

Use and Sharing of Personal Information in the Public and Private Sectors

Response from the Newspaper Publishers Association, the Newspaper Society, the Periodical Publishers Association, the Society of Editors, the Scottish Daily Newspaper Society and ITN

This is a joint response to the Data Sharing Review consultation paper by a number of media organisations representing the national, regional and local newspaper industry, magazine industry, editors and their broadcasting counterparts across the UK. It concentrates upon the press freedom concerns which arise out of the terms of the review and the open questions posed under: section 1 background; section 2 scope of personal information sharing, including benefits, barriers and risks of data sharing and data protection; section 3 the legal framework; section 4 consent and transparency; and section 7 additional questions.

The Newspaper Society, Society of Editors and other media organisations have long been engaged in detailed discussions with the Government, the Information Commissioner and his predecessors and other public bodies and public services on the operation of data protection legislation and its impact upon freedom of information and press freedom.

Such discussions commenced with the introduction of data protection legislation in the mid 1980s and then intensified during the passage of the EU directive and its implementation into UK law by primary and secondary legislation.

The media continues to be concerned about the operation of data protection legislation:

- Over the years, many examples of the unnecessary restrictions placed upon the hitherto unexceptionable release of information to the media and the public have been supplied by our organisations and discussed with the government, data protection regulator and the relevant public bodies and services.
- The police, local government, other public bodies and services have often found data protection a convenient excuse to justify refusal of information. Their purported consent and transparency procedures have sometimes also been implemented in ways which lead to refusal and restriction, rather than greater openness. Journalists perceive that this has continued to be the case under freedom of information legislation.
- Despite the special purposes exemption, media investigation, reporting and publication have been curtailed by exploitation of the 1998 Act. The media would be glad to discuss ways of improving the exemption and strengthening legislative protection for journalistic activities.
- The media is currently strongly opposing the introduction of custodial sanctions and supporting improved defences in respect of the offences under section 55 of the Act, in order to avoid intensification of its chilling effect upon journalism.

It is therefore very important that the Data Sharing Review does not result in practices, guidance, codes or legislation that further restrict lawful release of

information to the media and the public, or investigation, reporting and publication by the media. As the media's past experience and current objections to the Criminal Justice and Immigration Bill demonstrate, any such changes could directly or indirectly, intentionally or unintentionally, create unjustified restrictions upon freedom of expression in general and press freedom in particular.

We must therefore also stress the importance of consultation of the media and proper assessment of the impact of any proposed changes upon freedom of expression and press freedom.

We would welcome consultation and discussion with the Information Commissioner, the government and any other relevant authorities from the very earliest stage, should they start considering any proposals for any changes or additions to the powers, offences, safeguards, sanctions or provisions included in the Data Protection Act 1998, secondary legislation, codes or guidance made under it.

Clearly we would oppose any attempt to remove or bypass any of the special purposes exemptions, protections or safeguards. However, as our submissions on the proposed changes to the section 55 sanctions explain, any changes to any provisions of the Act could all too easily introduce new restrictions upon freedom of expression, freedom of information and press freedom. Hence, our emphasis upon the necessity for early consultation and involvement of media organisations, in order to identify and avoid any such problems at the earliest stage.

We would obviously be very happy to discuss in detail proposals for improvement of the special purposes exemptions and other relevant provisions of the Act.