

## **Independence for Statistics: A consultation document**

### **Introduction**

1. The Information Commissioner is responding to this consultation as the independent regulator for the Data Protection Act 1998, the Freedom of Information Act 2000 and associated legislation.
2. He does not require this response to be kept confidential.

### **Summary**

3. The Information Commissioner views with interest the Government's proposals to introduce legislation establishing the Office for National Statistics as a Non-Ministerial Department and restructuring the operation of this and the collection of national statistics within government.
4. The Information Commissioner would be keen to learn whether or not the separation of the General Register Office and the National Health Service Central Register from the ONS and their integration elsewhere within government might have an impact on who has access to this information and how it is used. The Commissioner would be concerned if this information came to be used for other purposes within the department the GRS and NHSCR migrate to. He has previously expressed concerns over the increasing amount of personal information available across government and the need to ensure that the access to and sharing of this information is closely monitored and that any wider use is in compliance with the Human Rights Act 1998 and the Data Protection Act 1998.
5. The Information Commissioner is keen to ensure that any decision to grant the ONS statutory powers to access administrative data held within government departments is done so with the utmost regard for privacy and in full compliance with the Data Protection Act 1998. The Commissioner has expressed his concerns with regard to 'function creep' across government in respect of increasing access to personal information in particular in relation to any proposed access to the National Identity Register.

### **General Comments on Paper**

The Commissioner cannot foresee any major data protection obstacles to the new structure and organisation of the ONS and the executive board. He

welcomes the commitment to quality and to independence from government which these proposals underpin.

The Commissioner appreciates the ONS has an existing commitment to minimise the burden and the compliance costs it places on business and local authorities in the collection of statistics and that this will be a statutory function of the new board. He has some data protection concerns with the proposals stated in paragraph 4.26 for the extension of access to administrative data held within government departments. The Commissioner understands that in addition to reducing the burden on those who supply statistics, increased access may also improve the quality of national statistics by enabling the use of whole populations of data rather than just samples. The privacy and data protection implications of any such wider access would, however need to be thoroughly considered before any powers were included in legislation. This would ensure public confidence is maintained in the statistics process. This is particularly important as ICO research has concluded that a majority of individuals are increasingly concerned at the uses organisations make of their personal data and of the amounts of personal data now held about them.

The Commissioner would support the widest possible use of anonymisation and pseudonymisation of data and where this is not appropriate in the first instance a clear policy for the removal of names at the earliest opportunity after data matching has been completed and where this is possible. The need to ensure there is an awareness amongst the public of the possible wider disclosures of their data for other purposes is also something the commissioner would view as vital for both compliance with the Data Protection Act and as part of maintaining public confidence. Security provisions must also be considered thoroughly prior to any access being made available. The Commissioner would warn against the inclusion of vague and possibly far reaching powers to allow wider access to administrative data and would prefer powers which contain a clear purpose for the access to guard against 'function creep' within government.

The Commissioner welcomes the references made in paragraphs 4.27 and 4.28 to enhanced data protection provisions and the need to ensure data sharing does not contravene Article 8 of the European Convention on Human Rights. He also welcomes the commitment to include within the legislation establishing the independent statistics office and the executive board a clause reiterating a duty to protect the confidentiality of individuals and organisations from the unauthorised disclosure of information held about them for National Statistics or other statistical purposes and to make this commitment a key objective of the board.

The additional consequences for the Registrar General and the National Health Service Central Register of the reorganisation of the ONS referred to in paragraph 4.49 appears to leave the situation of the above within government unresolved. The Commissioner would be keen to learn of the final decision with regard to the role and position of the Registrar General within government. The Commissioner is concerned that if these functions were to be placed within an existing government department, the same restrictions on

access and the purposes for which the information is used should continue to apply.

In addition to compliance with the Data Protection Act 1998 the statistics office will remain a public authority and must comply with requests made under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. The Commissioner would expect statistical information to be treated in the same way as other information held by a public authority and requests must be handled in the same manner as those made for these types of information. The Commissioner would however recommend that any disclosure of statistical information is accompanied by an explanation which puts this into context. There are no specific exemptions/exceptions for statistical data, although there may be cases when the general exemptions/exceptions in the Act or Regulations may be utilised. The proposed relocation of the GRO functions to another area within government will obviously result in there being a transfer of responsibility for this type of information request to the newly designated public authority. This fact should not however impact on the individual making a request.

## **Conclusion**

The proposals to legislate for independence in statistics outlined in this paper do not for the most part engage major data protection concerns. The Commissioner welcomes the establishment of a statutory independent statistics office and of a board responsible to parliament with executive responsibility for this office and a wider responsibility of ensuring quality and integrity across the system, including confidentiality of the data provided. The Commissioner is keen to ascertain the exact position of the GRO and the NHSCR within government as soon as this has been established. The Commissioner would however advise caution before proceeding with any proposals aimed at extending access to administrative data held within government departments. Data protection and other privacy safeguards would need to be thoroughly considered were this access to be granted as would the precise purpose of the access in order to guard against 'function creep' and maintain public confidence in the future collection of statistics. Ensuring data protection and privacy are considered thoroughly is important to any proposal of this kind and the Information Commissioner remains committed to providing advice and guidance where it is required.