



HOUSE OF LORDS

PUBLIC SERVICES COMMITTEE

House of Lords
London SW1A 0PW
Telephone: 0207 2196154
HLPUBLICSERVICES@parliament.uk

Rt Hon Oliver Dowden CBE MP
Secretary of State for Digital, Culture, Media and Sport
Department for Digital, Culture, Media & Sport
100 Parliament St
London SW1A 2BQ

3 February 2021

Dear Secretary of State,

Data-sharing by providers of public services

I am writing to you as Chair of the House of Lords Public Services Committee, in your capacity as the Minister responsible for the National Data Strategy.

The ability of public services to share data quickly and flexibly is essential to integrating services around people's needs, developing early intervention approaches to prevent people from reaching crisis point and, most importantly, saving lives.

Since the Committee was established in February of last year, we have grown increasingly concerned about inadequate data-sharing between providers of public services. Worrying consequences were seen during the early stages of the pandemic, when local authorities and the voluntary sector could not obtain the NHS data that they needed to help vulnerable people.

We would be grateful if you could answer the questions set out below. Your response will enable the Committee to consider how best to take forward our work in this important area.

COVID-19: lessons for data-sharing

In November 2020, the Public Services Committee published its first report, '[A critical juncture for public services: lessons from COVID-19](#)'.

The report identified a number of fundamental weaknesses that must be addressed in order to make public services resilient enough to withstand future crises, and to improve outcomes for the people who need and use public services. This included an inability or unwillingness on the part of some services to share data for the public good.

The Committee welcomed the publication last year of the National Data Strategy, which identified several of the same barriers to data-sharing. These included a culture of risk aversion, inconsistent formatting of public sector data, and privacy and security concerns.

However, more work must now be done to learn the lessons of COVID-19. Our report found that during the pandemic:

- There was inadequate data-sharing between national and local services;
- in contrast to the reluctance of national organisations to share data with their regional and local counterparts, some local efforts to overcome data-sharing barriers were successful, particularly in areas with a history of close partnership working;
- despite such impressive innovations, many local leaders did not understand regulatory guidance on data-sharing. This lack of understanding inhibited the integration of services around local need;
- services working with children often struggled to understand the legal basis for sharing information due to the various pieces of legislation governing the data held on children. This limited the ability of services to keep children safe.

1. How will your Department ensure that the lessons learnt from COVID-19 will inform the Government's data-sharing strategy and how it relates to public services?

The Information Commissioner's Office's new Data-sharing Code

We were pleased to see your Department's commitment in the National Data Strategy to work with the Information Commissioner's Office (ICO) to "clarify aspects of the UK's existing data regime that generate confusion or inertia, including by fast-tracking guidance and the use of co-regulatory tools".

On Wednesday 13 January 2021, the Committee held an evidence session on the ICO's new Data-sharing Code with the Information Commissioner, Elizabeth Denham CBE and her Deputy, Steve Wood.

We also took evidence from Martin Lennon of the Children's Commissioner's Office, Alison McKenzie-Folan, the Chief Executive of Wigan Council and digital spokesperson for the Society of Local Authority Chief Executives (SOLACE) on the digital agenda and Clare Mills of the National Association of Voluntary and Community Action (NAVCA). We heard from these witnesses that the Code went some way to address the cultural reluctance to share data, and to establish common ways of understanding existing legislation across public services.

However, several flaws with the Code were identified during the session. These included:

- **Communication with public services stakeholders has been poor:** In preparation for the session, we spoke to a range of public services providers that work with users' data on a daily basis. None were aware that the new Code had been published.

Clare Mills told us that NAVCA had polled their member organisations and found that 80 per cent of responders had not heard of the new Code. If efforts are not made to engage the full range of statutory, voluntary and community services working on the frontline, the new Code is unlikely to be successful.

- **A lack of recognition of services' safeguarding duties and the positive role of data-sharing in prevention and early intervention:** Witnesses were concerned that the language on safeguarding was not sufficiently clear. One example given in the Code described how health professionals from different organisations and care businesses had decided to share data with a vulnerable adult's social worker, as the individual was showing signs of abuse. Witnesses told us that the Code should have made clear not only that services "could" share data in this scenario, but that they were under a statutory duty to do so.

We also heard that throughout the Code there was not enough focus on the positive role of data-sharing in supporting early intervention and prevention, with an emphasis instead on the avoidance of immediate harm.

For example, in the section of the Code on 'Data-sharing and children' there is not a presumption that data should be shared as early as possible when it is in the interests of a child. Instead, the language used is largely negative: "sharing children's data with third parties can expose them to unintended risks." Martin Lennon warned that such language could increase reluctance to share data on vulnerable children:

"The example they give in the Code for bad information sharing is where a local authority has shared information about gangs across partners. It does not really say why that was bad; it just says that it was. Those are the kinds of grey areas where it is much more difficult, and you need the Code. There might be an occasion ... where the local authority told schools that children were in a gang and it was quite necessary for their welfare and their safety."

- **A lack of tailored toolkits and case studies for specific public services:** Witnesses told us that the case studies in the Code do not reflect the common obstacles that public services are confronted with when attempting to obtain the data that they need to keep people safe. They stressed the need for sector-specific tool kits that set out in clear and simple language how public services can share data in the complex scenarios that they are likely to face. Alison McKenzie-Folan said that councils

"want simple guidance. We have quick decision-making going on in our social work teams. They need to have assurance that they are making decisions in an environment where they are safe and secure, and to understand the legal complexities and challenges."

Martin Lennon told us that a common factor in cases of data-sharing failure in children's services is a misunderstanding of the Children Act; he said that the Code fails to address this aspect and largely focuses on the General Data Protection Regulation (GDPR) instead. Without relevant guidance for public services, the Code could therefore cause more, rather than less confusion on the frontline.

How will your Department:

- 2. Emphasise the positive role of data-sharing in safeguarding and early intervention?***
- 3. Make clear to stakeholders that they have a duty to share data to keep vulnerable children and adults safe?***
- 4. Work with the ICO to produce additional guidance and toolkits for public services?***
- 5. Work with the Children's Commissioner's Office to clarify confusion around the Children Act?***
- 6. Improve communications and engagement with providers of public services?***

The main obstacles to effective data-sharing across Government

The Committee recognises that the improvement of data-sharing between public services is not the primary purpose of the ICO. While the ICO is an important partner, the lead must come from Government.

Our first inquiry, recent evidence sessions and discussions with stakeholders have highlighted the following areas that require urgent Government action to achieve effective data-sharing for the public good:

- **Technical issues:** Martin Lennon told us that in most local areas, children's services are unable to match unique pupil identifiers on the national pupil database with children's NHS numbers. This limits the ability of early intervention services to reach the most vulnerable children and track children under five across health, social care and education. He said that currently, 14 per cent of children start reception failing half of their development indicators. Effective data-sharing could support early intervention services to prioritise these children.

In our first report, we found that during the pandemic some local authorities were not able to access Unique Property Reference Numbers (UPRNs) and struggled to identify vulnerable people shielding in the community. Care England told us that, unlike in the NHS, the absence in social care of a systematic data collection system overseen by a central body had impeded efforts to track infection rates and coordinate a response. "Greater national data transparency at an earlier stage would have allowed providers to make better-informed decisions around contingency planning", and could have avoided "unnecessary deaths".

- **Cultural issues:** Officials in central Government and NHS England often fail to understand that councils and local authority-commissioned services work with sensitive data on a daily basis. This lack of understanding and trust can impede the sharing of data “downwards.” Jessica Studdert of the New Local Government Network said: “At an early stage in the pandemic local authorities did not receive information from the NHS about shielded groups, even though they were responsible for delivering food and essential supplies to them.”

Martin Lennon told us that a culture of mistrust and risk aversion impedes data-sharing within local authorities, particularly on vulnerable children and adults. For their part, councils often feel unable to share data with voluntary groups and other local services such as schools and nurseries.

- **Capacity issues:** Alison McKenzie-Folan and Martin Lennon explained that local authorities do not have the resources to employ legal experts to interpret the various pieces of legislation governing children’s data. Public services therefore need to have access to straightforward guidance, in simple English, setting out how existing legislation grants powers to share data.
- **Lack of understanding about the positive role of data-sharing in prevention and early intervention:** Safeguarding is too often viewed as responding to emergencies rather than preventing harm, with the result that information on children and vulnerable adults is often shared when they are already in crisis. Clare Mills said that services needed to share data and “think about using it as a preventative and precautionary way of working, as well as in response to crisis and emergency.”
- **Barriers between the NHS and other services:** Data is often spread across GPs, Integrated Care Systems and NHS trusts, rather than being stored in one place, with no single authority responsible for sharing information with other services.

Martin Lennon pointed to the fact that in many local systems, there is no single body responsible for sharing a child’s special educational needs and disability (SEND) and mental health needs with schools or social workers. We also heard that GPs and other health professionals were often reluctant to share less serious safeguarding concerns with local authorities. This was because there was no clear results pathway to observe the benefits that resulted from a decision to share data, such as a child receiving increased support at school.

- **The role of NHS England:** NHS England (NHSE) plays a limited role in raising awareness that NHS services have safeguarding responsibilities as part of the wider public service system in which they operate. Alison McKenzie-Folan said: “Often, we seem to be playing catch-up with the need for local information to aid local decision-making. Needing to lobby for information to make decisions at a local level is not great.” Clare Mills stated that she would like to see NHSE play a greater role in encouraging data-sharing with voluntary sector partners.
- **Leadership across central Government:** There is a lack of leadership in individual Government Departments and across Government on public sector data-sharing. Clare Mills wanted to see “leadership from Ministers across Government, to promote

the idea that data-sharing is the way forward, is a useful tool and is not something to be scared of.”

The Government’s [Review of children in need](#) (2019) found that schools were routinely unaware that a child was known to children’s services and had a social worker. Almost two years on the Government has not acted to rectify this lack of awareness.

The Government’s [Transformation Strategy](#) (2017) states that one of the key success factors for achieving a whole-Government approach to data-sharing is the appointment of a ‘Government Chief Data Officer’ – a post that has remained vacant for over three years.

7. How will DCMS work with relevant Departments across Government to address the following obstacles to data-sharing between services:

- *the technological limitations of providers of public services;*
- *the culture of mistrust and risk aversion;*
- *the lack of capacity in public services to interpret various pieces of legislation governing data;*
- *the lack of understanding about the positive role of data-sharing in prevention and early intervention;*
- *the lack of integration between the NHS and the wider public sector;*
- *the lack of leadership on the part of NHSE to encourage NHS services to recognise their safeguarding responsibilities to local partners;*
- *the lack of leadership across Government on public services data-sharing?*

Sharing best practice

Despite these challenges, the Committee heard about many providers of public services which had developed remarkable innovations to address obstacles to data-sharing. These include:

- **Operation Encompass:** Under the Children Act 1989, unless they have parents’ consent, councils cannot contact a school about certain safeguarding concerns. Operation Encompass, a charity that links the police directly with schools, has managed to work around this restriction because the Act does not apply to police forces. Schools involved in the scheme receive a notification the following day if the local police force has a domestic violence call-out during the night. However, currently not all schools and police forces are part of the charity’s scheme.
- **The Greater Manchester Combined Authority (GMCA):** The GMCA has put systems in place to facilitate matches between unique pupil identifiers on the national pupil database with children’s NHS numbers, enabling more effective early intervention across the region.

During the pandemic, the GMCA also created a “digital dashboard” where care homes reported issues such as COVID-19 outbreaks and shortages of PPE. The dashboard enabled other local health and social care providers to offer support.

- **Hackney Council:** Because they had access to UPRNs the council was able to compare datasets and service records in order to build a “single picture” of vulnerability in the borough during the first lockdown. This included people’s names and addresses and information on what made them vulnerable.

8. *How is your Department working to support peer-to-peer learning to help public services overcome barriers to data-sharing?*

I am copying this letter to the Chancellor of the Duchy of Lancaster and Minister for the Cabinet Office, Rt Hon Michael Gove MP, the Secretary of State for the Home Department, Rt Hon Priti Patel MP, the Secretary of State for Health and Social Care, Rt Hon Matt Hancock MP, the Secretary of State for Education, Rt Hon Gavin Williamson CBE MP, the Secretary of State for Housing, Communities and Local Government, Rt Hon Robert Jenrick MP, Chief Executive of NHS England, Sir Simon Stevens and the Information Commissioner, Elizabeth Denham CBE.

We look forward to receiving your response.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Hilary Armstrong'. The signature is fluid and cursive, with the first name 'Hilary' and the last name 'Armstrong' clearly distinguishable.

Rt Hon Baroness Armstrong of Hill Top
Chair, House of Lords Public Services Committee