

Data Sharing Review

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Consultation paper on the use and sharing of personal information in the public and private sector

List of questions for response

We would welcome responses to the following questions set out in this consultation paper. Please follow the question order as set out in the consultation paper, leaving a blank response box for any questions not answered.

Please email your completed form to contact@datasharingreview.gsi.gov.uk

Alternatively you can send a hard copy response to:

Data Sharing Review Secretariat
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11 Tothill Street
London
SW1H 9LJ

Thank you.

Section 1: Background

Question 1. Please explain what your interest in information sharing is. If you have an active involvement in personal information sharing, we would be grateful for the following information:

- What kinds of personal information do you collect, hold and share?
- How do you collect, hold and share such personal information?
- For what purposes do you collect, hold and share such personal information?

Comments:

DfT Response

The following is not an exhaustive list, but the main categories of data held and sharing by DfT are as follows:

1. DfT holds and shares information on Driver details (as they appear on the driving licence) and Vehicle registration details (including vehicle keeper data). Data is collected electronically and on paper in the form of applications and notifications. It is shared electronically, on paper, CD and tapes. It is collected primarily for road safety, driver licensing purposes, registering and licensing vehicles, assessment and collection of Vehicle Excise Duty and road traffic enforcement.

2. DfT collects personal data of property owners who might claim compensation payments when highways schemes are developed.

3. DfT uses data from Automatic Number Plate Recognition (ANPR) cameras for a range of purposes. For some of these purposes eg Vehicle Excise Duty enforcement, we need to link ANPR data with the individual vehicle and for some purposes eg long-term traffic management to reduce congestion and improve road safety we are able to use anonymised data. DfT also collects CCTV data to manage the day-to-day through flow of traffic on the strategic road network. Limited CCTV and ANPR information is shared with the Police on a case by case basis in connection with active investigations.

4. DfT collects driver trainer details and driving applicant details including test results for the purpose of enabling the booking and conduct of the theory and practical driving tests. Information is collected by phone and through the Direct.Gov website.

5. DfT collects vessel information to register a vessel. It also collects seafarer data to issue certificates of competency and for statistical purposes. Such data is shared on a case by case basis with relevant public authorities (e.g for law enforcement purposes).

6. DfT collects MOT test data for vehicle testing purposes. This information is collected and held electronically.

Generally where data is shared this is for the purposes related to the original collection of that data or pursuant to specific statutory gateways.. It is shared through various channels such as electronic , email, fax, CD and tapes.

The Department for Transport takes data security extremely seriously and applies agreed government security procedures and standards.

It is departmental policy that all data sharing should only be undertaken pursuant to specific statutory authorisation, or in other circumstances where a reasonable legal justification has been established (for example implied or ancillary rights pursuant to other statutory functions in combination with residual common law powers). All data sharing must also take into account the European Convention on Human Rights, the Data Protection Act 1998 and the common law duty of confidence. Therefore any potential data sharing/data transfer that is to take place needs to be discussed with legal, policy and data protection officers.

Section 2: Scope of personal information sharing, including benefits, barriers and risks of data sharing and data protection

Question 2. What in your view are the key benefits of sharing personal information to a) individuals and b) society? Please provide examples.

Comments:

DfT Response

Data is vital in order to provide efficient and effective Government services. The drivers' database is a record of entitlement to drive, endorsements and disqualifications and is critical for road safety. The vehicle database is a record of keepership and is used by the police to enforce road traffic law, trace the next-of-kin of those involved in accidents, trace vehicles involved in crime and to inform keepers of any vehicle safety recalls.

From a DfT perspective, we see the key benefits to individuals as improved services and safer roads. An example of better service is the facility to be able to renew a vehicle excise licence (tax disc) on-line, made possible because of the links to the motor insurers' and MOT databases.

The benefits to society should be increased compliance with the law because a) sharing between law enforcement bodies should result in better prevention and detection of crime, and b) cutting down the bureaucracy needed– i.e. making it easier for people to comply with the law – should result in increased compliance. The consequences of this should be in reduced public expenditure (because of fewer non-payers and lower administration costs), safer, quicker journeys for everyone, and better customer services, which the public will see as more responsive to their needs in the busy modern world.

Question 3. What in your view are the key risks of sharing personal information to a) individuals and b) society? Please provide examples

Comments:

DfT Response

The key risks associated of sharing personal information are a. data loss and that data could be used for purposes that are not compatible with those for which it was originally obtained; and b. reputational damage and loss of public trust. At DfT we make sure that adequate safeguards and controls are in place to mitigate such risks.

Question 4. As mentioned in the introduction, there are wide variations in the scope and methods of personal information sharing. What scope and what methods, in your view, pose the greatest opportunities or risks? Please explain the reasoning behind your response.

Comments:

Significant emphasis is given to technical measures to provide a degree of security assurance around data sharing. However, to be effective these must be combined with clear and effective processes or instructions for those who must use them.

We use a number of methods to safeguard the transfer of data depending on the nature of the data to be shared. This can be through encryption, use of secure couriers, or electronic transfer wherever possible. [Staff are provided with a variety of training and guidance appropriate to their role.]

Question 5.

Please provide examples of where, in your view, the public authorities hold too much data or not enough personal information, and the reasoning behind your response.

Comments:

DfT Response

DfT is very conscious of the need NOT to process more personal data than is necessary to carry out its functions. For example, the Highways Agency uses ANPR cameras the length of the strategic road network for traffic management purposes, but processes partial and encrypted vehicle registration marks for managing traffic flow, the HA do not need to know *who* is driving a vehicle, but simply what its movements are on the network.

Question 6.

Please provide examples of where, in your view, private sector organisations hold too much personal information or not enough personal information, and the reasoning behind your response.

DfT Response

DfT has no particular view on this.

Question 7.

Please provide examples of cases where you believe the sharing of personal information between two or more bodies would be beneficial, but where it is not currently taking place. Please explain as fully as possible why information is not being shared, detailing what the barriers to the sharing of personal information are – e.g. legal, cultural, financial, institutional – and how these barriers can be overcome.

Comments:

DfT Response

DfT has no examples to offer.

Question 8.

Please provide examples of cases where you believe that personal information is being shared between two or more bodies, but where this should not be taking place. Please describe the information-sharing concerned and why you believe it should not be taking place, including the risks involved in such information-sharing.

DfT Response

DfT is not aware of any such cases.

Section 3: The legal framework

Question 9.

In your view, how well does the DPA work? Please outline the DPA's main strengths and weaknesses and any proposals for changes you would like to see made, including suggestions for their implementation.

Comments:

DfT Response

The Data Protection set out in the DPA set a clear foundation for the processing of personal data, which most people can easily understand and see the value of. However, interpreting some of the terms, even for professionals in the field, can be a challenge. Whilst the Act generally works well for mainstream everyday processing of electronic data, the lack of clarity over what is meant by personal data and when it can be disclosed, can lead data controllers, in those cases that are not clear cut, to adopt an over-cautious approach. We recognise the work the ICO has done in terms of attempting to clarify what personal data is, following the work of the Article 29 Working Party, but the issue is still far from straightforward.

Other issues such as what constitutes a “relevant filing system” and, for public authorities, what should fall within category ‘e’ manual data, present additional challenges, eg in the handling of subject access requests.

Question 10

In your view, how well do public authorities and private organisations adhere to the second principle of the DPA? How valuable do you believe the second principle is? Please provide examples and the reasoning behind your response.

Comments:

DfT Response

The second principle provides a clear indication to data controllers that personal information should only be shared with other organisations if such sharing is consistent with the purpose for which it is collected. However, interpretations can vary and result in data controllers giving more generic, and perhaps less useful, descriptions in their fair processing notices.

Question 11

What technical, institutional or societal barriers stand in the way of the effectiveness of the DPA? Please provide examples.

Comments:

DfT Response

DfT has no particular view on this

Question 12

What further powers, safeguards, sanctions or provisions do you believe should be included in the DPA.

DfT Response

DfT has no particular view on this.

Question 13

Are there any other aspects of UK or EU law (such as EU Directive 95/46/EC) that impact positively or negatively on data sharing or data protection? Please provide examples.

DfT Response

DfT has no particular view on this.

Question 14

Are there any statutory powers unavailable that would enable better and more secure sharing of personal information– for example for identity authentication purposes – between a) public authorities and b) public authorities and private organisations? If so, what are they? Please provide examples and any steps you believe could be taken to improve matters.

DfT Response

DfT has no specific views on this.

Question 15

Are there any parts of the legal framework that place an unreasonable burden on business? Please provide examples.

Please outline your proposals for streamlining the legislation to ensure that such burdens are minimised.

DfT Response

DfT has no particular view on this.

Section 4: Consent and transparency

Question 16

Is it clear whether and when you need individuals' consent to share information about them? Are you clear about the form that consent should take? Please provide examples. Please provide details of any initiative you have been involved in that has been based on consent.

DfT Response

DfT is clear about the importance of consent. There are situations where a universal approach is important (individual consent is not necessarily required before DVLA data is shared with the relevant enforcement authorities under the principles outlined in our response to question 1 above).

Question 17

What, if any, barriers would a requirement for gaining consent create to the sharing of personal information? Please explain your reasoning.

DfT Response

Consent is clearly desirable wherever this is practicable but there may be situations where a universal requirement for individual consent could undermine the enforcement of legal obligations, the accuracy of legal obligations, the accuracy of data itself, and (potentially) delivery of "joined up" services to customers. For example, the DVLA shares driving licence entitlement information with DSA (both DVLA and DSA are DfT executive agencies). Should individual consent be required in each case, DSA would need to duplicate data held by DVLA and to check entitlement to drive in some other way. This could increase the chances of fraud, and reduce customer service, with no clear benefit. This would be unlikely to be in the greater public interest.

Question 18

Do you have any suggestions on how to make the sharing of information more transparent? For example, should individuals be given strengthened access rights? And if so, how? Should organisations be expected to do more to explain their use and sharing of personal information to the public? And if so, how?

DfT Response

Current access rights already require that data controllers inform individuals of the recipients or classes of recipients to whom personal data may be disclosed. We doubt that the legislation needs to change, but there could be a case for best practice guidance on how to deal with subject access requests in the context of the kind of information individuals would want about data sharing.

Question 19

How can we best ensure that information sharing policy is developed in a way that ensures proper transparency, scrutiny and accountability?

For example:

In your view, how valuable is the Information Commissioner's recently published Framework code of practice for sharing personal information (http://www.ico.gov.uk/upload/documents/library/data_protection/detailed_specialist_guides/pinfo-framework.pdf)?

In your view, how valuable are privacy impact assessments along the lines announced by the Information Commissioner on 11 December (www.ico.gov.uk)?

DfT Response

The ICO framework Code of Practice for sharing personal information is welcomed..

We also welcome the principle of privacy impact assessments. Like most guidelines and methodologies some degree of proportionality needs to be applied to make sure that the time spent on these are not excessive and do not outweigh any proposed benefits.

Section 5: Technology

Question 20

What impact in your view have technological advances had on the sharing and protection of personal information? Please provide examples.

Comments:

DfT Response

DfT is very conscious of the pace of technological advance. This offers opportunities to provide for far more customer focussed and efficient public services. For example, the web-enabled electronic vehicle licensing system offers customers an easy and convenient way of renewing car tax. This system is enabled through sharing of the vehicle licensing data held by DVLA, insurance data held by motor insurance bureau (a private sector body) and MOT records held by VOSA.

Question 21.

Should the law mandate specific technical safeguards for protecting personal information? For example, should there be an explicit requirement that all personal information held on portable devices be encrypted to a particular standard?

Comments:

DfT Response

We suspect there could be a number of significant practical difficulties (for example, the de-encryption software would need to be very widely available, potentially undermining the objective).

Question 22

How, in your view, could 'privacy enhancing techniques', such as the anonymisation or pseudonymisation of personal information, help safeguard personal privacy, whilst facilitating activities such as performing medical research?

Is sufficient advice about the deployment of such techniques available? Are you confident about using them? What are the barriers to using them?

DfT Response

Anonymisation is an excellent way of reducing risks associated with data and privacy loss. HA anonymise data from ANPR cameras and still manage to use it for their purposes of monitoring and managing traffic flows. Not much guidance is available on anonymisation. Such guidance might assist in making sure that the minimum amount of personal information is collected and shared.

Section 6: International comparisons**Question 23**

Are you aware of any jurisdictions whose legal framework for sharing and protecting personal information contains features that could be useful in a UK context? Please provide examples.

Comments:

DfT Response

DfT has no particular view on this.

Question 24

Do you have any international examples of good practice in the sharing of personal information that could or should be adopted by the UK?

Comments:

DfT Response

DfT has no particular view on this.

Question 25

Do you have any knowledge of jurisdictions that have adopted a particularly permissive or restrictive approach to sharing personal information? What have the consequences of this been?

Comments:

DfT Response

No particular view on this.

Question 26

Are you aware of significant differences in public attitudes to the sharing of personal information in other countries? Please provide examples and an explanation for why you believe this to be the case.

Comments:

DfT Response

No particular view on this.

Section 7: Additional questions**Question 27**

Are there any additional issues on the sharing of personal information and protection of personal information that this review should be considering?
Do any of these issues apply specifically to your sector?

Comments:

DfT Response

No specific issues additional to those already commented on.

Question 28

Please set out any additional suggestions or observations you have that you believe will be of assistance to the review.

Comments:

DfT Response

Nothing further to add.