

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
5.26 Steel House
11 Tothill Street
London
SW1H 9LJ

Thank you.

Section 1: Background

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?

Question 1.
Comments:

This submission is produced by the EnCoRe project consortium. This is a cross-disciplinary consortium of industry (HP, HW Communications, QinetiQ) and academic partners (London School of Economics, University of Warwick, University of Oxford). EnCoRe emerged from a Technology Strategy Board (TSB) Sandpit on Ensuring Privacy and Consent, sponsored by the Identity and Passport Service, the EPSRC and ESRC.

The proposal developed by EnCoRe is currently being evaluated by the TSB, EPSRC and ESRC. Our responses to the questions are limited to the scope of the problems that EnCoRe seeks to address (namely, **Consent and Revocation**) rather than the whole question of data sharing. Similarly, whilst we have views about how the research will develop, we cannot identify particular solutions at this time. If we receive funding, we will, of course, be happy to work with the ICO and relevant stakeholders in feeding back the results of our work as they develop.

The overall vision of the EnCoRe is to make giving consent as easy as turning on a tap and the revocation of consent as easy as turning it off again.

Our aims are:

- To enable business to adopt scalable, cost effective and robust consent and revocation methods for controlling the use, storing, locating and sharing of personal data.
- To benefit individuals by providing meaningful, intuitive mechanisms which will allow them to control the use of their personal information held by others.
- To help restore individual confidence in participating in the digital economy and so in turn, benefit the wider society.

The EnCoRe project will address these aims by means of the following strategy:

1. Develop useful models of consent and revocation to provide a domain of discourse between all stakeholders and to underpin functional and non-functional requirement development.
2. Generate novel and innovative technologies that enable C&R, ranging from user interface design to compliance mechanisms within and across organisations, with specific technology components and architectures, coupled with suitably open compliance regimes.
3. Identify improvements and guidance in the current and anticipated needs of the legal and regulatory frameworks that balance user control, technology and the needs of organisations and the state.
4. Apply at least five case studies, selected from a set of use cases (of which five have been identified at bid stage), to ensure that any solutions or guidance are applicable to a variety of user contexts, business models, markets sectors and the increasing pervasiveness of cyberspace.
5. Run three concept design cycles (requirements gathering, solution development

and validation) selected from those case studies, in sequence, to refine our approach

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

Question 2.

Comments:

In the context of EnCoRe, our emphasis is on the process of giving and revoking consent for the use of personal information. Thus, we believe that benefits of data sharing will be enhanced if individuals know that they can, as appropriate, revoke consent in a meaningful and auditable manner. Without this confidence, some of the benefits to individuals and society of data sharing will not be achieved as individuals become increasingly reluctant to provide personal information for fear that it will be shared beyond their original expectations and control.

Question 3

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

Question 3.

Comments:

See response to Q2

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.

Question 4.

Comments:

Again, the emphasis of EnCoRe is to develop rigorous, auditable processes for giving and revoking consent. The greatest risks arise if these methods are not / cannot be implemented. For example, at a technical level, issues arise when interacting with legacy systems where 'deletion' might be difficult to implement. Similarly at an organisational / business level if EnCoRe is to become an industry best practice then it needs to be cost-effective for organisations to implement. Addressing both of these issues are within the scope of the EnCoRe project.

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.

Question 5.

Comments:

This question is beyond the scope of the EnCoRe project.

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.

Question 6.

Comments:

This question is beyond the scope of the EnCoRe project.

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.

Question 7.

Comments:

We hope that if EnCoRe is successful it would address the barriers that you identify, by making technological solutions that fit within the existing legal and regulatory regime, that are cost effective for organisations to implement and that do not have a significant institutional overhead / learning curve. We also expect to identify potential developments of the regulatory regime (taking a wide view that includes best practice, standards and legal instruments) that would be beneficial to the attainment of this goal.

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.

Question 8.

Comments:

See Question 7.

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.

Question 9.

Comments:

From an EnCoRe perspective, we are more interested in the integrity of audit controls about consent and revocation, rather than the DPA per se.

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.

Question 10.

Comments:

Part of the thinking behind EnCoRe is that it is perceived that all too often data collected for one purpose *is* passed on and used for other purposes. Whilst such uses might be legally covered by broadly specified purposes, EnCoRe would enable individuals to revoke the use of personal information if they felt the data use went beyond what they believed the original purposes were.

Question 11

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

Question 11.

Comments:

In relation to Q10, EnCoRe aims to address each of these elements in an integrated fashion.

Question 12

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

Question 12.

Comments:

This question is beyond the scope of the EnCoRe project.

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.

Question 13.

Comments:

This question is beyond the scope of the EnCoRe project.

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.

Question 14.

Comments:

This question is beyond the scope of the EnCoRe project.

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.

Question 15.

Comments:

Our review of the existing legal frameworks and practices would seek to identify current burdens to businesses in implementing consent and revocation.

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.

Question 16.

Comments:

It is not clear and even if it would be clear to a careful reader, we believe that in many cases individuals may give consent but then may wish to change their minds and revoke it. This is what EnCoRe is aiming to help with.

Question 17

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

Question 17.

Comments:

If reliable mechanisms for revoking consent exist, then the problems of gaining consent can be minimised.

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?

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Question 18.

Comments:

The mechanisms for sharing information will be explored within the EnCoRe project. One particular possibility that EnCoRe will explore is 'track back' functionality whereby an 'unexpected' consequence of shared data (e.g. 'junk email') can be tracked back to the original giving of consent (with the subsequent option of revoking that consent across the whole data sharing chain).

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)?

Question 19.

Comments:

See Q18 for one option.

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.

Question 20.

Comments:

EnCoRe is aware of the need to address the full range of technology options, from legacy mainframe systems, through conventional enterprise systems to social networking sites and mobile devices. Technology and its application is constantly evolving and therefore there is a need to review current and emerging technology trends.

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?

Question 21.

Comments:

We would hope that EnCoRe would become de facto best practice for industry. Whether mandating its use is the most effective approach is one of the legal issues we are exploring. In this context we are aware of, for example, the burdens of compliance with anti-money laundering legislation.

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?

Question 22.

Comments:

In the context of EnCoRe, the issue of medical research is related to revoking

consent to the use of personal data for medical research. This is one of our proposed use-cases.

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.

Question 23.

Comments:

This question is beyond the scope of the EnCoRe project.

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?

Question 24.

Comments:

This question is beyond the scope of the EnCoRe project.

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?

Question 25.

Comments:

This question is beyond the scope of the EnCoRe project.

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.

Question 26.

Comments:

This question is beyond the scope of the EnCoRe project.

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?

Question 27.

Comments:

This question is beyond the scope of the EnCoRe project.

Question 28

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

Question 28.

Comments:

This question is beyond the scope of the EnCoRe project.
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