

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

Question 1. My/ our interest in data sharing

Comments: I have two perspectives on this:

- 1) My career, over 22 years to date, has been in the database marketing/ CRM/ e-commerce industries in various roles (Wickes, Royal Mail and then 7 years Consulting across a range of sectors and geographies). My reflection on this has long been that the modus operandi in which the organisation seeks to build large customer databases 'on the customer' rather than 'with the customer' is fundamentally flawed. Flaws are mainly around the fact that organisations in both public and private sector have STRUCTURAL imperatives that mean they will always wish to do more with the data gathered than the individual would wish them to do were they to know about it. The fatal flaw has driven all of the various pieces of privacy legislation worldwide. Other flaws are mainly cultural or around lack of specialist leadership within organisations rather than data or technology related.
- 2) Given the above, I have long since concluded that the sustainable way forward in the digital age will be built around the individual (data subject) being an integral part of the workflow of data sharing rather than just the subject of it. The technologies that enable this are now becoming available; the cultural and leadership barriers have barely been raised for discussion – I would hope that reports such as your own would begin this process.

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

Question 2.
Comments:
Question 3.
Comments:
Question 4.
Comments:
Question 5.
Comments:
Question 6.
Comments:
Question 7.
Comments:
Question 8. Where is data shared where it should not be
Comments: 'Vires' were put in place for a reason, central government should not be engaging in heavy duty data sharing as they do not have the culture to enable that to end satisfactorily. They need to work with the private sector, and more importantly their citizen base, to achieve the benefits of data sharing in ways that avoid cross government data sharing.

Section 3: The legal framework

Question 9. How well does DPA work
Comments: DPA must go down to lower levels of detail – defining data content by type (we'd say there are 75 data types), and by usage (90 types). Staying at the higher levels leaves the act far too open to interpretation. One way in which the act will have to evolve is around recognition of the significant new issues arise from the fact that the individual (data subject) themselves, or agents acting on their behalf, will become much more active participants in data sharing (with many upsides and undoubtedly many yet to be foreseen downsides).
Question 10. The second principle
Comments: The second principle is largely ignored in my considerable experience within large organisations. This is mainly because of the point above – that definitions are at too high a level.
Question 11.
Comments:
Question 12.
Comments:

Question 13.

Comments:

Question 14. Missing powers.

Comments: Part of having a government issued identity should be the ability for the individual to re-use that in assuring their identity in other scenario's.

Question 15.

Comments:

Section 4: Consent and transparency

Question 16. Consent

Comments: As a result of declining opt in rates, many organisations are pushing the boundaries of the law in how they message their customer bases (e.g. including marketing messages in service communications etc). The direct marketing industry self-regulation is not working, there must be a voluntary or mandatory shift towards opt-in – despite the fact that there are some downsides to this (the upsides outweigh the downsides).

Question 17.

Comments:

Question 18. Enabling transparent data sharing

Comments: In this space you need to be looking at new technologies, covered again below, to make a significant leap forward. Open standards such as Higgins (<http://www.eclipse.org/higgins/>) and to a lesser extent the Infocard proposals from Microsoft move things forward in this area. They do so partly through the use of technology, but also in the Higgins case through new policy capabilities – such as the data sharing link contract which makes data sharing between individual and trusted other parties wholly transparent.

Higgins, and other similar technologies / standards which will emerge are the way forward – they force the data gatherer/ user to engage the data subject in the sharing process. Anything short of this is only tinkering around the edges of the existing.

Question 19. Privacy Impact Assessments

Comments: As currently articulated my view is that there are well meaning but ultimately a waste of time. The 'privacy' situation for individuals is worse now that it was before data protection law first came into being – and that is because the law a) is not proscriptive enough, b) fails to address cultural issues within organisations, c) does not keep pace with technology or fast moving internet businesses and, d) does not recognise the global nature of information flows.

Section 5: Technology

Question 20.

Comments:

Question 21.

Comments: The law should mandate the use of PETs to enforce minimal disclosure.

Question 22.

Comments:

Section 6: International comparisons

Question 23.

Comments:

Question 24.

Comments: Canada, Australia and New Zealand all significantly outpace UK in reaction time, and their laws are thus an improvement – all be it with much further improvement possible.

Question 25.

Comments:

Question 26.

Comments:

Section 7: Additional questions

Question 27.

Comments: As noted above, you really need to be monitoring and promoting privacy enhancing technologies such as Higgins and other user-centric approaches to privacy and data protection. You also need to be very aware of the new industry that will emerge around 'data management' for individuals in the next few years (see paper attached to my e-mail_. This will raise many new challenges for legislators and organisational users as well as some fundamentally sound improvements on the current norm.

Question 28. Further closing thoughts

Comments: My closing thought is around this consultancy process. To answer all of your questions and provide examples well one would almost have to write a book on the subject. I have the knowledge and access to examples required to do so – but not the time. As a small business we could not afford to put the time into such an in-depth response, and so provide these quick comments. The problem that this causes is that most of the leading (and as importantly bleeding) edge development in this space is happening on the periphery, or even more extremely with individuals themselves. This consulting process does not appear to take that into account so it would not be unreasonable to assume that the outputs will be biased towards the status quo rather than the brave new world that some of us aspire to.