

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT RESEARCH CODE OF PRACTICE AND
DRAFT ACCREDITATION CRITERIA

DRAFT STATISTICS STATEMENT OF PRINCIPLES
AND DRAFT CODE OF PRACTICE ON CHANGES
TO DATA SYSTEMS

Thursday 28 June 2018

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The Committee consisted of the following Members:

Chair: PHILIP DAVIES

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|-------------------------------------------------------------------|-----------------------------------------------------------------------------|
| † Afolami, Bim (<i>Hitchin and Harpenden</i>) (Con) | † Huddleston, Nigel (<i>Mid Worcestershire</i>) (Con) |
| † Byrne, Liam (<i>Birmingham, Hodge Hill</i>) (Lab) | † James, Margot (<i>Minister for Digital and the Creative Industries</i>) |
| † Caulfield, Maria (<i>Lewes</i>) (Con) | McFadden, Mr Pat (<i>Wolverhampton South East</i>) (Lab) |
| † Duffield, Rosie (<i>Canterbury</i>) (Lab) | † Morris, James (<i>Halesowen and Rowley Regis</i>) (Con) |
| † Dunne, Mr Philip (<i>Ludlow</i>) (Con) | † Smeeth, Ruth (<i>Stoke-on-Trent North</i>) (Lab) |
| † Ellman, Dame Louise (<i>Liverpool, Riverside</i>) (Lab/Co-op) | † Spellar, John (<i>Warley</i>) (Lab) |
| † Elmore, Chris (<i>Ogmore</i>) (Lab) | † Tolhurst, Kelly (<i>Rochester and Strood</i>) (Con) |
| † Gapes, Mike (<i>Ilford South</i>) (Lab/Co-op) | Sarah Rees, <i>Committee Clerk</i> |
| † Goldsmith, Zac (<i>Richmond Park</i>) (Con) | |
| † Henderson, Gordon (<i>Sittingbourne and Sheppey</i>) (Con) | † attended the Committee |

Third Delegated Legislation Committee

Thursday 28 June 2018

[PHILIP DAVIES *in the Chair*]

Draft Research Code of Practice and Draft Accreditation Criteria

11.30 am

The Minister for Digital and the Creative Industries (Margot James): I beg to move,

That the Committee has considered the draft Research Code of Practice and Draft Accreditation Criteria.

The Chair: With this it will be convenient to consider the draft Statistics Statement of Principles and draft Code of Practice on Changes to Data Systems.

Margot James: It is a pleasure to serve for the first time under your chairmanship, Mr Davies. For the data sharing powers under part 5 of the Digital Economy Act 2017 to become operational, the requisite codes of practice accompanying each power must be approved by Parliament. Chapter 5 of part 5 of the Act enables information held by a public authority in connection with the authority's functions to be shared with another person for the purposes of research, subject to a number of conditions. One of those conditions is that the persons involved and the research being carried out is accredited by the UK Statistics Authority, referred to as the Statistics Board in the Act.

The Act requires the UK Statistics Authority to issue a code of practice about the disclosure, processing and handling of information under that power, as well as a set of accreditation criteria. That is to provide clarity and transparency about how the research power in chapter 5 will operate. The research power is intended to facilitate researchers having safe and secure access to data held by public authorities for accredited research purposes in the public interest. The framework in chapter 5 is designed to help to position the UK at the forefront of the international research landscape, ensuring that the economic and social benefits associated with research are more easily realised.

The code of practice clearly sets out the principles to which those people disclosing, processing or accessing data must pay regard when performing the functions for which they are accredited, to ensure that those making use of the power understand the expectations and requirements in terms of how information will be handled. The accreditation criteria set out in detail the conditions that must be met by processors, researchers and their projects before accreditation will be granted.

Chapter 7 of part 5 of the Digital Economy Act amends the Statistics and Registration Service Act 2007 to provide the UK Statistics Authority and its executive office—the Office for National Statistics—with new powers, designed to facilitate greater and more efficient access to a range of data sources held within the public and private sectors. That is intended to support ongoing improvements in the quality, relevance and timeliness of official statistics in a changing world.

The Act requires the UK Statistics Authority to prepare a statement of principles and procedures, setting out how the authority will operate the powers. That is supplemented by a code of practice containing guidance for public authorities when making changes to their data systems when they supply data to the authority to support the production of official statistics.

As with other data sharing codes of practice in part 5 of the Digital Economy Act, both the research code and the statistics statement have been drafted to be compliant with the Data Protection Act 2018. Likewise, we worked with other Government Departments, the devolved Administrations, the Information Commissioner's Office, research organisations and civil society groups with an interest in privacy to develop the research code and accreditation criteria, and the statistics statement and code of practice on changes to data systems.

The statistics and research documents were subject to a six-week public consultation. Responses indicated that they were welcomed as clear and easy to understand. It is worth noting the comments of Sir Andrew Dilnot, former chair of the UK Statistics Authority, who so clearly articulated the benefits of the statistics and research provisions in the Digital Economy Act. Sir Andrew said that the legislation

“represents a unique opportunity to deliver the transformation of UK statistics...delivering significant efficiencies and savings for individuals, households and businesses. Decision makers need accurate and timely data to make informed decisions, in particular about the allocation of public resource.”

He said that the legislation

“would deliver better statistics and statistical research to help Britain make better decisions.”

The codes of practice and statement of principles will help to realise those honourable and important ambitions, and I commend them to the Committee.

11.35 am

Liam Byrne (Birmingham, Hodge Hill) (Lab): It is a pleasure to serve under your chairmanship, Mr Davies. These measures are incredibly important because they will become the foundation for most of the public service reform that lies ahead in the next 20 years, so I want to start with a word of praise for and thanks to Sir Andrew Dilnot for the way in which he pioneered this agenda when he was chair of the UK Statistics Authority.

I think that the Minister has slightly undersold the fact that we are moving from a position whereby public policy decisions are made using official statistics to an increasing use of real-time official statistics. Anyone who has had to take big public decisions based on data that is available will know how frustrating it is to be relying on data that is basically looking in the rear-view mirror. I am thinking of, for example, the way in which we revise GDP forecasts, tax forecasts and annually managed expenditure forecasts. That leads to errors and mistakes by politicians such as the hon. Lady and, indeed, myself, in previous posts, so the power of these measures will be incredibly important in the years ahead.

In traditional British civil service fashion, what we have is a set of measures designed to create some process integrity, and some order in the process, so that decisions are taken according to a process that is well understood, well articulated and set out on bits of paper. It was slightly surprising, though, that the Minister

did not say anything about the ethics that would be involved in the decisions that were taken, the way in which data is collected and the way in which data is interpreted over the years to come.

The data and the provisions in these measures will be incredibly important in two particularly important fields of public policy. One is tax forecasting and the other is the use of health data. As the International Monetary Fund and Christine Lagarde said earlier this year, the advent of the digital economy creates the ability to start doing real-time tax forecasting, based on predictive models that are reasonably robust. That has an incredible impact on the Treasury's ability to put together Budgets that bear some resemblance to the truth and the real world.

However, there will be ethical questions about the way in which the information is collected and interpreted and, crucially, who the information is made available to, whether that is accounting firms, for example, or businesses that rely on accurate market understandings in order to produce sales forecasts. There will be all kinds of uses for this kind of information, which is of tremendous benefit to all sorts of people, but the ethics of what is released and how things are released are incredibly important.

In the area of health data, the information that we are talking about is even more important. Who will have access to patterns of health diagnosis information? Will it be the insurance companies? Will we begin to see the break-up of the risk pool because insurance companies are able to use the data to price the Minister's health insurance in a different way from someone else's? Who will make the information available to drugs companies, for example? How will that be done?

The Minister, in our debates earlier this year, put some store by the Centre for Data Ethics and Innovation that the Government propose. We still do not know much about that. We do not know when it will be set up, its terms of reference, who will be in it, its scope or how people will be appointed. However, the Minister has said nothing about the inter-relationship between a Government centre for artificial intelligence ethics and the measures before us. That is surprising because, in relation to principle 3, paragraph 5.1 on page 7 in the first set of measures states explicitly:

"Data can only be disclosed to processors...where expressly permitted, and must comply with the six conditions set out in the Act."

Those six conditions are pretty high level, and that is why the Centre for Data Ethics and Innovation is so important. However, as the centre produces judgments, how will they be reflected in revisions of these orders? Will we have a Committee meeting such as this every six months as we seek to update the orders in the light of new judgments that come from the centre?

The orders have our broad support, but the Minister must say more about how the architecture for revision of the orders will unfold, given the important institutional reforms that she seeks to introduce.

11.40 am

Mike Gapes (Ilford South) (Lab/Co-op): I am pleased that the Whips put me on this statutory instrument Committee because it gives me an opportunity to ask important questions that need to be answered.

Given the scandal over Cambridge Analytica, the appalling behaviour of Facebook and the way in which data and information, including information of this House of Commons, was stolen and then sold to *The Daily Telegraph* a few years ago, how confident can we be about the processes here and the transferring of data and personal information? The draft research code of practice for accreditation criteria states that that information will go to various organisations that will be allowed to process and use it. Many of those organisations will get commercial benefit from that. Will the state receive any income as a result of the commercial exploitation of personal data, which was not acquired for the benefit of a commercial company but was acquired for fulfilling a function within our health or education system or for the general governance of our society? Why should private companies benefit without the individuals themselves who presumably own that data or the Government Departments that collected that data being beneficiaries of that income?

Liam Byrne: My hon. Friend might know that our noble Friend Lord Parry introduced proposals to amend the Data Protection Bill to ensure that the wealth that may arise from the investigation of health records, for example, was held in a sovereign data fund. These ideas of sovereign data funds will catch on over the next few years, but at the moment we do not have any provisions to capture what is socially produced wealth—data—and to recycle that wealth for the good of the nation.

Mike Gapes: I am grateful for that information. I was not aware of that, but it adds to my knowledge.

Principle 7 on retention and onward disclosure states that the pre-processed data will be retained "for a limited time", but that can then be extended. It is not clear how often it can be extended or whether there could be indefinite extensions. I want to know whether at those extension points a premium would be charged to the organisations that retained that data in order to continue to use it for years to come.

The various documentation is copious and I do not intend to delay the Committee unnecessarily, but I have one other question on the statistics statement of principles. Many organisations collect data. Every time I go into Sainsbury's or Tesco and pay with my card, they seem to have collected information about what I have bought. When they send me their points, they send me vouchers to buy the things I normally buy to encourage me to go back to their store with that data. No doubt the data is very interesting and useful, but it could be very useful to the Government.

If bodies and institutions that are part of the Government—public sector organisations—must make data available to the UK Statistics Authority, why should there not be an obligation on private sector organisations, commercial companies and retailers to make data available? That would be very interesting. For example, if the Department of Health and Social Care could analyse the consumption patterns of a cohort of people by age and location, we might be able better to target our anti-obesity initiatives for healthy eating. We could make a judgment about the size of packets or whether orders of a product would be useful for the data within the Department of Health and Social Care.

[Mike Gapes]

I am not clear whether such obligations will apply to the private sector. From reading the codes superficially, it seems that they will not. I would be grateful to know whether there is a plan to think about that. We want joined-up government. Private sector organisations are able to exploit public data, but surely the public should be able to make use of it for the benefit of citizens as a whole and for the public good. Data will increasingly be a public good. Whether it is held by the Government or by private companies or individuals, it could be important in improving health, extending life expectancy and giving people better life chances. It should be made available in a timely manner, as my right hon. Friend the Member for Birmingham, Hodge Hill pointed out, to the Government when they are making decisions. I hope the Minister will address those points.

Margot James: I thank the right hon. Member for Birmingham, Hodge Hill and the hon. Member for Ilford South for their questions and comments.

The hon. Member for Ilford South expressed concerns about the use of publicly acquired data by private organisations for commercial gain. He rightly pointed out that much of the data collected, particularly in the national health service, was not collected with the intention of realising commercial gain. I assure him that, under these codes, only statisticians and accredited researchers whose projects are intended for the public good will have access to information held by the UK Statistics Authority. Individuals, households and businesses are never identifiable in any of the statistical output. That is a fundamental principle of international statistics management and we intend to adhere to it strictly, as we always have. I further assure him that, under the Data Protection Act 2018, there are significant penalties for anyone or any organisation that seeks to re-identify data that has previously been de-identified.

There are no plans to compel private organisations and companies to make public data that they have collected about the consumer behaviour that the hon. Gentleman cited as an example. There are protections in place because those organisations must comply with data protection legislation in the processing, collection and management of data. I hope that reassures him.

Mike Gapes: I asked whether there would be commercial gain from the use of this data, and if so whether we would expect the public sector to benefit from the commercial companies that use data generated by public bodies.

Margot James: The hon. Gentleman asks me to look to the future more than I am able to do. To reiterate what I said, all data that emanates from publicly funded research must be used for the benefit of the public good. That may in time also produce a commercial return, but it would have to be for the public good.

In the deal between DeepMind, a private sector company, and Moorfields Eye hospital, a national health organisation—they have come together in a joint venture—the data is being used with AI to improve diagnosis and treatment patterns at the hospital. The connection between commercial gain and the public interest is being well

managed in that example, and strict rules will be in place to ensure that any further such commercial endeavours using public data will be similarly managed under an ethical framework.

That leads me neatly to the remarks and questions of the shadow Minister, the right hon. Member for Birmingham, Hodge Hill. I share his optimism that real-time data will hugely benefit public decision making and I am sorry if I downplayed that significant advantage in my opening remarks. I certainly believe that that will be immensely valuable, and that it is underpinned by the codes of practice we are discussing.

We are in the process of establishing the Centre for Data Ethics and Innovation. A chair has been appointed, other board members will be appointed during the summer and its remit is available for public comment. In its embryonic form, it is working with the UK Statistics Authority to ensure seamless communication between the two bodies in future. I agree with the shadow Minister that that is important.

The shadow Minister talked about the ethical principles that must continue to underpin the use of data sourced in the way that the UK Statistics Authority manages. The use of data must have clear benefits to the users and serve the public good. Where individuals are concerned, identity is protected. Information must be kept confidential and secure, and consent will have been considered appropriately. Data used, and methods employed, are consistent with legal requirements such as the Data Protection Act, the Human Rights Act 1998, the Statistics and Registration Service Act and the common law duty of confidence. The access, use and sharing of data must be transparent and communicated clearly, and accessibility for the general public must be protected.

Liam Byrne: I am grateful to learn that there is a seamless channel of communication between the Centre for Data Ethics and Innovation and the UK Statistics Authority, but that was not the question I asked. I asked how the guidelines are going to be revised as the Centre for Data Ethics and Innovation pronounces new judgments. It is not for the Centre for Data Ethics and Innovation and the UK Statistics Authority to sort something out between themselves; it is for this House to set out the principles by which both organisations act.

Margot James: The right hon. Gentleman is right—he did ask that question. The UK Statistics Authority will continue to keep these principles, and documentation underpinning these principles, under close review. That will include the work of the Centre for Data Ethics and Innovation as it evolves. The future review of these principles and the codes underpinning them will be subject to scrutiny of both Houses of Parliament under the negative procedure.

Question put and agreed to.

DRAFT STATISTICS STATEMENT OF PRINCIPLES AND DRAFT CODE OF PRACTICE ON CHANGES TO DATA SYSTEMS

Resolved,

That the Committee has considered the draft Statistics Statement of Principles and Draft Code of Practice on Changes to Data Systems.—(Margot James.)

11.54 am

Committee rose.

