

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?

More focus on the application of the privacy by design/default principles to data sharing.

Expansion on the mandatory requirement of DPIAs and their role in data sharing.

Focus on the sharing of special category data and the application of the provisions of the Data Protection Act 2018.

Some detail on the removal of the 'data controllers in common' status and guidance on when a sharing should be considered as between data controllers or joint controllers.

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 impact of the Digital Economy Act on data sharing.

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

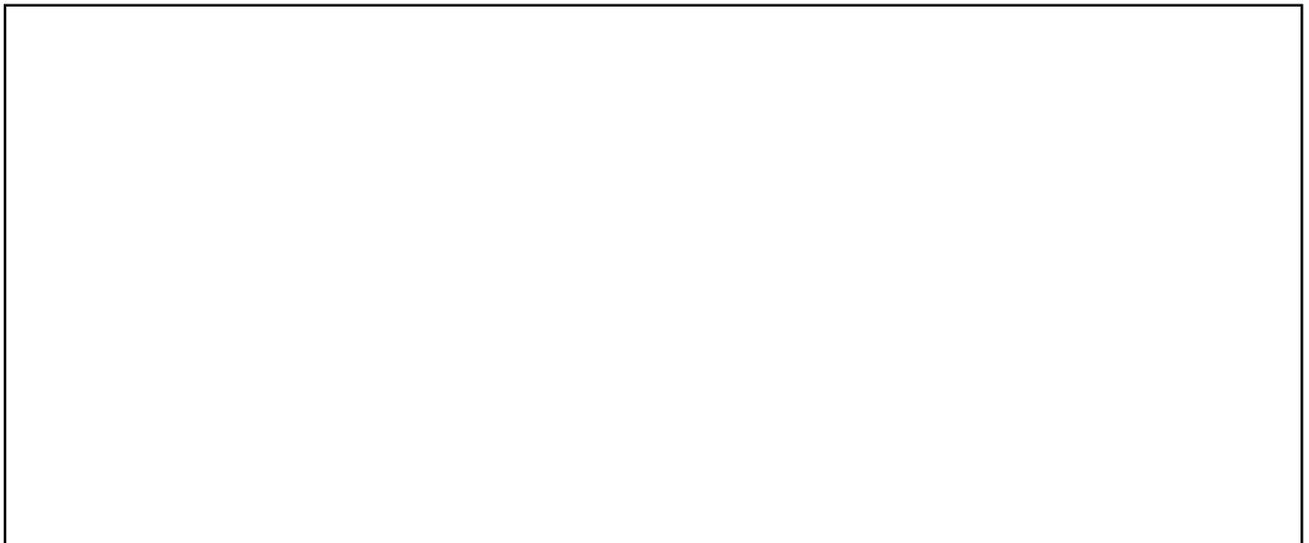
No

Q5 If yes in what ways does it achieve this?

By treating them separately but equally. In terms of the priority of focus, the code should give guidance on how to share personal information legally without going into too much detail on the benefits of sharing data

Overall it is very clearly laid out, easy to follow, and written in plain English which is something any update should seek to maintain (Practical things, like the checklist on p.24 and section 15, and the data sharing template forms on pp.44-45, are particularly helpful.). However, the document is very long and it would be helpful to give consideration to a summary, and/or to something like a flow chart that would make it easier to navigate and to 'jump' to relevant sections

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



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?

All are dealt with more or less equally, but it would be useful if some practical examples/case studies could be provided.

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?

It would be useful if ad hoc requests could be dealt with more fully in scenarios where time is of the essence – what are the key things to look out for?

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?

The 2011 Code is fine, but for the new version it would be useful if attention could be paid to the public sector and their inability to rely on consent or legitimate interests to share data.

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

It would be useful to see more guidance or case studies on when the legal basis for processing is different to the legal basis for sharing. What action needs to be taken in this circumstance? And how to navigate data sharing when you are Joint Data controller or an independent data controller with another organisation for the same data set (particularly to help unpick the changes that come with GDPR removing the concept of "data controller in common").

It would be useful to illustrate how changes under GDPR affect sharing of data such as distribution lists. Previously people may have compiled a distribution list and shared with others, in effect collect once and use multiple times. It would be good to explain how data can be shared in certain situations where perhaps there are perceived barriers under GDPR.

It would be helpful to have case studies showing how the Digital Economy Act can be used in practice.

WASPI could be used as a general sort of case study?

The following could be addresses as a case study or scenario but could also be picked up in other ways in a new code:

In relation to data sharing around individuals who pose a risk to the public, it is often the case that information crucial to the identification and management of risk is not shared between agencies, with 'confidentiality' and 'data assurance' cited as reasons behind the reluctance to share. Investigations into domestic homicides and serious further offences consistently reveal that the risk posed could have been predicted (and mitigated) had relevant agencies shared information. While professionals will understand that duty of care overrides confidentiality, this understanding is not broadly apparent across relevant agencies. A new code should specifically address this so that a range of organisations are aware of when it is acceptable to share risk-related information about an individual and understands safe and appropriate means of doing so.

P.13 – reference to Human Rights Act compliance – examples or case studies would be useful to elucidate what this means.

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

With GDPR in mind, the new code should be more closely integrated with the ICO's GDPR guidance, in particular with the guidance on the lawful bases and exemptions.

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

P.15 – a fuller list/examples of 'personal' and 'personal sensitive' data items would be helpful here. It's in an annex later in the document but a hyperlink, note or 'box' would be useful for cross-referencing.

In the update it would be helpful to clearly set out what has changed since the advent of GDPR, and to highlight particular 'new' considerations that data controllers and processors should consider in reviewing their procedures and documentation. Another checklist for this would be good.

References to the principles of the DPA in various places, eg p.10, p.15 – although again there is an annex at the end of the document, 'embedded' reminders or hyperlinks to the relevant principles would be useful.

P.18 – telling individuals about data sharing – should give more emphasis to using plain English, and to the needs of individuals who may have low cognitive or literacy skills (for example, young people and adults with learning difficulties). The language used in privacy notices should be tailored to the needs of the target audience.

P.29-30 – information on reliable sources of training (including online) would be very valuable here

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.

Welsh Government (i.e central government, devolved administration)

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:

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