagreeing. Those who answered 'yes' included five representatives from local

government, and one from the wider public sector. Of those who answered 'no', one was from civil society, one from a local authority, and another from a private citizen.

Whilst the majority of respondents agreed that the Code explains clearly the process for sharing information under the powers, a small number suggested a need for more clarity on any impacts of the new General Data Protection Regulation that is due to be implemented in May 2018.

A small number of respondents questioned whether appeals could be made against decisions made by the Registrar General regarding decisions on data disclosures. In addition, it was also suggested that additional guidance should be made available for registration officials, such as process flows and data sharing templates.

### Government response to question 7

The Government welcomes the responses to this question and the majority view that the Code provides a clear explanation of the process for sharing information under the powers. The Code will be revised to address those areas where respondents felt that further information would be helpful to practitioners.

### Question 8. Is there anything which you think is missing from the Code or which requires greater detail?

A total of nine responses were received to this question. Of these, eight felt information was missing from the Code, whilst one respondent was content with the Code as drafted. Those who answered 'yes' included five representatives from local authorities, one from the wider public sector, one from civil society, and one from other representative groups. The respondent who answered 'no' answered as a representative from a local authority.

The majority of respondents thought the Code needed further clarity around the General Data Protection Regulation to take account of the forthcoming changes so that practitioners are aware of the new legal framework and are in a position to comply with the legislative requirements. It was also suggested that links to ICO guidance would also need to be kept up-to-date to bring it in line with the General Data Protection Regulation and new data protection legislation when enacted.

### Government response to question 8

The Government will revise the Code to provide further guidance to practitioners around requirements under General Data Protection Regulation. The Code will be fully aligned to ICO guidance and updated as appropriate when changes are made to data protection law.

## Question 9. Do you agree that these are the right principles for information sharing in the context of civil registration?

A total of eight responses were received to this question. All respondents agreed that the Code set out the right principles for information sharing in the context of civil registration. Responses were received from six representatives from local authorities, one from the wider public sector, and one from other representative groups.

Respondents felt that the principles contained in the Code were right and no suggestions were made with regards to amending the wording of any of the Principles. A suggestion was made to give greater prominence to Principle 5 (decisions to disclose information at the right level) within the main body of the Code. It was also suggested that consideration be given to including a separate principle on transparency and fairness.

### Government response to question 9

The Government welcomes the responses to the question and the majority view that the Code sets out the right principles for information sharing under the civil registration provisions. The Government sees benefit in including a new principle, that before taking decisions as to whether personal information should be used as part of an information sharing proposal, there should be careful consideration as to whether information sharing is necessary to complete that objective. The Information Commissioner suggested the inclusion of this principle within the Code relating to the Public Service Delivery, Debt and Fraud provisions, but is equally applicable to the sharing of civil registration information.

## Research Code of Practice and Accreditation Criteria

### General comments

A total of twelve formal responses were received concerning the Research Code of Practice and Accreditation Criteria. Additionally, views were expressed during the open engagement sessions held in support of the public consultation. In summary:

- The majority of respondents felt that the Research Code and accreditation criteria are clear and easy to understand
- The majority of respondents felt that the Code and accreditation criteria provide a clear explanation of the principles by which information should be shared under the powers

- The majority of respondents felt that there are areas of the Code and/or accreditation criteria that need additional information. Respondents provided helpful comments about specific additional guidance that practitioners wishing to use the powers would find helpful. Where appropriate, these have been incorporated into the code and accreditation criteria, and further information will be included in published supporting documentation

## Question 10. Overall, do you find this Code of Practice and accreditation criteria clear and easy to understand?

A total of twelve responses were received to this question. Of these, nine felt the Code of Practice and accreditation criteria were clear and easy to understand, whilst three felt they were not. Those who answered 'yes' included three representatives from local authorities, three from universities and research associations, two from the wider public sector, and one from other representative groups. Of the respondents who answered 'no', two were private citizens and one was a representative from a university and research group.

The majority of respondents felt that the Research code and accreditation criteria are clear and easy to understand. Specific suggestions for improving the clarity of the Code and accreditation criteria received from respondents include:

- making it clearer that peer reviewers would need accreditation to access the same processed (de-identified) data that had been accessed by the researcher(s) for the purposes of peer review, replication and validation of research findings
- ensuring consistency of terminology around 'data suppliers', meaning data-holding public authorities
- including the 'curation' of data as one of the key procedures to be undertaken by processors

### Government response to question 10

The Government welcomes the responses received to the question. The Code will be updated in response to the helpful suggestions received. In response to calls from a number of respondents for clarity on 'highest ethical standards', a new exemplar has been added to the [ethical principles of the National Statistician's Data Ethics Advisory Committee \(NSDEC\)](#). The accreditation criteria for processors has also been updated to make it clear that accreditation applies to the processor as an organisation as well as to the individuals involved in processing. Similarly the criteria have been updated to make it clear that, in cases where accreditation is withdrawn or suspended, there is a right of appeal to the UK Statistics Authority as the accrediting body. The Code of Practice has also been updated to make it clear that disclosure control relates to the minimisation of the risk of data subjects being reidentified, and that maintaining the confidentiality of personal information is a key principle for the Research power overall.

## Question 11. Do the Code and accreditation criteria explain clearly the principles by which information may be shared under these powers?

A total of twelve responses were received to this question. Of these, nine felt the Code of Practice and accreditation criteria clearly explained the principles by which information can be shared under the powers, whilst three felt they did not. Those who answered 'yes' included three representatives from local authorities, three from universities and research associations, two from the wider public sector, and one from other representative groups. Of the three respondents who answered 'no', two were from private citizens, and one was from a university and research group.

The majority of respondents felt that the Code and accreditation criteria provided a clear explanation of the principles by which information should be shared under the powers. A number of responses included specific comments and suggestions for improving the clarity of the documents in relation to the documents.

### Government response to question 11

The Government is grateful for the helpful responses received. Several respondents highlighted that the specific definition of 'public interest' in the accreditation criteria was slightly different to that set out in Principle 4 of the Code. The definitions have been amended so that they are consistent and align with the existing definitions used by Office for National Statistics' Approved Researcher scheme, which was the subject of a public consultation in 2015. Some respondents also sought clarification on how to assess the proportionality of cost recovery charges (Principle 5). As part of its commitment to being transparent by default the UK Statistics Authority will be regularly publishing reports about the Authority's oversight and accreditation function. Information on cost recovery charging for research projects will be included as appropriate within these publications.

## Question 12. Is there anything which you think is missing from the Code or accreditation criteria or which requires greater detail?

A total of eleven responses were received to this question. Of these, ten felt that information was missing from the Code, whilst one respondent was content with the Code as drafted. Those who answered 'yes' included four representatives from universities and research associations, two from local authorities, two from the wider public sector, one from other representative groups, and one from a private citizen. The respondent who answered 'no', answered as a representative from a local authority.

The majority of respondents felt that there are areas of the Code and/or accreditation criteria that need additional information. Respondents provided helpful comments about specific additional guidance that practitioners wishing to use the powers would find helpful including:

- more guidance about accreditation requirements and the process for obtaining it
- links to further published information about cross-government security standards to guide the accreditation of processors

## Government response to question 12

The Government welcomes the responses to the question and the helpful suggestions for improving the Code and accreditation criteria. Several respondents requested for more detailed information to be included in the code and/or accreditation criteria. To ensure that the code and accreditation criteria remain clear, principle-based, and future-proofed, it is more appropriate to provide detailed operational guidance about the process or requirements for accreditation based on established practice as part of the UK Statistics Authority's accreditation function as required. Links to further published information about cross-government security standards to guide the accreditation of processors has been included in the accreditation criteria. Some respondents noted that the Research framework excludes data held by public authorities with health and adult social care functions, and this is made clear through the footnote provided. The code has also been updated to make clear that the data retention period granted to an accredited processor may only be extended with the consent of the relevant data-holding public authority. The accreditation criteria have also been updated to make it clear that the outcome of any audit of an accredited processor will be communicated to the processor.

## Statistics Statement of Principles and Code of Practice on changes to data systems

### General comments

A total of five formal responses were received concerning the Statistics Statement of Principles and Code of Practice on changes to data systems. Additionally, views were expressed during the open engagement sessions held in support of the public consultation. In summary:

- All respondents found the Statement of Principles and Code of Practice to be clear and easy to understand
- All respondents felt the Statement of Principles and Code of Practice clearly expressed the principles by which the UK Statistics Authority will operate the powers

- Some respondents felt that information was missing from the Statement of Principles or Code. These responses included requests for specific operational guidance and helpful suggestions to improve clarity. Where appropriate, changes have been made to improve the clarity and more detailed operational guidance will be published in supporting documentation

### Question 13. Overall, do you find the Statement of Principles and Code of Practice clear and easy to understand?

A total of five responses were received to this question. All respondents found the Statement of Principles and Code of Practice to be clear and easy to understand. Of these responses, three were from representatives from local authorities, one from the wider public sector, and one from other representative groups.

#### Government response to question 13

The Government welcomes the responses received and the view that the documents were clear and easy to understand.

### Question 14. Do the Statement of Principles and Code explain clearly the principles by which the UK Statistics Authority will operate under these powers about access to information it has been given in the Act?

A total of five responses were received to this question. All respondents felt the Statement of Principles and Code of Practice clearly expressed the principles by which the UK Statistics Authority will operate the powers. Of these responses, three were from representatives from local authorities, one from the wider public sector, and one from other representative groups.

#### Government response to question 14

The Government welcomes the responses received and the view that the principles were clearly explained in the documents.

## Question 15. Is there anything which you think is missing from the Statement of Principles or Code or which requires greater detail?

A total of five responses were received to this question. Of these, three respondents felt that some information was missing from the Statement of Principles or Code, whilst two respondents were content with the Statement of Principles and Code as drafted. Those who answered 'yes' included two representatives from local authorities, and one from the wider public sector. These responses included requests for specific operational guidance about the process of providing data to the Authority and helpful suggestions to improve the clarity of the Statement of Principles and the Code in specific places.

Of the two respondents who answered 'no', one respondent wrote as a representative from a local authority, and the other from the other representative group.

### Government response to question 15

The Government welcomes the helpful responses received to improve the clarity of the Statement of Principles and Code and where appropriate changes have been made to reflect these responses. To ensure the Statistics Statement and Code remain clear and future-proofed, it is more appropriate to provide detailed operational guidance in supporting published documentation.

## The Digital Government (Disclosure of Information) Regulations 2017

### General comments

Comments on the Regulations were received from a variety of respondents, including local authorities, energy and water industry representatives, and other representative groups. In general, respondents felt that the objectives were well described on the face of the regulations and that the lists of bodies specified to use each objective under Schedules 4-6 of the Act are appropriately targeted. Specific issues raised included:

- whether the Government's restriction on information from non-devolved health and adult social care bodies being shared under these powers was accurately reflected in the illustrative criteria used in the Multiple Disadvantages objective

- whether information from General Practitioners could be included for use under these powers
- clarification should be provided on some of the wording used in the illustrative criteria for the Multiple Disadvantages objective

Several respondents felt that information from health and adult social care bodies should be included in the scope of this power. Overall the objectives for the fuel and water poverty and television retuning objectives were well-received.

## Question 16. Do you agree that the specified objective for multiple disadvantages has been described clearly and in the right level of detail?

Seven respondents answered this question, of which three answered 'yes' and 4 answered 'no'. Respondents who answered 'no' included the British Medical Association and the General Medical Council, who felt that the illustrative list of possible uses of data for this objective was not sufficiently clear in its inclusion of health-related objectives because of the commitments the government has given on the use of information from non-devolved health and adult social care bodies. Further, despite this restriction on using data from non-devolved health and adult social care bodies, concerns were expressed that data held by General Practitioners may not be excluded from the scope of this objective. Other respondents felt that more explanation was required as to what is meant by “the provision of assistance”, and whether the reference to “criminal activity” referred to current or less recent activity by an individual.

### Government response to question 16

The Government welcomes the responses to this question. The Government notes the comments from respondents requiring clarification on the wording of some of the illustrative criteria suggesting purposes for which information may be shared under this objective. Further information can be found in the [Financial Framework for the Troubled Families Programme](#).

The Government notes the concerns expressed by the British Medical Association and the General Medical Council. Health and adult social care bodies are not included in the list of specified persons permitted to use the new powers in England or for activities that are not devolved. Arrangements for information sharing under this Code of Practice therefore cannot include health and adult social care bodies in England or for non-devolved activities. The inclusion of these health and adult social care bodies in the Schedules to the Act will only be considered after the recommendations made by the National Data Guardian’s Review of Data Security, Consent and Opt-outs have been implemented. Any such proposal would be subject to a public consultation, including with appropriate representative health bodies. Any modification of the schedule will also be subject to the approval of both Houses of Parliament.

Question 17. Do you agree that the specified objective for television retuning has been described clearly and in the right level of detail?

Three respondents answered question 17, all of whom answered 'yes'. Of these, two were from local authorities, and one from a business. No textual responses were provided to this question.

Government response to question 17

The Government notes that all those who responded to this question were content with the objective as drafted.

Question 18. Do you agree that the specified objective for fuel poverty has been described clearly and in the right level of detail?

Eight responses were received in relation to the fuel poverty provisions. All respondents welcomed the opportunity to use Government data to improve the way Government identifies and targets support at people living in fuel poverty. A significant majority of energy suppliers responding to this question welcomed the efficiencies achievable through data matching with energy suppliers to identify which of their customers would be eligible for support under the Warm Home Discount (WHD).

One energy supplier thought that the specified objective was not clear and asked whether the definition of fuel poverty in the Act, i.e. that “a person lives in fuel poverty if the person is a member of a household living on a lower income in a home which cannot be kept warm at a reasonable cost”, meant that information sharing for alleviating fuel poverty required a test to verify that customers couldn't keep their home warm at reasonable cost, e.g. that they were living in poorly insulated homes.

A number of respondents asked to include Ofgem's proposed safeguard tariff in the list of 'fuel poverty measures' for which data sharing may take place between specified public bodies and energy suppliers for the fuel poverty objective. Four respondents thought the data sharing gateway should go further and allow suppliers to use government data to provide other support to customers in fuel poverty, for example to identify customers to be placed on their Priority Service Register, provide support to customers with debt repayment plans, or support through cheaper tariffs.

One energy supplier noted differences between the provisions in the Act and the legal gateways used for sharing pension credit information under the WHD (ie the Pensions Act 2008 and the Disclosure of State Pension Credit Information (Warm

Home Discount) Regulations 2011), and queried whether this would result in narrower data sharing with suppliers.

A respondent from a charity reiterated the importance of sanctions for unlawful disclosure of information, and asked whether similar sanctions would apply in the event that data was misused for a purpose other than the one stated in a data sharing agreement. Another response from a charity stated that accessible public facing material should be made available to reassure the public about the obligations of the data processors and the rights of the individual, including an accessible register of information sharing agreements on GOV.UK.

### Government response to question 18

The vast majority of those who responded to this question were supportive of the fuel poverty objective. Therefore, the Government will include the fuel poverty objective as drafted.

The definition of fuel poverty in the Act is based on the Warm Homes and Energy Conservation Act 2000, which provides for the statutory fuel poverty strategy and covers both the current indicator of fuel poverty used in England, namely households with a low income and high energy costs, and the other indicators used in the devolved administrations. The Government considers that the methods used to target support to households in fuel poverty must be appropriate and proportionate for the scheme in question. Government currently uses means-tested benefits as a proxy for identifying households in, or at risk of, fuel poverty, for example under the WHD and Energy Company Obligation (ECO) schemes.

The new powers in the Act would enable Government to share social security information to identify benefits recipients which are eligible for support, including data-matching to provide automatic rebates on energy bills under the WHD. In addition, the new powers provide opportunities to use further Government data to improve the fuel poverty targeting of its policies, by using data on property characteristics to identify properties that are hard to heat, hence providing opportunities to improve the targeting of existing and future policies. The Government will be consulting separately on the future supplier obligation (the successor to ECO), as well as on the future Warm Home Discount scheme.

Ofgem has introduced a safeguard tariff (or energy price cap) for around 1 million vulnerable customers this winter and has consulted on extending this to more vulnerable customers next winter 2018/19. Government considers it is important that households in fuel poverty on a Standard Variable Tariff (SVT), or another default tariff, receive the benefits of a cap on their energy costs as soon as it is practicable. The Government has issued a [consultation on whether to add the safeguard tariff](#) to the list of fuel poverty measures for which specified public authorities may share information with energy suppliers for fuel poverty purposes.

With reference to the relationship between the Digital Economy Act 2017 and existing

legislation, the Act does not replace current legislative gateways but enables a wider range of information to be shared for the fuel poverty objective. Subject to very limited exceptions set out in the Act, information shared cannot be used for other purposes. These restrictions are necessary as part of the protection of information shared under the Act.

Misuse of information is likely to breach data protection legislation and attract the sanctions available under the data protection regime. It could also be a breach of the data sharing agreement with possible contractual remedies and a breach of the code of practice with possible sanctions that include removal from the list of specified persons able to take part in data sharing for the fuel poverty objective.

The Government takes the need for transparency in the use of personal information very seriously. All the Codes of Practice under Part 5 include robust transparency requirements. In the case of the Public Service Delivery, Fraud and Debt, and Civil Registration Codes, there will be a publicly-available register of information sharing agreements. With regards to further publicly-available guidance, the Information Commissioner's Office already publishes a wide range of guidance for the public and organisations on its website, setting out the rights of the individual and the obligations of organisations that process personal data under the Data Protection Act 1998. They are updating their suite of guidance to reflect changes introduced by the forthcoming EU General Data Protection Regulation.

**Question 19. Do you agree that the specified objective for water poverty has been described clearly and in the right level of detail?**

Seven responses were received to this question. All of the responses answered 'yes', of which three of the respondents were from local authorities, three were from business, and one was from the wider public sector.

One respondent qualified their answer by recommending that the objective be tested through a piloting phase and the establishment of a working group of data holding departments, industry and consumer representatives.

**Government response to question 19**

The water poverty objective as proposed will not be amended as the majority of respondents are content with the clarity and level of detail within the draft Regulations. The Department of the Environment, Food, and Rural Affairs (Defra) will work with the relevant bodies to understand how information sharing to help those living in water poverty can be implemented.

## Question 20. Are the lists of the specified persons able to share information under each specified objective appropriately targeted?

Ten responses were received to this question. Of the eight respondents who answered 'yes', four were from local authorities, two from business, one from the wider public sector and one was from a charity. Of the two responses who answered 'no', one was from a business and the other was from a local authority. As with Question 16, the British Medical Association's response expressed concerns at the possible inclusion of General Practitioners in the Multiple Disadvantages objective despite their absence from Schedules 4-6 in the Act.

In addition, one respondent wished the Government to include the Secretary of State for Defra and the Water Services Regulation Authority within the schedule.

### Government response to question 20

The Government welcomes the responses to this question. The Government is pleased to note that the overwhelming number of respondents felt that the lists of specified persons able to share information under this objective are appropriately targeted.

As with the response to question 16, the Government notes the concerns expressed by the British Medical Association and the General Medical Council. Health and adult social care bodies are not included in the list of specified persons permitted to use the new powers in England and for non-devolved activities. Arrangements for information sharing under this Code of Practice therefore cannot include health and adult social care bodies in England or for UK wide activities.

The Government believes that the data sharing gateway provided by the Act for the fuel poverty objective should only be extended to energy distributors if there is a demonstrable need for the data sharing and plans for how it would work. Whilst Government recognises that some suppliers use third parties to deliver energy efficiency support under ECO, Government does not intend to expand the current list of eligible recipients to include these third party private companies at this stage. Personal data shared under the Act must be carefully controlled and not shared more widely than is necessary. The Government will keep under review the operation of the ECO scheme and consider whether there are ways for suppliers to work with contractors under ECO which do not require the onward sharing of government data.

The Government does not believe it is necessary to add the Secretary of State for Defra, and the Water Services Regulation Authority within the schedule as neither has customer data or would need to receive customer data for the purpose of assisting people living in water poverty.

## Annex A: List of consultation questions

### Public Service Delivery, Fraud and Debt

We are seeking views on whether the Code of Practice is clear and easy to understand, and provides sufficient explanation of how information is shared under this power.

1. Overall, do you find this Code of Practice clear and easy to understand?
2. Does the Code explain clearly the process for sharing information under these powers?
3. Is there anything which you think is missing from the Code or which requires greater detail?

The Code includes a set of principles for sharing information under the Public Service Delivery, Debt and Fraud powers, together with certain requirements to ensure that information shared under these powers is handled in a way that is transparent and fair.

4. Are these the right principles for information sharing in the context of public service delivery, debt and fraud?
5. Are the requirements for transparency under this Code appropriate and proportionate given the range of interests of those who use the powers and those who are interested in how they are used?

### Civil Registration

We are seeking views on whether the Code of Practice is clear and easy to understand, and provides sufficient explanation of how information is shared under this power.

6. Overall, do you find this Code of Practice clear and easy to understand?
7. Does the Code explain clearly the process for sharing information under these powers?
8. Is there anything which you think is missing from the Code or which requires greater detail?

The Code includes a set of principles for sharing information under these powers, together with certain requirements to ensure that information shared under these powers is handled in a way that is transparent and fair.

9. Do you agree that these are the right principles for information sharing in the context of civil registration?

## Research Code of Practice and Accreditation Criteria

We are seeking views on whether the Code of Practice is clear and easy to understand, and provides sufficient explanation of how information is shared under this power.

10. Overall, do you find this Code of Practice and accreditation criteria clear and easy to understand?

11. Do the Code and accreditation criteria explain clearly the principles by which information may be shared under these powers?

12. Is there anything which you think is missing from the Code or accreditation criteria or which requires greater detail?

## Statistics Statement of Principles and Code of Practice on changes to data systems

We are seeking views on whether the Statement of Principles and Code of Practice are clear and easy to understand, and provide sufficient explanation of how information is shared under this power.

13. Overall, do you find the Statement of Principles and Code of Practice clear and easy to understand?

14. Do the Statement of Principles and Code explain clearly the principles by which the UK Statistics Authority will operate under these powers about access to information it has been given in the Act?

15. Is there anything which you think is missing from the Statement of Principles or Code or which requires greater detail?

## The Digital Government (Disclosure of Information) Regulations 2017

We are seeking views on whether the four specified objectives are described clearly and in the right level of detail and on whether the persons permitted to share information for each objective are appropriately targeted.

16. Do you agree that the specified objective for multiple disadvantages has been described clearly and in the right level of detail?

17. Do you agree that the specified objective for television retuning has been described clearly and in the right level of detail?

18. Do you agree that the specified objective for fuel poverty has been described clearly and in the right level of detail?

19. Do you agree that the specified objective for water poverty has been described clearly and in the right level of detail?

20. Are the lists of the specified persons able to share information under each specified objective appropriately targeted?

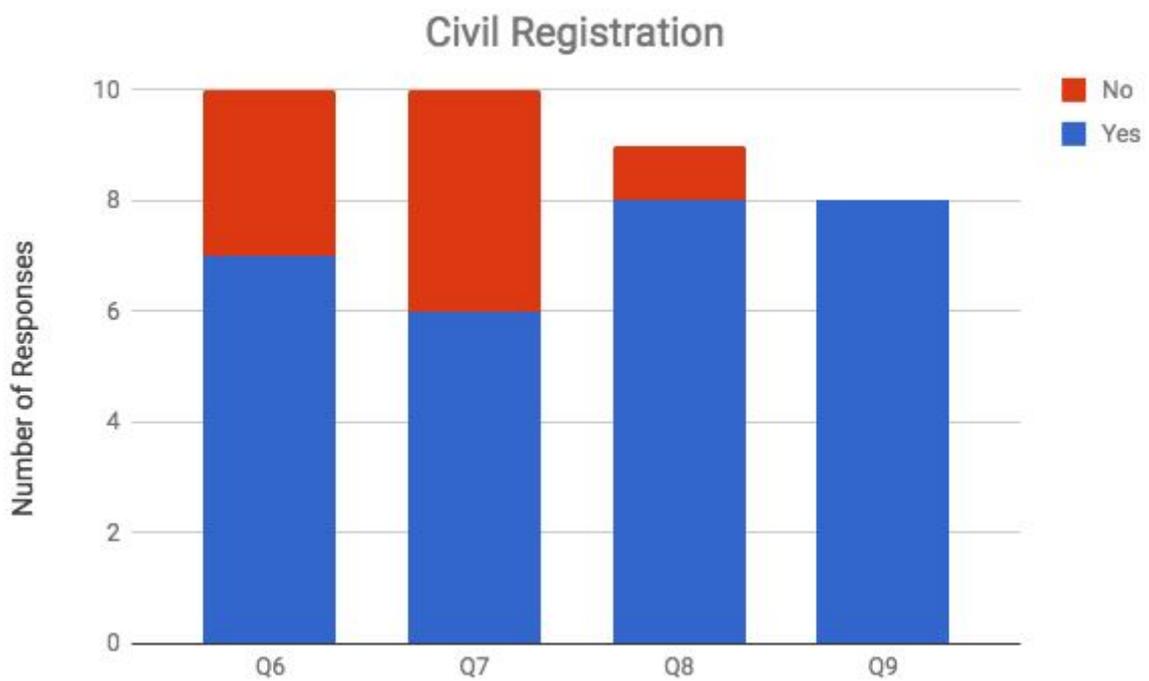
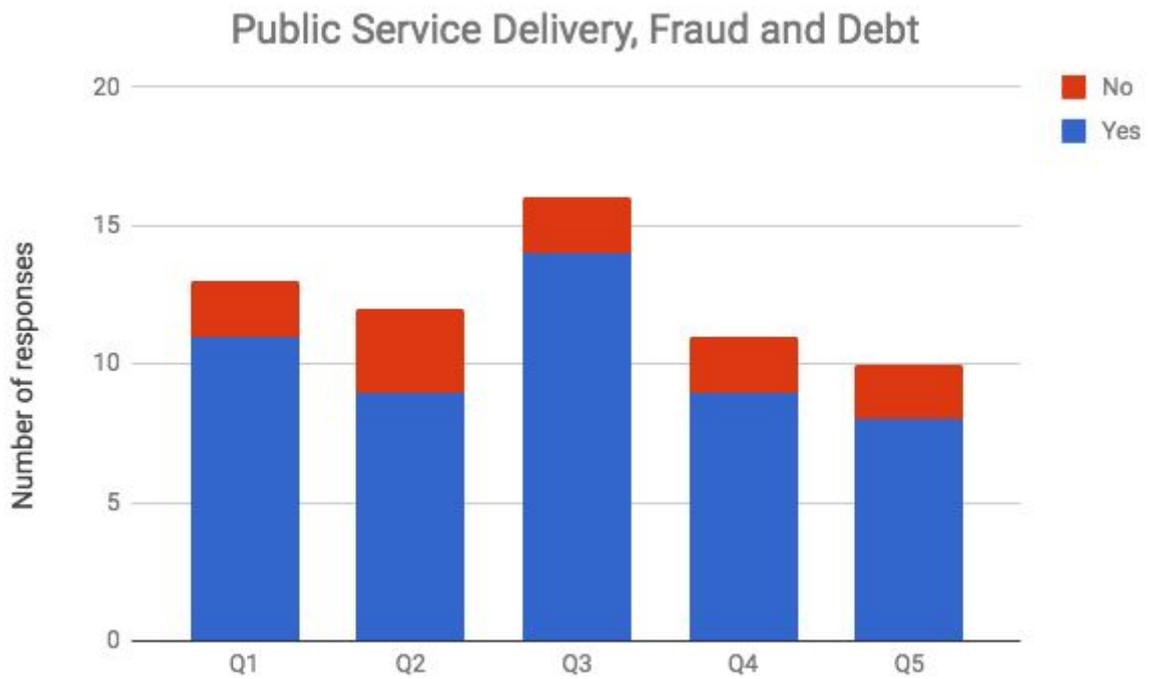
## Annex B: List of respondents

Below is a list of those who submitted a response to the Digital Economy Act, part 5: data sharing codes and regulations consultation. There were a small number of respondents who wished to be anonymous or did not wish their response to be made available into the public domain.

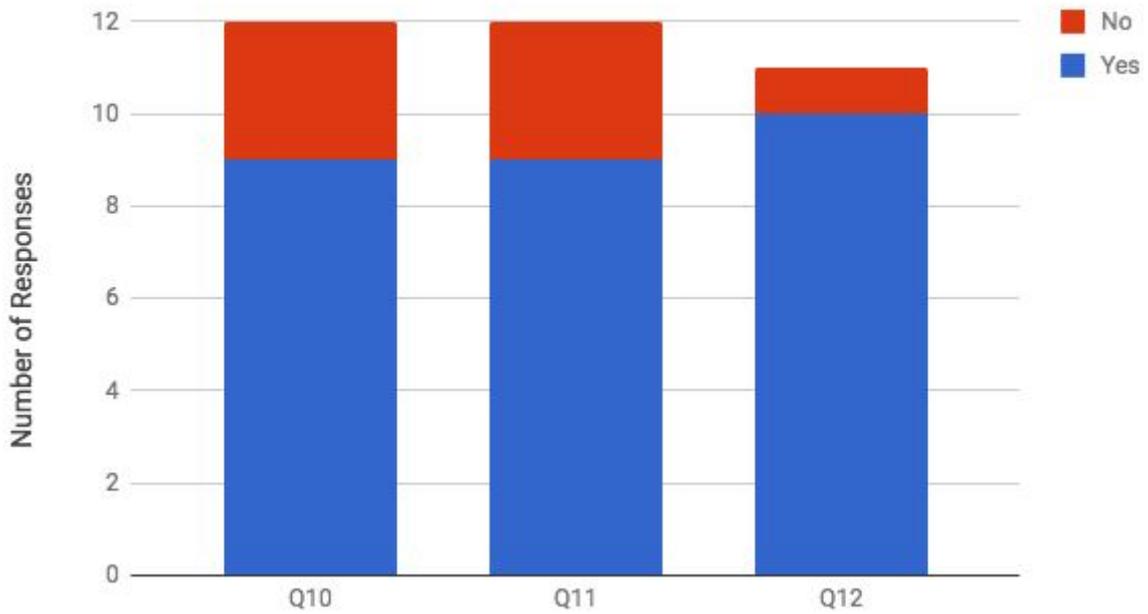
Administrative Data Research Network  
Bank of England  
Blackburn with Darwen LA  
British Medical Association  
Centrica  
Chartered Institute of Public Finance and Accounting  
Citizens Advice  
Consumer Council for Water  
Coop Energy  
Dwr Cymru Welsh Water  
Economic and Social Research Council and Nuffield Foundation (joint response)  
Energy UK  
First Utility  
General Medical Council  
Gloucestershire Registration Service  
ICO  
Indesser  
Leeds City Council  
Lincolnshire County Council  
London Borough of Sutton  
Market Research Society  
Medconfidential  
National Energy Action  
National Panel for Registration  
NHS Digital  
Ofgem  
Personal (anonymous)  
Personal (David Moss)  
Personal (Vanessa Cuthill)  
Positive Attributes Ltd  
RSS  
Scottish Power  
Sheffield City Council  
The Registration Service of the Royal Borough of Kensington and Chelsea  
UCL - CLOSER (Cohort & Longitudinal Studies Enhancement Resources)  
UK Data Service  
Water UK

Yorkshire Water

## Annex C: Breakdown of responses by question



### Research Codes of Practice and Accreditation Criteria



### Statistics Statement of Principles and Code of Practice on changes to data systems

