

Independence for statistics

A Regulatory Impact Assessment

March 2007



HM TREASURY



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INDEPENDENCE FOR STATISTICS: A REGULATORY IMPACT ASSESSMENT

INTRODUCTION

1.1 On 28 November 2005, the Chancellor of the Exchequer announced to Parliament the Government's intention to legislate for independence in statistics. On 22 March 2006, the Government published a consultation document, *Independence for Statistics*, setting out the Government's proposals for reform and welcoming the views of all stakeholders on these proposals.

1.2 The written consultation, which closed on 14 June 2006, elicited 79 written responses from a broad cross section of the statistical community (including 9 from academia, 17 from individuals, 8 from international organisations and individuals, 13 from local and regional bodies, 9 from public sector organizations and 12 from professional bodies and user groups including the Royal Statistical Society (RSS) and the Statistics Commission), and has stimulated a wide-ranging debate, including through events such as the Open Meeting hosted jointly by the Statistics Commission, the RSS and the Financial Times on 17 May 2006, and a Treasury Select Committee (TSC) inquiry. Since the Chancellor's announcement, there has also been wide consultation within government, including across central government departments, relevant agencies and the devolved administrations.

1.3 This document sets out the options for reform considered by the Government following its review of the (non-statutory) Framework for National Statistics,¹ which currently underpins the statistical system in the UK. It includes an assessment of the regulatory impact of those options which concludes that, under any of the options considered, there is expected to be no increase in the regulatory burden on businesses or individuals as a result of the proposed reforms to the statistical system; furthermore, as part of these reforms, there is an opportunity to reduce the burden on business by including in the legislation enabling provisions for the sharing of administrative data for statistical purposes.

1.4 As a result of its assessment of the options, the Government intends to legislate for the creation of an independent Board, with responsibility for meeting an overall objective to promote and safeguard the quality and comprehensiveness of the official statistics system (Option 4 below). Key features of this option are:

- the creation of a new, independent, Board, with a statutory responsibility for ensuring the quality and comprehensiveness of official statistics;
- a UK-wide system, covering Scotland, Wales, Northern Ireland and England;
- the Board to monitor and report on areas of concern about the quality and comprehensiveness of all official statistics;
- the Board to prepare, adopt and publish professional standards in a code of practice;
- the Board to assess, for approval as National Statistics, existing National Statistics against the Code. The Board will also – at the request of the

¹ *Framework for National Statistics*, Office for National Statistics, 2000, available from www.statistics.gov.uk/about/national_statistics/documentation.asp

Minister responsible – assess additional official statistics for approval as National Statistics;

- the Board to be a Non-Ministerial Department (NMD), outside Ministerial control and with special funding arrangements separate from the Spending Review process. It will be constituted by a majority of external, non-executive, members selected through open competition;
- the National Statistician to run the ONS, reporting directly to the Board and not to Ministers. The National Statistician will be a member of the Board, act as its chief professional advisor, and will continue as Head of the Government Statistical Service (GSS);
- the continuation of existing data sharing arrangements between the constituent parts of the ONS and between the ONS and other government departments;
- an enabling power providing for regulations allowing for a potential extension of the arrangements for data access to or from the Board for statistical purposes, along with confidentiality provisions on the face of the Bill which impose criminal sanctions for the unauthorised sharing of information about businesses or individuals which is held by the Board;
- the winding up of the Statistics Commission, whose responsibilities will be subsumed within the Board; and
- the establishment of proper employment status and rights for registration officers (as local authority employees) in England and Wales.

PURPOSE AND INTENDED EFFECT

1.5 The Government's economic objective is to build a strong economy and a fair society, with opportunity and security for all. Since 1997, the Government has introduced wide-ranging reforms to establish a platform of economic stability and to promote work and enterprise, tackle poverty and deliver sustained investment to modernise public services.

1.6 The Government's intention to legislate for independence in statistics will build on earlier reforms, helping to reinforce the quality and integrity of statistics produced in government, supporting the Government's agenda for better public services, and contributing to long-term stability in the UK economy.

1.7 Statistics make a crucial contribution to good government in a modern democracy: assisting in the formulation and evaluation of policies; in the management of the services for which the Government is responsible; encouraging and informing debate; and allowing people to judge whether the Government is delivering on its promises. High quality statistics are also a key resource for business, academia, and the wider community. With increasing emphasis on evidence-based policymaking and effective performance management, statistics have a greater importance than ever before, and ever increasing scrutiny is placed upon them.

1.8 Statistics must therefore be of the highest professional quality and integrity and the Government has a responsibility to ensure that statistics are fit for purpose and

command respect. A consultation document in 1998, *Statistics: A Matter of Trust*,² described the Government's aims for statistics, which remain the same today, in the following way:

“Quality needs to be assured. Official statistics must be sufficiently accurate and reliable for the purposes for which they are required ... the production and presentation of official statistics needs to be free from political interference, and to be seen as such, so that the objectivity and impartiality of statistics is assured.”

1.9 The framework underpinning the production and dissemination of statistics plays a key role in achieving these aims. In examining the case for reform the Government has been guided by the following key principles that it believes should underpin a strong statistical system:

- statistics should be of high **quality**, that is, produced to the highest professional standards and fit for purpose;
- statistics should have high **integrity**, that is, be free from political interference;
- roles and responsibilities should be clearly defined, and mechanisms should be in place to hold key office holders to **account**;
- the laws, regulations, codes and practices under which the system operates should be **transparent**;
- the system should have the **flexibility** to respond to changing needs, without harming the trust of users; and
- the system should carry out its functions in the most **efficient** way possible, ensuring value for money, and seeking to minimise the burden on business.

Background and current position

1.10 The statistical system in the UK is currently underpinned by the Framework for National Statistics, which was introduced on a non-statutory basis in 2000. The key elements of the Framework are:

- the post of **National Statistician**, who is both the professional Head of National Statistics and the Director of the ONS, and has operational independence from Ministers. The National Statistician has responsibility for the professional statistical quality of all outputs comprising National Statistics³ and for ensuring that all outputs are produced in accordance with the standards set out in the *National Statistics Code of Practice*;
- the independent **Statistics Commission**, to advise on quality assurance and integrity (including in areas of widespread concern) and priority setting for National Statistics.⁴ Independent of both Ministers and producers of

² *Statistics A Matter of Trust: A Consultation Document*, Office for National Statistics, 1998a, available from www.archive.official-documents.co.uk/document/ons/govstat/report.htm

³ The governance arrangements for the Retail Prices Index (RPI) are an exception – the Chancellor of the Exchequer, as Minister for National Statistics, is formally responsible for scope and definition, with the National Statistician advising only on methodology.

⁴ The *Framework for National Statistics (2000)* requires the Statistics Commission to “comment on the application of the National Statistics Code of Practice”, “advise Ministers of areas of widespread concern about the quality of official statistics”, and empowers the Commission to “comment on the quality assurance processes of National Statistics, as well as being able to carry out spot checks on departmental or other audits of National Statistics, to advise the National Statistician of any areas of concern that merit review and if necessary to carry out or commission its own audits”.

National Statistics, the Commission has its own budget and is able to determine its own activities;

- the concept of ‘**National Statistics**’, aimed at providing an accurate, up-to-date, comprehensive and meaningful description of the UK economy and society, underpinned by professional standards as set out in a Code of Practice. Ministers are responsible for deciding the scope of National Statistics within their departments and for ensuring that departmental Heads of Profession for statistics have the authority to maintain and demonstrate the integrity of such statistics in accordance with the Code;
- the retention of the **decentralised system** of statistical production and dissemination, to maximise the benefits to be gained from keeping statisticians close to policy work in departments and maintaining professional statistical expertise across government. Together, these statisticians form the GSS, a professional grouping of around 7,000 civil servants⁵ who collect, analyse and disseminate statistics, working in the ONS, other government departments and agencies, and in the devolved administrations in Scotland and Wales.⁶ The National Statistician is head of the GSS;
- under current arrangements, the National Statistician is also **Registrar General for England and Wales**, a statutory post dating back to 1837. The Registrar General is responsible for administering the legislation relating to, and maintaining a central record of, the registration of births, stillbirths, deaths and civil partnerships, and has a duty to conduct a census of the population of England and Wales. The ONS also maintains the National Health Service Central Register (NHSCR).

Rationale for Government intervention

1.11 During the formulation of the current Framework, the Government explicitly acknowledged that there were “arguments for legislation but ... decided to implement the new arrangements on a non-statutory basis in order to secure the benefits as soon as possible”.⁷ When the existing Framework for National Statistics was introduced, the Government undertook to review the operation of the Framework “in five years”. The Framework also tasked the Statistics Commission with reviewing the need for statistical legislation after two years, and keeping the legislative framework under review thereafter.⁸

1.12 As set out in the consultation document published on 22 March 2006, the Government’s review of the Framework for National Statistics concludes that the Framework has played an important part in strengthening the UK’s statistical system and that there is now an opportunity for the Government to build on its earlier reforms, including through entrenching independence in legislation. In conducting its own review of the Framework, the Government has taken account of the ongoing external debate about statistical frameworks, as well as developments in international practice in this area.

⁵ Of which, around 1,000 members form the ‘Statistician Group’ within government, of statisticians with relevant qualifications.

⁶ Although the equivalent staff in Northern Ireland are not part of the GSS, they work very closely with the GSS and share a common professional culture.

⁷ *Statistics a Matter of Trust: A Consultation Document*, Office for National Statistics, 1998a

⁸ Meeting the remit, the Commission published their report, *Legislation to build trust in statistics*, in June 2004.

CONSULTATION

1.13 The March 2006 consultation, *Independence for Statistics*, lasted a period of 12 weeks, closing on 14 June 2006. It elicited 79 formal responses from across the stakeholder community including academia, unions, individuals, public sector organisations and local, regional and international bodies. All responses were published on HM Treasury's website and a formal Government response to the consultation was published on 15 November.⁹

OPTIONS FOR REFORM

1.14 The following sections set out the options considered by the Government in the context of its aim to reinforce the independence, integrity and quality of statistics produced in government:

- **Option 1:** No change – retain the existing non-legislative Framework for National Statistics;
- **Option 2:** Parliamentary model – centralise statistical production within a single body, located within Parliament;
- **Option 3:** Strengthened Statistics Commission – place the existing Statistics Commission on a statutory footing;¹⁰ and
- **Option 4:** Statutory Board – legislate for the creation of an independent Board, with responsibility for meeting an overall objective for statistical quality and integrity.

Costs and benefits

1.15 This section assesses the costs and benefits of each option. For all of the options considered, there is expected to be no increase in the regulatory burden on businesses or individuals as a result of the proposed reforms to the statistical system. As part of the reforms, there is an opportunity to reduce the burden on business by including in the legislation enabling provisions for the increased sharing of administrative data for statistical purposes.

Option 1: No change

1.16 The existing Framework for National Statistics is described in detail in Paragraph 1.10 above.

1.17 There is no standard measure of the quality of statistical output that can be used to assess changes over time, but perception plays an important role. A key finding from the joint ONS-Statistics Commission survey, *Public Confidence in Official Statistics*,¹¹ five years after the introduction of the Framework, was that “the statistical quality of official outputs [in the UK] was considered to be generally good and to rival the best in the world”. This could suggest that the existing Framework should be retained.

⁹ Consultation responses and the Government's response can be found at www.hm-treasury.gov.uk/budget/budget_06/other_documents/bud_bud06_odstatistics.cfm

¹⁰ As recommended in *Legislation to build trust in statistics*, Statistics Commission, 2004a, available from www.statscom.org.uk/reports_2-05.asp

¹¹ available from www.statistics.gov.uk/about/data/public_confidence/downloads/OmnibusMarch05.pdf

Furthermore, there would be no additional costs to retaining the existing Framework, over and above those already incurred and expected.

1.18 However, as the Financial Secretary to the Treasury (FST) noted in a speech on 17 May 2006,¹² there is an ongoing perception of political interference in the production and dissemination of statistics, “with only one in six people surveyed agreeing that “official statistics are produced without political interference”.”

1.19 A number of external commentators have called for the UK statistical system to be reformed, including through underpinning it in legislation:

- as early as 1991, for example, the RSS called for the creation of a Statistics Commission for the UK, and the passage of legislation to underpin the statistical architecture.¹³ More recently, in *A Vision for National Statistics* (2005), the RSS continued to make the case for a statutory basis to the UK system.¹⁴
- the Treasury Select Committee (2001) has also suggested that “legislation would establish more clearly the specific responsibilities of Ministers, the National Statistician, the Statistics Commission and others in relation to National Statistics and guard against political interference and backsliding in the future”.¹⁵
- this issue was also considered by the Phillis Review of Government Communications (2004), which recommended that the Government should “put National Statistics on a statutory basis, as is the case in many other countries”.¹⁶
- the most comprehensive recent external assessment of the UK’s statistical system was undertaken by the Statistics Commission in 2004, in response to the Government’s request to review the need for legislation after two years of the Framework’s operation. The Statistics Commission’s 2004 report, *Legislation to build trust in statistics*, concluded that legislation was necessary to underpin the statistical system in the UK.

1.20 Furthermore, international comparison suggests that some elements of statistical architecture are fairly common. According to Mather (2004),¹⁷ more than 90 per cent of the 112 respondent countries to a United Nations report in March 2004 declared a general statistics law that provides the authority and rules under which the national statistical office operates. Maclean and Spencer (2002)¹⁸ argue that statistics “need the protection of a law which enshrines the independence of the service and defines key roles and responsibilities”.

¹² available from www.hm-treasury.gov.uk/newsroom_and_speeches/speeches/finsecspeeches/speech_fst_170506.cfm

¹³ Royal Statistical Society (1991) “Official Statistics: Counting with Confidence” *Journal of the Royal Statistical Society Series A (Statistics in Society)* 154(1) pp23-44.

¹⁴ *A Vision for National Statistics*, Royal Statistical Society, 2005, available from www.rss.org.uk

¹⁵ *National Statistics Second Report*, House of Commons Treasury Committee, 2001, available from <http://www.publications.parliament.uk>

¹⁶ *An Independent Review of Government Communications*, Phillis, 2004 (the Phillis Review) available from www.cabinetoffice.gov.uk/reports/communications_review/index.asp

¹⁷ *International Developments in Statistical Organisation*, Mather, 2004, available from www.statscom.org.uk/reports_2-04.asp

¹⁸ *Statistics Legislation*, Maclean and Spencer, 2002, available from www.statscom.org.uk/media_html/reports/report_ms.asp

1.21 The costs of retaining the existing Framework for National Statistics are that the potential benefits from building on the current arrangements, including by underpinning the statistical system through legislation, would not be realised.

Option 2: Parliamentary model

1.22 Under option 2, statistical production would be centralised within a single body, located within Parliament, funded directly by Parliament and with staff employed as officers of Parliament, rather than as civil servants. A good comparison would be the National Audit Office, which scrutinises public spending on behalf of Parliament, and is independent of Government.

1.23 The benefits of this option are that it would provide clear accountability for the new body to Parliament, and would have no net regulatory impact on business or individuals.

1.24 However, there would be transition costs to create this new body and establish it within Parliament, rather than in the civil service, as now. Other principal objections are as follows:

- the proper role of Parliament is to hold the Government to account for what it does. As part of that role, it is right that the National Audit Office, which has a special role in ensuring government departments have achieved value for money in using the resources Parliament has voted for them, is located in Parliament. However, the production of statistics is an executive function; statistics are a public good, serving a wide range of users, and it is inappropriate to make statistical production a part of Parliament.
- the UK has a long history of decentralised statistical production and there are important strengths and benefits in these arrangements, including: keeping statisticians close to data suppliers and customers, giving them a better understanding of their data; ensuring good working links to policymakers, allowing them key insights into developments and needs; and maintaining professional statistical expertise across government. These benefits would be lost if all statistical activity was centralised in one office;
- staff would become officers of Parliament, rather than civil servants, as now. Loss of civil service status would put at risk the benefits from continued movement of professional staff within and across the statistical system, which maximises the sharing of knowledge and best practice across government statisticians, and the benefits of the decentralised nature of the UK system.

Option 3: Strengthened Statistics Commission

1.25 Under this option, the Statistics Commission would be strengthened by placing it on a statutory footing and with responsibility for enforcing a new, statutory code of practice, but separated from statistical production. This was one of the models recommended by the Statistics Commission in their 2004 report, *Legislation to build trust in statistics*.¹⁹

¹⁹ www.statscom.org.uk/

1.26 The benefits of this option are that it would entrench independence in legislation, would retain the benefits of the UK's decentralised system of statistical production, and would have no net regulatory impact on business or individuals.

1.27 However, by retaining the central statistics office under the direct control of Ministers, as now, there is a risk of an ongoing perception of Ministerial interference in the production and dissemination of statistics. Furthermore, putting the Statistics Commission on a statutory footing risks creating two distinct sources of statistical authority. In this context, the creation of a single Board, collectively responsible for assuring the quality and comprehensiveness of the statistical system is the governance model that best delivers independence for statistics in the UK. This model will avoid creating competing voices and centres of 'statistical expertise' within the statistical system. This model also ensures a clear line of accountability for the statistical system, through the Board to Parliament, and to the devolved legislatures for devolved statistics.

Option 4: Statutory independent Board

1.28 This option would comprise the following key features:

- the creation of a new, independent, Board, with a statutory responsibility for ensuring the quality and comprehensiveness of official statistics;
- a UK-wide system, covering Scotland, Wales, Northern Ireland and England;
- the Board to monitor and report on areas of concern about the quality and comprehensiveness of all official statistics;
- the Board to prepare, adopt and publish professional standards in a code of practice;
- the Board to assess, for approval as National Statistics, existing National Statistics against the Code. The Board will also – at the request of the Minister responsible – assess additional official statistics for approval as National Statistics;
- the Board to be a Non-Ministerial Department (NMD), outside Ministerial control and with special funding arrangements separate from the Spending Review process. It will be constituted by a majority of external, non-executive, members selected through open competition;
- the National Statistician to run the ONS, reporting directly to the Board and not to Ministers. The National Statistician will be a member of the Board, act as its chief professional advisor, and will continue as Head of the Government Statistical Service (GSS);
- the continuation of existing data sharing arrangements between the constituent parts of the ONS and between the ONS and other government departments;
- an enabling power providing for regulations allowing for a potential extension of the arrangements for data access to or from the Board for statistical purposes, along with confidentiality provisions on the face of the Bill which impose criminal sanctions for the unauthorised sharing of information about businesses or individuals which is held by the Board;

- the winding up of the Statistics Commission, whose responsibilities will be subsumed within the Board; and
- the establishment of proper employment status and rights for registration officers (as local authority employees) in England and Wales.

I.29 The benefits of this option can be set out as follows:

- by underpinning the new arrangements in legislation, the roles and responsibilities of different players within the statistical system would be clearly defined and transparent to users, therefore providing a mechanism for the different players to be held to account;
- by creating an independent Board as a NMD, Ministers would no longer be directly responsible for the day-to-day operation of the UK statistical system, thereby removing the perception of political interference;
- good corporate governance principles demonstrate the benefits of a Board structure with a majority of non-executive members; and with such members drawn from leading experts in statistics, and men and women from academia, business and public service, they would bring a collective perspective on user needs and the public interest;
- by creating a NMD, staff within the ONS would continue to be civil servants. This has the advantage of facilitating the continued movement of professional staff within and across the statistical system, maximising the sharing of knowledge and best practice across government statisticians;
- special funding arrangements outside the normal Spending Review process would have the benefit of reinforcing independence from Ministers, while at the same time ensuring adequate safeguards to encourage efficiency, secure value for money and control public spending;
- placing a statutory responsibility on the Board to assess and approve all National Statistics against the code of practice, also backed by statute would have the benefit of introducing independent assessment of the quality and integrity of all National Statistics, wherever produced in government (i.e. in the ONS or in policy departments);
- focusing this assessment function, at least at the start of the new arrangements, on the current set of National Statistics, would have the benefit of addressing those key indicators that the Government, business and the wider public rely on to provide an accurate, up-to-date, comprehensive and meaningful description of the UK;
- making key appointments to the Board through open and fair competition would have the benefit of enhancing the independence from Ministers of appointments. The independence and status of the Chair of the Board and the Chief Statistician would be further enhanced by making these Crown appointments; and
- the retention of the current decentralised system of statistical production would have the benefit of: keeping statisticians close to data suppliers and customers, giving them a better understanding of their data; ensuring good working links to policymakers, allowing them key insights into

developments and needs; and maintaining professional statistical expertise across government.

1.30 This option would imply no net change in the regulatory burden on business or individuals. If anything, given that the Government would propose to place a statutory obligation on the new Board to minimise the burdens on those who supply data for National Statistics or other statistical purposes, there might be a reduction in burden as a result of this option. Furthermore this option offers an opportunity to reduce the burden on business, by including in the legislation enabling provisions for the sharing of administrative data for statistical purposes. This has the potential to bring real benefits in terms of: improving statistical analysis and therefore the evidence-base for better policy making and resource allocations; reducing the burden on business (especially small business) of completing surveys on information already held by government; addressing the problems of declining survey response rates; and reducing the cost to government of conducting such surveys. This is discussed further at paragraphs 1.33-1.40.

1.31 The effect of this option, in expenditure terms, will be small. There are likely to be certain transition costs involved in establishing the new arrangements, including those relating to the creation of the new independent Board and the transfer of GRO and NHSCR away from the ONS. Although there are likely to be some additional ongoing costs to run the Board itself and the new assessment function, these are not expected to be large, and should at least partly be offset by the winding up of the existing Statistics Commission, whose responsibilities would be subsumed within the new Board.

1.32 One element of this Bill that has the potential to place some compliance burden on the public sector is the Board's new independent assessment process for National Statistics. This would affect only those government departments and agencies producing National Statistics, and these bodies would gain from the additional credibility associated with independent approval of their statistics. Although at this stage it is not possible to quantify the cost of the Board's independent assessment of National Statistics, the net burden would be expected to be minimised or offset by:

- a statutory requirement that the Board must exercise its functions efficiently and cost-effectively and must seek to minimise the burdens (including financial burdens) it imposes on other persons. This will include the Board having due regard to the burdens (including financial) imposed on statistical producers by the assessment process;
- a statutory requirement that the Board must – following appropriate consultation – prepare and publish a statement of the principles to which it will have regard, and the procedures it will adopt, in undertaking assessment of National Statistics. The Government anticipates that this will include the Board's assessment programme being risk-based, so that attention is focused on those key indicators upon which Government, business and the wider public rely to provide an accurate, up-to-date, comprehensive and meaningful description of the UK economy and society; and
- the fact that the assessment process would be building on and in some cases replacing existing quality assurance processes that already exist in most departments.

DATA SHARING

1.33 Opting for a legislative route also provides an opportunity to reduce the burden on business by including enabling provisions for the sharing of administrative data for statistical purposes.

1.34 Data sharing among government departments has been recommended as one way to reduce the burden of regulation on business and individuals. The 2005 report by the Better Regulation Taskforce, *Regulation – Less is More*,²⁰ recommended increased data sharing between departments to reduce intrusion on business. Similarly, the Confederation of British Industry (CBI) – echoing a recommendation of the Hampton Review (2005)²¹ – noted that “it would, in principle, be helpful if government departments and regulators could share information to reduce duplication”.²² A specific Ministerial committee has been established to “develop the Government’s strategy on data sharing across the public sector”.²³

1.35 The consultation document *Independence for Statistics*²⁴ asked for views on increased data sharing, noting both that this could bring benefits to statistical quality and efficiency of production, and that there were arguments against sharing on human rights grounds.

1.36 International comparisons show that, unlike in the UK, many national statistical institutions are given statutory access for statistical purposes to administrative data in departments. Countries allowing some use of administrative data for statistical purposes include France, Canada, Ireland, Italy, Finland and the Czech Republic.

1.37 Increased data sharing for statistical purposes has the potential to bring real benefits in terms of: improving statistical analysis and therefore the evidence-base for better policy making and resource allocations; reducing the burden on business (especially small business) of completing surveys on information already held by government; addressing the problems of declining survey response rates; and reducing the cost to government of conducting such surveys.

1.38 The ONS estimate that use of administrative data for statistical purposes in place of survey returns could yield savings of around £2m in 2014 and £4m in 2015. Most of this reduction is against the burden on smaller businesses of compliance with the larger, more complex annual surveys such as the Annual Business Inquiry. The scale and timing of this saving depends on securing the necessary agreement between departments and secondary legislation, and on further methodological work to determine how best this work can be carried forward.²⁵

²⁰ Specific recommendations from the report included creating “a universal identifier for each business to use across government”, and providing a “legal basis for data sharing”. The full report is available at www.brc.gov.uk/publications/lessismoreentry.asp

²¹ *Reducing administrative burdens: Effective inspection and enforcement*, Hampton, 2005, (The Hampton Review), which recommended data sharing between regulators where legally possible, to reduce intrusion on business. Available from www.hm-treasury.gov.uk

²² *Comment on the Second Reading of the Legislative and Regulatory Reform Bill in the House of Commons*, Confederation of British Industry, 9 February 2006, available from www.cbi.org.uk/pdf/legandregsecond0206.pdf

²³ Ministerial Committee on Data Sharing (MISC31). See www.cabinetoffice.gov.uk/secretariats/committees/misc31.asp

²⁴ *Independence for Statistics: A consultation document*, HM Treasury, March 2006, available from www.hm-treasury.gov.uk/budget/budget_06/other_documents/bud_bud06_odstatistics.cfm

²⁵ *Office for National Statistics Simplification Plan 2006*, Office for National Statistics, available from <http://www.statistics.gov.uk/statbase/Product.asp?vlnk=14683>

1.39 Important concerns have in the past, however, been raised around the privacy rights and confidentiality aspects of such data sharing. Parliament’s Joint Committee on Human Rights, for example, has on occasion expressed the view that sufficient safeguards should be in place to prevent sharing of data from contravening Article 8 of the European Convention on Human Rights, which concerns personal privacy.²⁶ The ONS has a long history of maintaining data confidentiality and already securely holds sensitive information on individuals, including census returns, employees’ earnings, and individual businesses’ profits. However, recognising concerns about privacy of personal data, safeguards are secured on the face of the Bill, with a criminal sanction for wrongful disclosure leaving it beyond doubt that future data sharing will be treated with due care.

1.40 The Government will replicate existing data sharing arrangements in the legislation. In addition, in light of the strong support from respondents, the Government will also include an enabling clause in the legislation to allow for the sharing – to and from the Board – of data for statistical purposes, with any specific extensions of access to be agreed through subsequent statutory instruments, which will be subject to affirmative procedure. This will ensure further and specific Parliamentary scrutiny, approval and authorisation for any new data sharing arrangements.

²⁶ *Thirteenth Report*, Joint Committee on Human Rights, 2005, available from www.publications.parliament.uk/pa/jt200405/jtselect/jtrights/87/8704.htm

2

SMALL FIRMS IMPACT TEST AND COMPETITION ASSESSMENT

SMALL FIRMS IMPACT TEST

2.1 As already noted, there is expected to be no net change in the regulatory burden on business as a result of these reforms – this includes small business; if anything, given that the Government proposes to place a statutory obligation on the new Board to minimise the burdens on those who supply data for National Statistics or other statistical purposes, there might be a reduction in burden as a result of these proposals. Furthermore, if increased data sharing were to be pursued as part of these reforms, there could be a net benefit to small businesses (see, especially, 1.37-1.38, above).

2.2 The Small Business Service and the Federation of Small Businesses have agreed that they do not expect any significant impacts on small business as a result of the reforms proposed in the consultation document. No responses to the written consultation highlighted any concerns about the possible impact on business, or small firms in particular. A Small Firms Impact Test has therefore not been conducted.

COMPETITION ASSESSMENT

2.3 The Office of Fair Trading have agreed that there are no competition implications arising from these proposals, which apply to every sector and to all firms equally and as such do not change the competition structure of the market.

3

ENFORCEMENT, SANCTIONS AND MONITORING

3.1 This section sets out how the Government would propose to enforce and monitor its preferred option, that of a statutory independent Board (Option 4 in chapter 1).

Enforcement and Sanctions

3.2 The Government's proposals for reform of the statistical system are substantially machinery of government changes and do not therefore require enforcement. However, the new Board will be given statutory powers to independently assess National Statistics, whether produced by the central statistics office or in policy departments across government; only those statistics assessed by the Board as meeting the standards of the code of practice will be approved by the Board as National Statistics.

Monitoring

3.3 The Government expects Parliament to play the central role in holding the statistical system to account under the new system and expects that there will be full accountability to Parliament for the statistical system, in the same way as for other independent institutions, such as the Bank of England, the Financial Services Authority and the competition regulators. However, it will be a matter for Parliament to decide how to use the mechanisms available – in particular, the select committee system, the laying of reports, and Parliamentary Questions – to reinforce its role in scrutinising the performance of the reformed statistical system and in holding the new Board to account:

- **Select Committee system.** Under the current system, the Treasury Select Committee has the lead role, although all Parliamentary committees can call whomever they choose to give evidence. In the independent Board model, the Government anticipates that Parliament would regularly call the Chair and the Chief Statistician before them, and possibly other Board members, in the same way as for the Financial Services Authority and the Bank of England's Monetary Policy Committee; and
- **Laying reports.** The publication of reports by the Board on its activities and outputs will be the foundation for effective public and Parliamentary scrutiny. In the current system, the ONS and the Statistics Commission produce annual reports, as well as other reports on specific aspects of the statistical system. Under the new arrangements, the new body would be required to submit an annual report to Parliament and the Government expects them to continue to produce other reports.

Parliamentary Questions. Another important element of democratic accountability is the right of Parliamentarians to ask questions about statistical issues. Under existing arrangements, the National Statistician answers Parliamentary Questions by letter, formally presented to the House of Commons and the House of Lords by a Treasury Minister and printed in Hansard. These arrangements could remain in place in future. Treasury Ministers would, of course, retain responsibility for answering questions specifically related to the Government's statistics policy.

4

IMPLEMENTATION AND DELIVERY PLAN

4.1 The Government is also working, subject to legislative consent being granted, to determine and implement the most appropriate transitional arrangements to ensure a smooth introduction of the new system, which will build on current structures in the ONS and the GSS. Details of implementation and delivery would require further consideration, but key elements include:

- the establishment of the new Board: A non-executive chair would need to be appointed, as would other non-executive members. As with other high-status appointments, such as the Governor of the Bank of England, the Executive Chair of HM Revenue and Customs and Her Majesty's Chief Inspector at the Office for Standards in Education, the Government proposes that the Chair and the National Statistician would be appointed by the Crown, on the advice of Ministers. The Government expects that Ministers would appoint the other non-executive members of the Board, after consulting the Chair. The non-executive members would include leading experts in statistics and men and women from academia, business and public service. Ideally, such members should collectively bring a perspective on user needs and the public interest, and experience in running large, complex organisations;
- fair and open competition: to ensure the independence of appointments to the Board, the Government proposes that all members – including the Chair and Chief Statistician – would be appointed through open and fair competition and in line with the Office of the Commission for Public Appointments (OCPA) guidance;
- the preparation for the new assessment function: the new Board would have a statutory responsibility to develop and maintain the code of practice and agree the details of the new assessment process. The Statistics Commission has announced that it will bring forward proposals on how the code of practice might be developed for the new system (on which it recently concluded a consultation exercise)²⁷;
- the winding up of the Statistics Commission, whose roles and responsibilities would be subsumed within the new Board; and
- the transfer of responsibility from the National Statistician of the General Register Office (GRO) and the National Health Service Register (NHSCR).

4.2 The Government continues to give consideration to the details by which the transition between the current system and the new system would be managed.

²⁷ Responses to the Statistics Commission's consultation may be found at: <http://www.statscom.org.uk/>

5

SUMMARY AND RECOMMENDATION

5.1 The Government has a responsibility to ensure that statistics are fit for purpose and command respect. A consultation document in 1998, *Statistics: A Matter of Trust*, described the Government’s aims for statistics, which remain the same today, in the following way:

“Quality needs to be assured. Official statistics must be sufficiently accurate and reliable for the purposes for which they are required ... the production and presentation of official statistics needs to be free from political interference, and to be seen as such, so that the objectivity and impartiality of statistics is assured”

5.2 Following its review of the existing Framework for National Statistics, and an assessment of the costs and benefits of different models, the Government believes that Option 4 in chapter 1 represents the best way forward. There is no expected increase in the regulatory burden on businesses or individuals as a result of the proposed reforms to the statistical system and there may even be a reduction if the data sharing proposals yield the expected gains.

5.3 In summary, the Government’s proposes:

- the creation of a new, independent, Board, with a statutory responsibility for ensuring the quality and comprehensiveness of official statistics;
- a UK-wide system, covering Scotland, Wales, Northern Ireland and England;
- the Board to monitor and report on areas of concern about the quality and comprehensiveness of all official statistics;
- the Board to prepare, adopt and publish professional standards in a code of practice;
- the Board to assess, for approval as National Statistics, existing National Statistics against the Code. The Board will also – at the request of the Minister responsible – assess additional official statistics for approval as National Statistics;
- the Board to be a Non-Ministerial Department (NMD), outside Ministerial control and with special funding arrangements separate from the Spending Review process. It will be constituted by a majority of external, non-executive, members selected through open competition;
- the National Statistician to run the ONS, reporting directly to the Board and not to Ministers. The National Statistician will be a member of the Board, act as its chief professional advisor, and will continue as Head of the Government Statistical Service (GSS);
- the continuation of existing data sharing arrangements between the constituent parts of the ONS and between the ONS and other government departments;
- an enabling power providing for regulations allowing for a potential extension of the arrangements for data access to or from the Board for statistical purposes, along with confidentiality provisions on the face of the

Bill which impose criminal sanctions for the unauthorised sharing of information about businesses or individuals which is held by the Board;

- the winding up of the Statistics Commission, whose responsibilities will be subsumed within the Board; and
- the establishment of proper employment status and rights for registration officers (as local authority employees) in England and Wales.

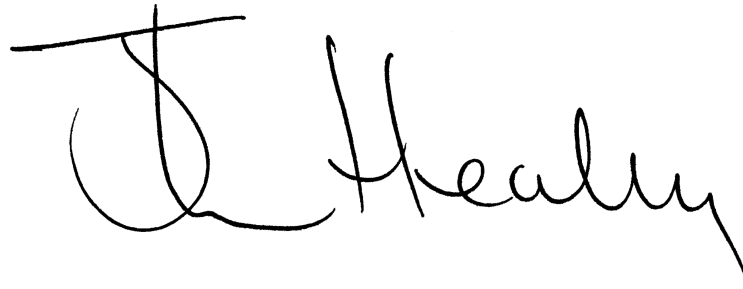
5.4 Further to the statistical reforms, there is an opportunity to include in the legislation provisions to enable sharing of administrative data for statistical purposes. This has the potential to bring real benefits in terms of: improving statistical analysis and therefore the evidence-base for better policymaking and resource allocations; reducing the burden on business (especially small business) of completing surveys on information already held by government; addressing the problems of declining survey response rates; and reducing the cost to government of conducting such surveys.

6

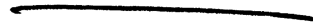
DECLARATION

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed,

A handwritten signature in black ink, appearing to read 'J Healey', written in a cursive style.

John Healey MP

A solid horizontal line drawn in black ink, positioned below the name 'John Healey MP'.

Financial Secretary to the Treasury

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