

SOCIAL SECURITY INFORMATION SHARING: DRAFT REGULATIONS

HOMELESS LINK'S RESPONSE

JANUARY 2012

Homeless Link is the national membership organisation for agencies working with people who are homeless across England. As the collaborative hub for information and debate on homelessness, we seek to improve services for homeless people and to advocate for policy change. Through this work, we aim to end homelessness in England.

INTRODUCTION

Accurate data that can be ethically and easily shared is essential for a wide range of services to effectively support those who access their services, such as homeless people. Homeless Link is undertaking a project called Critical Mass¹ which aims to improve how operational data from homelessness services can shape policy and improve practice. The principles underpinning the Critical Mass project resonate strongly with those underpinning these reforms. As such we welcome these proposals especially their potential to improve communication and integration between Department of Work and Pensions (DWP), Local Authorities (LA) and LA contracted service providers.

From the perspective of homelessness stakeholders the proposed regulations should have the much needed effect of minimising the number of times homeless clients have to inform different government departments as to their current circumstances. Furthermore if used in the right way these regulations have the potential to ensure that homeless and vulnerably housed people are claiming the full range of entitlements that will help them sustain their accommodation and participate in community life. We consider fast and accurate assessment of an individual's entitlement to these services as an essential component of the social safety net. Possibly the most important component of these reforms is their potential to significantly improve the effectiveness of the LA homelessness prevention function.

Although we broadly welcome these proposals there are some issues where we seek further clarity. Firstly although we acknowledge the resource implications of sourcing informed consent we are concerned that these proposals dilute the emphasis on consent, especially with vulnerable clients, while seeking to increase the use of an individual's information. We believe that consent is very important and that every effort should be taken to ensure all clients understand what their information will be used for and the ramifications of this use. The consultation document only addresses the resource implications of seeking consent. We believe more work is needed to clarify where and when consent will be sought, and steps taken to maximise the clients' understanding of how their information will be used.

Secondly we are concerned that the document contains little information concerning accountability for mistakes. These proposals seek to create a networked system, however a potential problem with this is that any incorrect information permeates the

¹ Homeless Link (2010) 'Critical Mass' <http://homeless.org.uk/critical-mass>

entire system conceivably impacting on the full range of a client's entitlements to the full range of services they access. A Parliamentary and Health Service Ombudsman report 'a Breach of Confidence'² details an individual's experience of this type of mistake and demonstrates the need for a system of accountability that works considerably faster and more effectively. Rather than just addressing the legal aspects of data sharing (clause 128) we believe these regulations should clarify the process of accountability and provide data controllers and data processors with firm guidelines that ensure data is standardised and recorded accurately.

Thirdly we are concerned about how these new gateways might be used in a localised system. With the move towards a localised system of governance and increased autonomy for Job Centre Plus (JCP) offices and LAs, it is important that – as stated in the consultation paper - the new functions are used to ensure claimants receive the correct benefits they are entitled to, as well as the stated aim of reducing administrative costs. As stated at the opening of our response we believe data is essential to provide accurate and effective services we would like to see comprehensive guidance put in place that ensures information is used in a fair and measured way.

WELFARE SERVICES

1. Have we included the right list of purposes for which information may be held and used? What other purposes relating to information held and used do we need to prescribe?

We are pleased to see that the list of prescribed services includes Discretionary Housing Payments, Supporting People and Homelessness Functions. We appreciate that more regulations will be proposed as necessary. However we are keen that every effort is taken to ensure that data sharing guidelines and processes established now are compatible with the transition to Universal Credit. We are also keen that with the reduced emphasis on consent that all data controllers will maintain strict adherence to the rules covering the use and sharing of 'sensitive data'.

In addition to the existing list of prescribed services we believe information should be shared for the purposes of:

- assessing eligibility for the local replacements to the Social Fund;
- to assess eligibility for early entry to the Work Programme; and
- to passport some claimants to the JCP's enhanced service.

An improved gateway between DWP, LA and LA contracted services, for example homeless hostels, has great potential for establishing an automated system for assessing eligibility for the Shared Accommodation Rate Exemption. We also see this as an opportunity to create a similar system for discerning whether a claimant is sufficiently 'vulnerable' to qualify for the housing component of Universal Credit to be paid direct to their landlord – for example where a record of an individual residing in a LA contracted homeless hostel acts as an automatic trigger for their eligibility for housing payments to be made straight to their landlord and their exemption from the SAR. We believe this can be done in such a way as to not contravene the principles of the Data Protection act.

² Parliamentary and Health Service Ombudsman (2010) 'A Breach of Confidence'
<http://www.ombudsman.org.uk/improving-public-service/reports-and-consultations/reports/parliamentary/breach-of-confidence/1>

HOMELESSNESS FUNCTIONS

2. The regulations along with clause 126(3)(b) will allow data to be exchanged and used between different parts of an LA. Would it be useful to have a gateway allowing DWP to provide social security data to LAs in relation to the homelessness function?

We welcome the introduction of measured and confidential data sharing between different parts of a LA. This is a timely mechanism allowing LA to offer targeted support, particularly in the case of vulnerable individuals who may be more at risk of becoming homeless as a result of housing benefit reforms. This should also allow LA to improve their homelessness prevention function.

We would like these mechanisms to be used to ensure that vulnerable members of the community are receiving their full range of entitlements. Where people are threatened with homelessness, have reached a certain level of arrears or been subject to a significant cut in the value of the housing support they receive this could act as an automated trigger of the LA's homelessness prevention function.

With regards to allowing DWP to provide social security data to LA it would be useful to widen the gateway. As noted in the responses to the Call for Evidence on extending data sharing powers between DWP and local authorities³ LAs have experienced on-going difficulty accessing DWP data. The first step in addressing this issue and establishing a culture of communication could be by widening this gateway. The DWP should also be mindful of the transition to Universal Credit (UC). LAs may need access to DWP data after the move to UC especially regarding local replacements to the Social Fund that are contingent on receipt of benefit.

At this point we would also like to reiterate the importance that data sharing is undertaken in a fair and measured way. Thorough guidance should stress that data sharing should be used to help people access services and entitlements not just to minimise or curtail spending.

REUSING INFORMATION

3. How long should information be kept with the possibility of it being reused in this way?
4. Should this be set out in Guidance or should LAs be allowed to determine for themselves whether information is out of date?

Reuse of information is a problematic issue. Using information – for example to flag up eligibility for SAR exemption - requires keeping the data for a significant time. However as this type of information could be retained on the client record simply as a marker of residence in a hostel and does not require use or exchange of 'sensitive information', we believe it could be safely retained for this purpose.

Where eligibility is assessed on a sliding scale, rather than the binary system described above, the DWP needs to be mindful of information concerning people with chronic fluctuating conditions and people experiencing chaotic circumstances. With

³ DWP (2010) Sharing customer data between DWP and local authorities - Report on the responses to the Call for Evidence on extending data sharing powers between DWP and local authorities in relation to the provision of welfare services and housing benefit <http://www.dwp.gov.uk/docs/hb-data-sharing-response.pdf>

consumers exhibiting these characteristics we suggest that information is only considered eligible for reuse for a short period of time. We also recommend that the DWP develop a system where the data subject / claimant are empowered to request a reassessment of their circumstances.

To ensure accuracy of data between LA areas we suggest that the DWP drafts firm guidelines concerning when particular types of information is no longer eligible for reuse. With our current system of contingent entitlements an individual's mobility could be considerably curtailed unless all LA are collecting the same data in compatible formats.

IMPLEMENTATION AND NEXT STEPS

5. What issues would you like to see covered in the Guidance?
6. Would your authority like to have very detailed Guidance?
7. Would you prefer Guidance that just gives a general framework, leaving LAs to develop their own practices locally?
8. Are there any additional schemes or services you would like to see included in future data sharing regulations?

As stated above we would like to LA to be provided with very detailed guidance.

The most important element of the guidance should stress that data sharing should be used to help people access entitlements not just to minimise or curtail welfare entitlement, what we would refer to as equitable use. In addition we would like to see guidance concerning:

- Techniques for data standardisation that ensure compatibility between data controllers and processors in different LA areas.
- Accurate recording and accountability procedures that can minimise mistakes entering the network and address any that are made quickly and effectively.
- How data subjects can be empowered to view data held on them.
- Time periods that data can be considered eligible for reuse.
- How information sharing arrangements can be established that are compatible with the structures introduced for Universal Credit.
- Consistency in patterns of collection and use.

We thank the DWP for considering these points, and would welcome the opportunity to contribute further to the formulation of the proposals.

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Homeless Link 2012