

ICO call for views on updating the data sharing code of practice



Data sharing can bring important benefits to organisations, citizens and consumers, making our lives easier and helping to deliver efficient services. It is important, however, that organisations who share personal data have high data protection standards, sharing data in ways that are fair, transparent and accountable. We also want controllers to be confident when dealing with data sharing matters so individuals can be confident their data has been shared securely and responsibly.

As required by the Data Protection 2018, we are working on updating our data sharing code of practice, which was published in 2011. The updated code will explain and advise on changes to data protection legislation where these changes are relevant to data sharing. It will address many aspects of the new legislation including transparency, lawful bases for processing, the new accountability principle and the requirement to record processing activities.

The updated data sharing code of practice will continue to provide practical guidance in relation to data sharing and will promote good practice in the sharing of personal data. In the first instance we will address the impact of the changes in data protection legislation on data sharing and will then move on to developing further case studies. Our intention is that, as well as legislative changes, the code will also deal with technical and other developments that have had an impact on data sharing since the publication of the last code in 2011.

Before preparation of the code the Information Commissioner must consult with the Secretary of State. She is also seeking input from trade associations, data subjects and those representing the interests of data subjects. This call for views is the first stage of the consultation process. We will use the responses we receive to inform our work in developing the updated code.

You can email your response to
CentralGovernment@ICO.org.uk



Or print and post to:

Data Sharing Code Call for Evidence
Central Government Department
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF

If you would like further information on the call for evidence, please email the Central Government team.

Please send us your views by 10 September 2018.

Privacy statement

For this call for evidence we will publish responses received from organisations but will remove any personal data before publication. We will not publish responses from individuals. For more information about what we do with personal data please see our [privacy notice](#).

Questions

Q1 We intend to revise the code to address the impact of changes in data protection legislation, where these changes are relevant to data sharing. What changes to the data protection legislation do you think we should focus on when updating the code?

The key changes in the data protection legislation that impact on data sharing include the increased emphasis on transparency and the changes in lawful grounds for processing personal data. These are key points that need additional explanation and revision.

Additionally the new requirements around governance and documentation mean that this should also be a key area for additional guidance.

Liabilities on both controllers and processors also has import on data sharing agreements and clear guidance should be provided on (a) data sharing between "joint" data controllers for the same purposes (b) between controllers for

different purposes and (c) between controllers and processors should be explored in detail and would be helpful for industry including the research sector.



Q2 Apart from recent changes to data protection legislation, are there other developments that are having an impact on your organisation's data sharing practice that you would like us to address in the updated code?

✓ Yes

No

Q3 If yes (please specify)

The Digital Economy Act 2017 and the data sharing codes and regulations such as the Research Code of Practice and Accreditation criteria set out how to access to public authority data for research purposes.

The relationship between these Codes and the ICO Data Sharing Code of Practice must be made clear. In particular it is important that there is consistency and guidance on the approach to be taken if there is inconsistency in recommended or required approaches and if necessary, amendments made to other codes to reflect ICO best practice.

Q4 Does the 2011 data sharing code of practice strike the right balance between recognising the benefits of sharing personal data and the need to protect it? Please give details.

Yes

√

Q5 If yes in what ways does it achieve this?

Q6 If no, in what ways does it fail to strike the right balance?

Code sets out clear criteria to consider for data sharing but as is to be expected does not make a strong policy argument for benefits of data sharing to individuals and society. It would be useful if case studies were included that demonstrated wider societal benefits of sharing data, recognising that reasonable expectations of individuals must always be considered. In particular it is important to highlight the issues of use of big data sets and newer forms of data and issues in data sharing such as the role of trusted third parties and combination or linkage of datasets.

Q7 What types of data sharing (eg systematic, routine sharing or exceptional, ad hoc requests) are covered in too much detail in the 2011 code?

Increased collaboration and data sharing between the public and private sectors in light of fact there are often mutual benefits in ensuring quality data is available for ethical scientific research is an area that could be covered.

Q8 What types of data sharing (eg systematic, routine sharing or exceptional, ad hoc requests) are not covered in enough detail in the 2011 code?

Q9 Is the 2011 code relevant to the types of data sharing your organisation is involved in? If not, which additional areas should we cover?

Q10 Please provide details of any case studies or data sharing scenarios that you would like to see included in the updated code?

Sharing of administrative data for research sector and link between data sharing approaches including those outside ambit of Data Sharing Research Accreditation Code.

Q11 Is there anything the 2011 code does not cover that you think it should? Please provide details.

- *Interaction between requirements of sector Codes approved under GDPR and Data Code of Sharing*
- *Sharing within organisations, multi-jurisdictions*
- *Additional considerations for sharing that involves transfers to third countries and between UK and EU countries post UK withdrawal from the EU.*

Q12 In what other ways do you think the 2011 code could be improved?

About you:

Q13 Are you answering these questions as?

- A public sector worker
- A private sector worker
- A third or voluntary sector worker
- A member of the public
- A representative of a trade association**
- A data subject
- An ICO employee
- Other

Q14 If other please specify:

Q15 Please provide more information about the type of organisation you work for, ie a bank, a housing association, a school.

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Q16 We may want to contact you about some of the points you have raised. If you are happy for us to do this please provide your email address:

Market Research Society

Thank you for taking the time to share your views and experience.