

Privacy Impact Assessment – Enabling data sharing between local government tiers

1. Background

This Privacy Impact Assessment (PIA) describes how privacy issues which may arise from allowing data sharing between local government tiers will be addressed and how the risks will be mitigated.

Current legislation permits EROs to inspect, and make copies of information contained in, records kept by the council that appointed them (and records kept by any registrar of births and deaths). The effect of this is that while EROs in unitary authorities may inspect any of the council records for their electoral area, those in two-tier areas cannot. For example in two-tier areas education records are not held by District Councils but by County Councils; EROs appointed by a District Council are therefore not able to inspect those additional records.

As part of pilot schemes in 2013, four upper-tier authorities were each authorised¹ to provide specified data to the Electoral Registration Officer (ERO) in a specified lower-tier authority within their area in order to test its usefulness for increasing registration levels among attainers (young people about to attain franchise). While different areas received different data sets and the quality and suitability of the data varied, the participating lower-tier authorities found data matching using upper-tier data to be a useful exercise.

As a result of the findings from the pilots, the Cabinet Office and the Electoral Commission (EC) recommended in its evaluation of the schemes that EROs in those authorities should be given a “legal right of access” to the data held by upper-tier authorities, so as to put them in a position analogous to that of their counterparts in unitary authorities.

It is therefore proposed to legislate by statutory instrument under the affirmative resolution procedure to:

- A. remove the legal barrier to *inspection* of data between the tiers in two-tier areas by amending Regulation 35 of the Representation of the People (England and Wales) Regulations 2001 so as to provide additionally that where the ERO was appointed by a council for a district in a county where there is a county council, the ERO may also inspect records held by that county council; and
- B. enable the *disclosure*² of data by the authority by which the ERO was appointed or (where the ERO was appointed by a council for a district in a county where there is a county council) by that county council, for the purposes only of (i) verifying

¹ by The Electoral Registration Data Schemes (No 2) Order 2012 (S.I. 2012/3232)

² Disclosure allows the data-holding authority to provide the data to the ERO (e.g. in a form which will enable it to be matching electronically against electoral register data) and so goes further than the inspection and making of copies permitted by regulation 35 of the Representation of the People (England and Wales) Regulations 2001.

information relating to a registered person or a person who has applied for registration or for alteration of the register; (ii) identifying people who are not registered but who are entitled to be registered, and (iii) identifying people who are registered but who are not entitled to be registered. No authority will be compelled to disclose its data, and any disclosure would only be made in accordance with an agreement between the ERO and the authority concerned setting out the conditions under which the data is to be disclosed, including its transfer, storage, destruction and security.

Her Majesty's Government will expect those operating these schemes to comply with the relevant legislation and the data protection principles that personal data must be:

- Fairly and lawfully processed;
- Processed for specific and lawful purposes and not further processed in a way that is incompatible with the original purpose;
- Adequate, relevant and not excessive;
- Accurate and up to date;
- Not kept for longer than is necessary;
- Processed in accordance with the data subject's rights;
- Kept secure;
- Not transferred to countries outside the European Economic Area unless an adequate level of protection is ensured or an exemption applies.

The PIA is a living document and will continue to be updated as the policy on allowing the sharing of data between local government tiers develops.

2. Personal data to be used

The aim is for EROs in two-tier areas to have available to them the same kind of information from the other tier council as their counterparts in unitary authorities already enjoy. The local datasets helpful to EROs in maintaining and improving the accuracy and completeness of their electoral registers are:

- the register of births and deaths;
- council tax records;
- registers of households in multiple occupation;
- housing benefit applications;
- lists of persons in residential and care homes;
- details of "attainers" (those aged 16 or 17) held by education departments.

3. Data protection issues and risks of data sharing

The Government takes the handling of personal data and prevention of identity fraud very seriously. The changes that are being proposed to electoral registration (which received

cross party support) are intended to prevent fraud and maintain the integrity of the electoral system. This section provides details of data protection issues and risks for data sharing.

The table below sets out data protection risks of data sharing:-

Risk Description	Controls/Mitigation
<p>1. The data held by upper-tier authorities varies significantly in its form, quality and suitability for use by EROs.</p>	<p>It can be expected that locally-held data will vary in form and quality from area to area. The new legislation will enable every ERO in a two-tier area to explore with their county council what data is held and how useful it might be to them for assisting them to maintain and improve the accuracy and completeness of their electoral registers.</p>
<p>2. The upper-tier authority, as data controller, refuses to disclose the data to the ERO due to data protection concerns.</p>	<p>While EROs in lower-tier councils will have the right to inspect and copy data held by their upper-tier council, the upper-tier council will be under no compulsion to disclose its data to the ERO. Disclosure would be made only in accordance with an agreement made between the ERO and the data-holding council.</p> <p>The agreement would enable the data holding council to set out the parameters for the use of the data (as set out in risk 3.) and conditions for (among other things) the transfer, security, retention and destruction of the data.</p> <p>An authority which refuses to disclose data to an ERO in this way will be required to provide the ERO with written reasons for its refusal.</p>
<p>3. Access to the data – data received by the ERO is disclosed to other departments in the Local Authority - Data received is used for unauthorised purposes or disclosed inappropriately by EROs.</p>	<p>As far as inspection of records is concerned, the legislation (regulation 35 of the 2001 regulations, and paragraph 1(4) of the Representation of the People Act 1983) provides that inspection must be for the purposes of the ERO's registration duties.</p>

Risk Description	Controls/Mitigation
	<p>Any disclosures of data under the new provision should follow the approach set out in paragraph 2 of Schedule 2 to the Electoral Registration and Administration Act 2013 and must be for the purposes of (1) verifying information relating to a registered person or a person who has applied for registration or for alteration of the register; (2) ascertaining names and addresses of people who are not registered but who are entitled to be registered, and (3) identifying people who are registered but who are not entitled to be registered.</p> <p>Handling and use of the data will be subject to the requirements of the applicable law, including the provisions of the Data Protection Act 1998.</p>
<p>4. Citizens are concerned about their data being shared and confused about the purpose of this legislation</p>	<p>The Electoral Commission, the Information Commissioner's Office; the Association of Electoral Administrators, the Local Government Association, and the Society of Local Authority Chief Executives have all been consulted on this change of policy and also on the draft legislation. All of those organisations are supportive of the change.</p> <p>Clear messaging on effective use of local authority data and data sharing will be built into the communication strategy for IER.</p> <p>Guidance issued on this kind of data matching will include reference to the Information Commissioner's Office's Data Sharing Code of Practice.</p>
<p>5. Risk of loss of data during transfer between tiers</p>	<p>Her Majesty's Government is not in a position to mandate how data is transferred and insist that it is transferred over a secure network (such as .gcsx.gov.uk or a .gsi.gov.uk address). However all disclosures of data under the new provision would be subject to an agreement between the two authorities concerned, setting out the agreed</p>

Risk Description	Controls/Mitigation
	requirements for the transfer, storage, destruction and security of the data.

4. Consultation and general communications activity

Stakeholders consulted on this change include:

- The Information Commissioner
- The Electoral Commission
- The Department for Communities and Local Government
- The Local Government Association
- The Society of Local Authority Chief Executives
- The Association of Electoral Administrators

5. Contact Details

For further information regarding this PIA please contact **Carol Gokce** at the Cabinet Office, tel 020 7271 2679: email Carol.Gokce@cabinet-office.gsi.gov.uk