

Number: **WG33674**



Llywodraeth Cymru
Welsh Government

Welsh Government
Consultation Document

Digital Economy Act
Proposed list of data-sharing public bodies in Wales

Date of issue: 8 December 2017
Action required: Responses by 5 February 2018

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Overview

The Digital Economy Act (2017) introduces new information and data sharing powers for public bodies to improve delivery of public services and to reduce fraud and debt against the public sector. For a public body to be able to share information, they need to be specified in the legislation. The UK government is preparing to set four objectives for the public service delivery powers – multiple disadvantages, television retuning, fuel poverty and water poverty. The devolved governments need to name the devolved bodies that they wish to be able to make use of the new public service delivery objectives and debt and fraud powers. They also need to inform the UK Government which of the above objectives should be allocated to the various devolved bodies to enable them to share data in support of those objectives.

This consultation seeks views on the proposed list of public bodies (and bodies which provide services to public bodies) the Welsh Government intends to name, along with views on objectives for data sharing that the Welsh Government could set for Wales in the future.

How to respond

This consultation will be open for responses for 8 weeks, rather than the standard 12 weeks consultations would normally be open for. We would like to be able to make use of the objectives set out in the UK Government regulations which are expected to be laid in Parliament early next year. For public bodies in Wales to be able to use the new data sharing powers, we will need to provide a confirmed list of public bodies in Wales before that date. Additionally, this consultation is on a very specific area of legislation and relates to a particular group of public bodies. .

All responses are welcomed from stakeholders across Wales and the rest of the UK.

The closing date for responses is 5 February 2018 and you can respond in any of the following ways:

Online: Please complete the online response tool available here:

<https://consultations.gov.wales/consultations/digital-economy-act-proposed-list-data-sharing-public-bodies-wales>.

Email: Please complete the consultation response form at the end of this document and send it to: digitalanddatatag@gov.wales

Please include 'Digital Economy Consultation – WG33674 in the subject line.

Post: Please complete the consultation response form at the end of this document and send it to:

Digital Economy Act Consultation
Office of the Chief Digital Officer
Welsh Government
Cathays Park
CF10 3NQ

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

[The Digital Economy Act \(2017\)](#)

[UK Government Consultation on data sharing codes of practice and regulations](#)

[Ofcom paper on television retuning](#)

[Welsh Government Statement of Intent on the use of health and care data](#)

Contact details

For further information:

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telephone: Anna Bartlett-Avery 03000 250080

Data protection

How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government.

This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Introduction and background

1. The Digital Economy Act received Royal Assent on 27 April 2017. Part 5 of the new Act introduces new information and data sharing provisions to help support and improve the delivery of services to the public across the country and to reduce fraud and debt against the public sector. The Act sets out the non-devolved and public bodies in England that will be able to make use of the new data-sharing powers.
2. The Act allows the UK government, along with the devolved governments, to set specific objectives for which data can be shared, and to name the individuals and organisations that can make use of the data-sharing powers the Act provides (the list of non-devolved bodies are already set out in the Schedules to the Act).
3. The UK government has recently consulted on draft regulations which set out four specific objectives for which data can be shared under the public service delivery provisions and the specific, non-devolved bodies that can use these powers. The four objectives are: Multiple disadvantages, television retuning, fuel poverty, and water poverty. Personal information which is disclosed using the powers in section 35 to 39 may only be used for the purpose for which it was disclosed, and may not be disclosed further (subject to specific exceptions, set out in sections 40 and 41 of the Act).
4. The Welsh Government would like to make use of these powers across the Welsh public sector. To do this, we need to name the devolved individuals and organisations that would be able to make use of the data sharing powers in the Digital Economy Act 2017.
5. This consultation sets out the devolved bodies in Wales we would like to name in the legislation to enable them to make use of the new powers for public service delivery, debt and fraud. We are also seeking your views on what objectives the Welsh Government could propose in the future to improve public service delivery in Wales.

Current position

6. Better data sharing enables better outcomes for citizens, greater efficiency and provides evidence to support policy making and evaluation. However the challenges associated with sharing data between public bodies, including the confusion or misinterpretation of the legal landscape, have been identified as barriers to effective public service delivery.
7. Public bodies need a statutory basis to share information. Currently, there is no single piece of legislation which empowers public bodies to share information for the benefit of public service delivery. Instead, public bodies need to rely on a range of disparate powers, some of which may be general in nature and not really fit for purpose. The Digital Economy Act 2017 provides an opportunity to address this problem.

8. Promoting the sharing of data between organisations across the UK, including between devolved and non-devolved agencies will be of benefit to Wales, and consistent legislation minimises the risk of unnecessary barriers being put in place.
9. Public bodies have a duty to protect the personal information they hold, share it safely and securely, and to tell those whose information they share what they are doing with it. They also have a duty to deliver effective, joined up, services. These duties are underlined by the Well-being of Future Generations (Wales) Act 2015 which identifies collaboration and prevention as two key ways public services should be working.
10. It should be noted that powers to share information are distinct from public bodies' obligations to protect data and disclose information under the Data Protection regime and the Freedom of Information Act 2000.

Purpose of this consultation

11. We would like public bodies in Wales (and certain bodies which provide services to public bodies in Wales) to be able to make use of the new powers to share data with each other in relation to the UK government's four objectives, and have identified a list of individuals and organisations which we think would best support each objective. We would also like specific public bodies in Wales to be able to share information with, and receive information from, gas and electricity suppliers and water and sewerage undertakers for the purposes of assisting people living in fuel or water poverty.
12. We would also like public bodies in Wales (along with certain bodies that provide services to public bodies in Wales) to be able to make use of the new powers to share data in relation to cases of debt owed to, or fraud against the public sector. We have identified a list of individuals and devolved public bodies that we would like to be able to make use of the new powers.
13. This consultation seeks your views on whether the bodies we have identified are the right ones for each purpose, and whether there are other bodies we could include. We would also welcome your views on whether there are public service delivery objectives we could name in the future, and which public bodies we could name to support those objectives.

Next Steps

14. Following this consultation and analysis of your responses, we will finalise a list of Welsh public bodies which will then be inserted in the Schedules to the Digital Economy Act 2017 via regulations made by the Welsh Ministers. This will allow the bodies named to make use of the data-sharing powers under the Multiple Disadvantage, Television Retuning, Fuel Poverty and Water Poverty objectives set out in the draft Digital Government (Disclosure of Information) Regulations, and the powers in the Act to share information with and receive information from gas and electricity suppliers and water and sewerage undertakers. Named public bodies will

also be able to share data for the purposes of taking action in cases of debt owed to, or fraud against the, public sector. The Welsh Ministers' regulations will be laid in the National Assembly for Wales.

Detailed Proposals

Debt and Fraud Powers

1. Part 5 of the Digital Economy Act 2017 sets out powers for named public bodies to share information with each other for the purposes of taking action related to debts owed to a public body, such as identifying a debt, or taking steps to collect money owed (including court action where appropriate). The Act also allows public bodies to share information for the purposes of preventing, detecting, investigating and prosecuting incidents of fraud against the public sector.
2. Annex B shows the public bodies in Wales that we would like to name in our initial regulations as being able to share data under the new powers in cases of debt or fraud. Welsh Ministers can also add to this list in the future.

Question 1

Are these the right individuals and devolved organisations to be given data sharing powers for fraud or debt?

Question 2

Are there additional individuals or devolved organisations that could be included? Please specify whether they would need to be included for the purposes of preventing fraud, or identifying and managing debt.

The Multiple Disadvantages Objective

3. This objective is designed to improve the delivery of public services to both individuals and/or households that are affected by more than one disadvantage, such as disability, unemployment, or domestic abuse. A list of disadvantages that could be considered can be found at Annex A. The specified bodies will be able to share information with other specified bodies to ensure that affected individuals receive the support they need.
4. Annex B shows all of the public bodies in Wales that we propose should be able to share data to help provide better public services to individuals and families experiencing multiple disadvantages.

Question 3

Are these the right individuals and devolved organisations to support the multiple disadvantages objective?

Question 4

Are there additional individuals or devolved organisations that could be included for the multiple disadvantages directive?

The Television Retuning Objective

5. Over the next few years, a portion of the broadcasting spectrum that is currently used by television broadcasters will be cleared for use for mobile broadband services. Most

televisions will need to be retuned as a result. For most households, this will be a simple change that they will be familiar with. Some households may need additional support to make the change or new aerial equipment as a result. There may be similar changes in the future. The UK government is committed to assisting vulnerable households affected by these changes.

6. This objective is designed to allow relevant public bodies to share information that helps identify and contact individuals and households who may be eligible for assistance under a television retuning scheme.
7. Annex B shows the proposed Welsh public bodies that will be able to share personal data to support public service delivery to those individuals or households in Wales that may be eligible for support under a television retuning scheme.

Question 5

Are these the right individuals and devolved organisations to support the television retuning objective?

Question 6

Are there additional individuals or devolved organisations that could be included for the television retuning objective?

The Fuel Poverty Objective

8. Section 36 of the Digital Economy Act 2017 allows specified public bodies to share information with gas and electricity suppliers where they identify that an individual or household is living in fuel poverty and may be eligible for support with fuel costs. A person or household is living in fuel poverty if they are on a lower income and cannot keep their home warm at a reasonable cost. The information must be disclosed with the intention that it will be used in connection with specific support schemes.
9. Section 37 of the Act provides a corresponding power for gas and electricity suppliers to disclose information to specified public bodies for the purpose of assisting people in fuel poverty.
10. The Fuel Poverty Objective will also be added as an objective under the proposed Digital Government (Disclosure of Information) Regulations. This will permit specified public bodies to share information with other specified public bodies to assist people living in fuel poverty. A link to these draft regulations is set out in Annex A.
11. Annex B shows the proposed Welsh public bodies that will be able to share personal data with each other, and share information with and receive information from gas and electricity suppliers, in support of the fuel poverty objective.

Question 7

Are these the right individuals and devolved organisations to support the fuel poverty objective?

Question 8

Are there additional individuals or devolved organisations that could be included for the fuel poverty objective?

The Water Poverty Objective

12. Section 38 of the Digital Economy Act 2017 allows specified public bodies to share information with water and sewerage providers where they identify that an individual or household is living in water poverty and may be eligible for additional assistance. A person or household is living in water poverty if they are on a lower income living in a home that cannot be supplied with water or sewerage services at a reasonable cost. This information must be disclosed with the intention that it will be used by the undertaker in connection with specific charges schemes.
13. Section 39 provides a corresponding power for water and sewerage undertakers to disclose information to specified public bodies to assist people living in water poverty.
14. The Water Poverty Objective will also be added as an objective under the proposed Digital Government (Disclosure of Information) Regulations 2017 to permit specified public bodies to share information with other specified public bodies to assist people living in water poverty. A link to these regulations is set out in Annex A.
15. Annex B lists public bodies in Wales that we propose will be able to share personal data with each other, and share information with and receive information from water and sewerage undertakers, in support of the water poverty objective.

Question 9

Are these the right individuals and devolved organisations to support the water poverty objective?

Question 10

Are there additional individuals or devolved organisations that could be included for the water poverty objective?

Wales-only Objectives

16. The Welsh Government is able to set specific objectives for public service delivery in Wales in areas that are within our legislative competence, and name public bodies in Wales that would support these. Objectives that include non-devolved areas, or that would need non-devolved bodies to share information, can also be put in place with agreement from the relevant UK minister(s).
17. Section 35 of the Digital Economy Act 2017 sets out certain parameters for the specifying of objectives. Similarly, section 43 makes provision on a Code of Practice, a draft version of which the UK government has recently consulted on. Objectives need to be intended to deliver real improvements to a service provided to the public, and must target specific types of individuals or households, such as care leavers, or ex-offenders. Broader objectives that focus on a wider community would not be acceptable. Objectives must also deliver positive benefits and improve wellbeing.

They cannot be punitive, such as identifying individuals who are receiving welfare benefits in error.

18. We would like to understand what types of service users we could develop objectives to support, and the public bodies which would be able to share data to support delivery of those objectives.

Question 11

Are there other objectives that the Welsh Government could develop in future, and what are the current barriers for not sharing data for those purposes?

Question 12

Which individuals or organisations could be given powers to share data to support those objectives?

Health bodies

19. Health bodies hold and maintain a wide range of data, from highly sensitive data about individuals through to non-sensitive data about the provision of services. As with other organisations, it is essential when managing and sharing data that consideration is given to the type of data being dealt with to ensure it is treated appropriately.
20. UK Ministers gave assurances in the Houses of Parliament that health and adult social care bodies would not be in scope of the new regulations.¹ Consequently, no health bodies have been specified, for England, in Schedules 4-8 to the Digital Economy Act 2017, and there are no current plans to do this.
21. However, as the Act gives the devolved governments the ability to set devolved objectives for the public service delivery powers, there is the possibility that the Welsh Government could set objectives for Wales in devolved areas which would allow health related bodies to share the data they have to help meet those objectives.
22. We consider that sharing data held by health bodies, and allowing health bodies to receive data from other public services in a secure and ethical way is important to ensure public services are integrated and can provide the best service to the public. We do recognise there are valid concerns about certain data being shared with other public services, and want to be transparent about our proposals.
23. We are proposing to include a small number of health related public bodies, such as NHS Trusts, in the list of public bodies that are able to share information, and those are shown in Annex B. These will not be able to share information for the purposes of the objectives being proposed by UK Government, but may be able to share data for

¹ [Lord Keen of Elie, 2nd day Lords Report stage, 20th March, column 113](#)
[Lord Ashton of Hyde, Lords Second Reading, 13th December 2016, column 1230, 5th paragraph:](#)
[Lord Keen, Lords committee 3rd day, 6th February, column 1528:](#)

the purposes of future public service delivery objectives set by Welsh Ministers for devolved bodies in Wales. Naming Welsh health bodies in the legislation does not commit them to sharing data, but enables them to do so in the future, if we identify that this would be of benefit.

24. In the future, when designing objectives for data-sharing that would include health bodies or data held by these bodies, we will consult with the public and the public sector in Wales to ensure that the proposed use is justified and transparent. We have recently published a [Statement of Intent](#) which sets out our intentions on the use of health and care data to support the delivery of safe and effective care and efficient services. Any objectives that we develop in the future will reflect those intentions, and we will only share data in a manner that is consistent with the Statement.

25. We are not proposing at this stage to extend to health bodies the powers to share data for the purposes of dealing with debts owed to, or fraud against the public sector in Wales. However, we are interested in your views on whether health bodies should be able to share data for these purposes or not.

Question 13

Do you agree that allowing health related bodies in Wales to share data to support specific public service objectives would be of benefit? Please explain your answer.

Question 14

What safeguards would need to be in place for data held by health bodies to be shared in Wales?

Question 15

What type of objectives could health bodies be able to support?

Question 16

Should health bodies be able to share data for the purposes of dealing with debts owed to, or fraud against, public bodies? Please explain your answer.

Welsh Language

26. The changes proposed in this consultation do not have an immediate impact on the opportunities for people to use the Welsh Language, or for the equal treatment of the language itself. The changes will improve the public services provided to individuals and householders regardless of the language used, or the preferences of the people using those services. However, it is important that we ensure that data that is provided, captured or shared in the Welsh Language can be used in the same way as data in English, and that the service user's preferences are taken into account.

27. Additionally, future data-sharing objectives could promote and support the delivery of better Welsh Language services in particular areas.

Question 16

How else do you think this legislation could be used to promote or support the Welsh Language?

Question 17

We have asked a number of questions, but are there any other issues you would like to raise about data-sharing between public bodies, or about any of the areas covered above?