

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?

We consider that the following aspects of the GDPR should be focused on when updating the code:

- Article 26 Joint Controllers and Article 28 Processors
- Any changes to recommendations regarding data sharing agreements
- Possibly Chapter V International Transfers
- Lawful basis for processing
- Exemptions in the DPA 2018
- The need for communication (or not) in the Privacy Notice

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)

N/A

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?

N/A

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

More emphasis is needed on the benefits of sharing and how this can be done legally. Currently there is too much fear attached to data sharing, especially in the health sector. Where a person's health or even life is in risk, failure to share data that should be shared may be as dangerous as sharing data that should not.

We also consider that it would be helpful to include more practical examples so that people would have a better understanding of the real-life situation in which the code should be applied and how it would operate.

We also consider that better application could be achieved with a targeted communications strategy, in particular, highlighting how the code should apply in specific sectors.

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?

We have no comment on this question.

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?

The sharing of special category/criminal conviction data by solicitors is a concern for many firms – application of the relevant exemptions in the DPA 2018 needs to be set out in greater detail to ensure that firms can be certain of their compliance obligations.

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?

Yes, the code is relevant to the types of data sharing we are involved in.

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

See previous comments.

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

See previous comments.

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

We have no comment on this question.

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:

Professional body

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

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:

carolynthurstonsmith@lawscot.org.uk

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