

PARLIAMENTARY DEBATES

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OFFICIAL REPORT

Sixth Delegated Legislation Committee

DRAFT DIGITAL GOVERNMENT (DISCLOSURE OF INFORMATION) (AMENDMENT) REGULATIONS 2022

Wednesday 19 October 2022

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The Committee consisted of the following Members:

Chair: YVONNE FOVARGUE

Anderson, Fleur (<i>Putney</i>) (Lab)	† Hudson, Dr Neil (<i>Penrith and The Border</i>) (Con)
† Atkins, Victoria (<i>Louth and Horncastle</i>) (Con)	† Levy, Ian (<i>Blyth Valley</i>) (Con)
† Blackman, Kirsty (<i>Aberdeen North</i>) (SNP)	† Matheson, Christian (<i>City of Chester</i>) (Lab)
Bradshaw, Mr Ben (<i>Exeter</i>) (Lab)	† Metcalfe, Stephen (<i>South Basildon and East Thurrock</i>) (Con)
† Brock, Deidre (<i>Edinburgh North and Leith</i>) (SNP)	† Owen, Sarah (<i>Luton North</i>) (Lab)
† Cairns, Alun (<i>Vale of Glamorgan</i>) (Con)	† Smith, Julian (<i>Skipton and Ripon</i>) (Con)
† Chalk, Alex (<i>Cheltenham</i>) (Con)	† Trott, Laura (<i>Sevenoaks</i>) (Con)
† Clarke-Smith, Brendan (<i>Parliamentary Secretary, Cabinet Office</i>)	
Foy, Mary Kelly (<i>City of Durham</i>) (Lab)	Seb Newman, <i>Committee Clerk</i>
† Harris, Rebecca (<i>Comptroller of His Majesty's Household</i>)	† attended the Committee

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Wednesday 19 October 2022

[YVONNE FOVARGUE *in the Chair*]

Draft Digital Government (Disclosure of Information) (Amendment) Regulations 2022

2.30 pm

The Parliamentary Secretary, Cabinet Office (Brendan Clarke-Smith): I beg to move,

That the Committee has considered the draft Digital Government (Disclosure of Information) (Amendment) Regulations 2022.

It is a pleasure to serve under your chairmanship, Ms Fovargue. The purpose of the draft regulations is to allow information sharing between specified bodies for the specific purpose of identifying and targeting funded early learning and childcare for families with eligible two-year-olds in Scotland. They amend the Digital Government (Disclosure of Information) Regulations 2018.

The public service delivery power supports public bodies to improve or target the important public services which they provide. The power is designed to give public bodies the information needed to provide early intervention and vital support for those who need it or, where possible, to prevent the problems that reduce people's life chances. In order to exercise the public service delivery power, the Government must set specific objectives for data sharing via regulations, and those objectives must meet specific criteria defined in primary legislation.

The draft regulations seek to establish a new objective for data sharing under the public service delivery power in the Digital Economy Act 2017 for identifying and targeting funded early learning and childcare for families with eligible two-year-olds in Scotland. The objective created through the draft regulations will enable data sharing from the Department for Work and Pensions and His Majesty's Revenue and Customs to the Scottish Government, and the forwarding of that data to Scottish local councils. That will allow Scottish local councils access to the necessary information held by DWP and HMRC to enable them to identify households most in need, and then to directly contact those families to inform them of the support they are likely to be eligible for.

The territorial extent of the draft regulations is Great Britain, and their territorial application is England and Scotland. The draft regulations must be taken through the UK Parliament by the UK Government because information sharing under the proposed objective would involve disclosure and processing of data held by UK Departments: HMRC and DWP. The Scottish Parliament can only approve proposals for new objectives that solely involve specified Scottish bodies permitted to make use of the public service delivery power.

Legal gateways already exist in England and Wales to enable data sharing to support delivery of early learning and childcare. The draft regulations will bring Scotland

parity of service provision with that already enjoyed by families in England and Wales. Data sharing is a vital and effective way of identifying individuals and households experiencing problems that reduce their life chances. Access to high-quality early learning and childcare is a key factor in determining life chances.

There are safeguards in place to protect personal data from misuse. The objective has already been subject to scrutiny by the Public Service Delivery Review Board, which oversees the use of the public service delivery power, as set out in the underpinning code of practice. The review board comprises specialists working in the UK Government and the devolved Administrations, as well as public representative bodies and civil society groups. Officials from the Information Commissioner's Office also attend as observers.

The board is tasked with considering proposals for new objectives for data sharing under the public service delivery power and making recommendations to Ministers. The board's recommendation to take forward the draft regulations was approved by the relevant Minister as they meet the criteria set out in section 35 of the 2017 Act for objectives under the public service delivery power, enabling the sharing of personal information to support the improvement or targeting of public services to individuals or households in order to improve their wellbeing.

Furthermore, the objective has been subject to public consultation. Responses to the statutory public consultation were decidedly positive, with up to 94% of respondents agreeing that the proposed data sharing would improve services and target them to eligible households, and 88% agreeing that data sharing would improve wellbeing for those households. Some 86% of respondents also agreed that the data sharing would deliver tangible benefits to households, including early-stage support to promote education, health and social equality. Importantly, 87% of respondents agreed that the personal data items to be shared, specifically including the customer name—that is, the parent or carer name—address and national insurance number, as well as the child or children indicator to confirm the existence of a child or children, are appropriate for early learning and childcare service delivery.

Parliamentarians have already approved the code of practice and the Digital Government (Disclosure of Information) Regulations 2018, which established public service delivery objectives. Sharing personal data will, understandably, tend to attract attention and scrutiny. However, the power, as with other data-sharing powers in part 5 of the Digital Economy Act 2017, must be exercised in compliance with the data protection legislation and UK GDPR.

There is an underpinning code of practice that sets out how the power must be operated, and this includes setting out how any data shared under this power must be processed lawfully, securely and proportionately, in line with data protection legislation. Anyone making use of any objective must have regard to the code. The code of practice also requires that information-sharing agreements are included in a public register of information-sharing activity under the powers.

I hope colleagues will join me in supporting the draft regulations. I commend them to the Committee.

2.35 pm

Sarah Owen (Luton North) (Lab): It is a pleasure to see you in the Chair, Ms Fovargue. I apologise that the relevant shadow Minister cannot join us today: I will do my best to fill her shoes on this important issue. The Opposition welcome this instrument. We are grateful that the Government are making efforts to communicate better with working families across the UK. Sadly that is especially needed now after the pain that has been inflicted on them through the economic chaos of the mini-Budget that left many families wondering how they can feed their children, heat their homes and keep a roof over their heads.

Whatever lifts the burden and makes families' lives a little easier is to be welcomed. It is especially crucial to have such engagement with families with regard to the education and care of small children. We will always support and advocate for more measures that help each child have a strong start in life. Therefore, we will not oppose the regulations today. I wish only to ask some questions and probe the legislation so that it is as strong as possible.

With that in mind, would the Government share in more detail how they intend to address concerns around data-sharing processes and how they will ensure that the data is not misused? I know the Minister touched on that issue, but given that we are talking about very young children and potentially very vulnerable families, it would be good if he could elaborate a little more on that important point. Can the Government also advise of any other objectives in England or any of the devolved nations that could be better served if information were shared by central Government using provisions under the Act? Will the Government review other possible avenues at a later date?

A significant criticism of the Government's pandemic response was central Government not sharing data with local authorities for the purpose of things such as test and trace. Could a similar SI be laid in the future to ensure better communication between central and local government on objectives relating to public safety? Those are our questions at present, but as stated, we are content to see the regulations pass today.

2.38 pm

Kirsty Blackman (Aberdeen North) (SNP): I appreciate you taking the time to chair the Committee today, Ms Fovargue. I am grateful to the Minister for setting out the intentions behind the regulations. It is disappointing that the Scottish Government do not have the powers to do this ourselves. We do not have the information because we are not in full control of all of these things, including HMRC and DWP. We would certainly have a significantly better social security system than the UK has at present.

As a former local authority councillor—like my hon. Friend the Member for Edinburgh North and Leith—I can say from experience that local authorities in Scotland are very used to working with a lot of highly sensitive data. They have responsibilities for social care, social work and nursing provision, for example. They deal with all that data in accordance with the law and treat it with the sensitivity with which it needs to be treated.

The regulations are sensible and should be passed, in order to ensure that councils have the information and can say to parents of eligible two-year-olds, "Here is

your funded childcare place, please take it up and here is more information about how to access it." Between September 2020 and September 2021, we saw a 25% increase in the number of two-year-olds taking up those places, and we hope to see that increase further so that all of those eligible can access those services if they choose.

Lastly, the provision of free and accessible childcare is important because it gives parents the opportunity to choose whether to work. I and others like me could not make that decision because we did not have access to the same amount of funded childcare as people across Scotland and, indeed, the UK now have. It has made a significant difference to the lives of families, and I am pleased that this data-sharing agreement will allow even more families to benefit from funded childcare.

2.40 pm

Christian Matheson (City of Chester) (Lab): I do not intend to delay you, Ms Fovargue, or the Committee for much longer.

I welcome the speech made by the hon. Member for Aberdeen North. The purpose of the regulations is to improve funded childcare in Scotland, but I hope that Scotland will not have the same experience as we have had in England. In 2015, I served on the Childcare Bill Committee, which introduced the funded childcare arrangement. In the 2015 election, my party proposed a funded and costed policy for 25 hours of free childcare. The Conservatives, under the leadership of David Cameron, decided to trump that by offering 30 hours. It was a fine political move, but it had not been costed and they had not thought about it. Even by the time of the Bill Committee—Sam Gyimah, our former colleague, was the Minister—they had no clue where the money was going to come from or where it was going to go.

I am very concerned that we will put these regulations through—my party supports them and is not seeking to block them—but that Scotland will experience the same problems as those experienced by England and, I am guessing, Wales. The problem is that the principle will be agreed to, but without any mechanism or funding.

Kirsty Blackman: I reassure the hon. Gentleman that we already provide funded childcare for two-year-olds. These regulations will allow us to address those who do not have the funded places for which they are eligible. The way in which local government in Scotland works means that a concordat is signed between the Convention of Scottish Local Authorities and the Scottish Government about things such as how this will be delivered, and this is being signed as part of the concordat.

Christian Matheson: I am really grateful to the hon. Lady for that information, which reassures me a little. I only hope that the Government will now look south of the border to try to improve the provision of childcare in England, which is still chaotic and hit and miss.

2.42 pm

Brendan Clarke-Smith: I would like to address some of the points that have been made and to wish the hon. Member for Putney, who is unable to be with us today, a speedy recovery.

[*Brendan Clarke-Smith*]

The hon. Member for Luton North made some sensible suggestions. First, on safeguards, we are aware of the risks regarding the misuse of people's personal data. The data-sharing provisions in part 5 of the DEA include a number of robust safeguards. The most important, as we have mentioned, is compatibility with and strict adherence to the Data Protection Act 2018 and UK GDPR. The DEA also goes further. It includes a number of other safeguards, such as sanctions for unlawful disclosures, including custodial sentences in some cases. The public service delivery powers are permissive, which means that the authorities listed in schedule 4 can choose whether to use them or not, and that safeguarding prevents inappropriate data-sharing.

Sarah Owen: I appreciate the severity of those reprimands should data breaches take place, but could the Minister tell us how many people have actually received custodial sentences as a result of a data breach? We are talking about particularly young people's data, so I want to ensure that the existing regulations are tight enough.

Brendan Clarke-Smith: I am happy to write to the hon. Member with the exact figures, so that there is a record of them. I share her concern; it is important that appropriate enforcement action is taken.

As new public service delivery objectives are created by regulations under the affirmative procedure, new objectives will be defined before data sharing can commence, and that will follow public consultation and parliamentary scrutiny.

The public service delivery powers have not yet commenced in Northern Ireland; the policy does not apply there at the moment. The objective relates only to Scotland; however, our respective officials have engaged on the possibility of having equivalent objectives for Northern Ireland. We recognise that that would be contingent on the commencement of devolved government in Northern Ireland.

With regard to statutory instruments, the UK Government are taking the objective forward at the request of the Scottish Government. The territorial

extent of the regulations is the UK, but the regulations apply in England and Scotland only. The Government are required to consult the devolved Administrations, and formal consultation was carried out with them. Furthermore, there is ongoing liaison at official level to ensure that the views of Welsh and Northern Irish colleagues are fully accounted for. On the point that the hon. Member for Luton North made about SIs, I am more than happy to provide information on where we are on that.

The hon. Member for Aberdeen North is clearly passionate about making sure that we deliver the funding to those who are eligible; that is what this is all about. We already get the relevant information from Scotland; it is important that we reciprocate.

The objective will benefit Scottish families with eligible two-year-olds by increasing their access to funded early learning and childcare. If eligible families were to purchase the funded hours, it would cost them around £5,000 per eligible child per year. Another benefit for families is the narrowing of the poverty-related outcomes gap for children facing the most disadvantage. As the hon. Member for City of Chester said, that is very important. We want to make sure that we support families. I have a young family and have benefited from various Government schemes. I do not know how our working family would have managed without them, so I speak from first-hand experience. I fully take on board what he said. As for other benefits, the objective will provide parents with increased opportunities to be in work, training or study, and will improve family wellbeing.

I thank the Committee for taking the time to scrutinise the draft regulations, which will enable more effective use of data, so that we can better support the most vulnerable in society and deliver better outcomes for our citizens. I hope that colleagues will join me in supporting the regulations, which I commend to the Committee.

Question put and agreed to.

2.48 pm

Committee rose.

