Written evidence submitted by the Local Government Association (DDA0023)

1. Introduction

1.1.   The Local Government Association (LGA) welcomes the opportunity to respond to your inquiry on 'The Right to Privacy: Digital Data'. Our response sets out areas we feel are most relevant to the delivery of local services and the trust and relationship that councils have with citizens.

1.2.   Data plays a vital role in the work of councils and our sector is committed to protecting people's privacy. It is important that any reforms enable councils to innovate in order to improve services and outcomes, while also maintaining high standards that protect the public and strengthen its trust in the use of data.

1.3.   Good data governance across the public sector requires a common vision, coordination and strengthening of the capacity and technical foundations of all partners. To achieve this, there needs to be a much-improved understanding at a national level of why data is so key to the day-to-day operations of the local government sector.

2. About the LGA

2.1.   The LGA is the national voice of local government. We are a politically-led, cross-party membership organisation, representing councils from England and Wales. Our role is to support, promote and improve local government, and raise national awareness of the work of councils. Our ultimate ambition is to support councils to deliver local solutions to national problems.

3. Benefits to effective sharing of data

Individual benefits for citizens

3.1.   Local government handles an enormous amount of citizen data. It is used for many functions, such as children's services, social care, democracy, housing, and welfare. Some of the benefits of effective data sharing for individuals are outlined below (also see '*Data for Public Benefit*', Carnegie UK, 2018):[i]

- o   Many serious case reviews identify poor data sharing as a reason for inaction in keeping children and young people safe. The effective linking of personal information increases opportunities for early intervention and helps facilitate confident safeguarding decisions. A publication by Nesta and The Institute for Government on '*Missing Numbers in Children's Services*' (2020) gives a good account.[ii]

- o   The 'only-once' principle shows how data sharing can reduce burdens for individuals and administrators. The Tell Us Once service, offered by most councils on behalf of the Department for Work and Pensions (DWP), makes it possible for people to report a death just once.

- o   The Troubled Families Programme offers insights into the benefits of data sharing such as sharing special category data on mental health.[iii] Although, barriers to data sharing have been identified through this programme.

Collective benefits for the public

3.2.   Data sharing between councils and their partners helps them to be more responsive and have greater impact. Combining datasets can provide a clearer picture of complex issues facing individuals and local populations. Where information is captured in relation to individuals, characteristics can be linked across organisations and locations to gain valuable intelligence. Information relating to hospital admissions, for example, can be mapped to help understand patterns affecting needs and care pathways.

3.3.   The Information Commissioner's Office (ICO) outlines cases where organisations – including councils, voluntary organisations, housing associations and care providers – have found innovative ways to share data while protecting people's information.[iv]

3.4.   Additionally, through special COVID-19 data sharing legislation, other good examples have arisen as noted by the Centre for Data Ethics and Innovation (CDEI) in its report: '*Local Government Use of Data During the Pandemic*' (2021).[v] For example:

   o   The use of the 'VIPER' tool by councils in Essex has enabled the emergency services to share data in real time.
   o   An agreement made by London authorities to share data on free school meals has enabled children to be better supported.

3.5.   In contrast, the Public Accounts Committee's 2021 inquiry into the COVID-19 free school meals voucher scheme found limitations in data sharing between the Department for Education (DfE) and DWP. This meant support for eligible children could not be routed through the benefits system.'[vi]

Public sector benefits

3.6.   Sharing data across tiers of government can bolster digitisation efforts, improving the user experience and optimising costs. The Government Digital Service's (GDS) programme 'One Login for Government' aims to build a consistent identity management system across central government. The LGA is partnering with GDS to explore how its centralised model can be enhanced to support wider public sector benefits. It is crucial that any national identity system considers local government requirements from the outset to prevent misaligned and costly retrofitting in the future.

Benefits from wider research

3.7.   New insights from research can be produced through data sharing, where sources are clear and where the original collection is based on a legal condition. Linking individuals who have had council interventions, for example, with data on their health outcomes can accelerate wider research efforts on what works. However, councils need more capacity to engage with and commission research. In doing so, a better balance could be achieved, for example, between clinical studies and population studies within the field of health and social care.[vii] Moreover, councils receive numerous requests from researchers, but seldom see the outcomes of such research. Research findings must reach the local authority workforce in a format that enables officers to easily understand the implications for their job.

IT and data barriers

3.7.   IT and data barriers have a significant bearing on data sharing. They include:

- o Lack of data standards and poor data quality.
- o Lack of a persistent, unique identifier.
- o Lack of digitalised documentation.
- o Legacy IT and databases.
- o Lack of interoperable systems.
- o Lack of procurement rules for interoperability.
- o Lack of agreement on ownership and accountability.
- o Lack of understanding/guidance on data governance legalisation.
- o Limited capacity of data governance experts.

3.8.   One way to tackle capacity pressures, from the LGA's perspective, would be for central agencies to provide more active advice. For example, the ICO could offer an 'advice' arm, as well as an inspection one. Additionally, central government must develop a better understanding of the needs of local authorities with regards to data sharing.

3.9.   Data standards published by the Office for National Statistics[viii] and the Central Digital and Data Office (CDDO), are examples of good work taking place[ix]. Within the local government family, the LGA encourages councils to publish data in consistent formats – and we have developed a large list of open standards.[x] More specifically, as an example, the 'Scalable Approach to Vulnerability' project, led by Tameside and Sedgemoor Councils, shows progress in this area.[xi] We also promote the use of data maturity frameworks, such as our own, to improve data accuracy, completeness, currency and consistency.[xii]

Trust barriers

3.10.   Public trust in the ethical use of personal data is low. A poll by the Open Data Institute and YouGov (2019) found that only 31 per cent of people said they would trust their local authority to use personal data about them ethically – and 30 per cent replied in the same way about central government[xiii]. Asked which type of data they would be comfortable sharing with their council in exchange for a public service – and the kinds of data they would be comfortable with their council collecting – far fewer than 50 per cent said they would be happy with any of the scenarios presented (except for air quality data). 'Data charters', such as the one developed by Camden Council, are helping to give citizens the appropriate voice to define what ethical processes look like, but they require staff time to produce.[xiv]

3.11.   A report by Reform (2018) on using data effectively in the public sector suggests building trust between organisations to share information is just as important as building trust with the public.[xv] They note mixed attitudes towards data sharing in many organisations and anxiety among staff about getting data sharing wrong. The Dorset Information Sharing Charter is an example of where data sharing across partner organisations is helping to provide a more integrated service for residents.[xvi] Further ways to address issues of trust are outlined in the CDEI's report: '*Addressing Trust in Public Sector Data Use*' (2020).[xvii]

Legal barriers

3.12.   Reform (2018) note that the legal framework surrounding data sharing is 'highly complex and evolving'.[xviii] They note that this complexity '…creates uncertainty within public bodies as to who is accountable when data is shared'. We are aware of blockers to data sharing during the pandemic even in cases where there was no legal impediment. This was due in part to people not understanding the law, and because councils have such limited capacity and expertise in this area. We would support moves for a significant conversation about the proper use of data (especially health data) in public health emergencies and the targeting of legislative and other changes required.

3.13.   We noted in our submission to 'Data: A New Direction' that the Data Protection Officer (DPO) role has brought much experience and professionalism to data protection compliance.[xix] It has raised the profile of information governance and, as a common approach, provides greater assurance for organisations working together. Yet, more could be done to demystify legislation around data and to provide active, bespoke advice to those DPOs trying to enable data sharing.

3.14.   Additionally, commercial rules and regulations, such as in the case of Ordnance Survey Address Point references, Unique Property Reference Numbers and the Royal Mail Postcode Address File, place further legal barriers on data sharing.

Work-place barriers

3.15.   We noted in our 'Data Saves Lives' response that the insights and analysis that can be drawn from linking data are vital for local leaders to plan, commission and improve services and to deliver better outcomes.[xx] Similarly, for national leaders, insights and evidence drawn from data can provide better oversight and understanding of local systems to develop improved policy, guidance and national assurance. But more support, understanding and prioritisation is needed at the top to champion and drive forwards data sharing, transparency and to kick-start more projects to progress data sharing standards and practices.

3.16.   Again, as noted in our response to 'Data Saves Lives', central and local government (and the NHS) captures a vast amount of detailed data, but it is not always utilised in a way that supports the timely, place-based intelligence needed.[xxi] Too often information is captured and stored in silos at organisation levels. Though there are good examples of local data-sharing agreements[xxii], and the Data Standards Authority is also supporting work in this area, more needs to be done.

3.17.   While we have access to more data than ever before, we still need subject matter expertise to accurately analyse, interpret and make use of it. We need greater resource and investment to develop the right capabilities and capacity within local government – for analysts and system developers, but also for leaders and frontline staff. A new initiative being run by the Department of Levelling Up, Housing and Communities (DLUHC), which is offering analysts in councils that are taking part in 'Supporting Families' and 'Changing Futures' the opportunity to learn SQL programming, is an excellent example of a way in which central government can support local government with this.

Whitehall barriers

3.18. Local government needs clarity on how Whitehall plans to share and use the information it requests. The effective development of data standards and interoperability across the health and care system, for example, may reduce the need for any standalone data collections for national use because insights can be extracted directly from local systems. We also need to ensure that Whitehall requests are acceptable to all parties. Sharing data needs to be collaborative, evidence-informed and co-produced so it is timely, accessible, and fit for purpose.

3.19. Sufficient investment in local government is needed to ensure that councils have the necessary resources and capacity to engage in data sharing developments – low budgets and underinvestment have hampered efforts to ensure that the right people and technology is in place. Additionally, we have seen good initiatives, supported by central government, discontinued such as the Integrated Public Sector Vocabulary. And we have not yet seen the full impact of other central programmes such as those run by the Geospatial Commission.

4. The extent to which National Data Strategy appropriately addresses data issues

Collaboration

4.1. To achieve the benefits of improved data use – a goal of the National Data Strategy – we need a collaborative approach that takes account of the role of all public, private, voluntary and community organisations that work together in supporting people to be well, safe, and independent. Additionally, if we are to improve how data is shared, we need an approach that focuses not only on major macroeconomic issues, but one that reflects the fact that local data sharing is often about improving individual lives – supporting people to live the life they want, by increasing wellbeing, quality of life and independence – to enable people to keep doing what they like to do in the communities they call home.

Investment

4.2. The National Data Strategy requires significant investment to achieve. The costs associated with the safe and proper sharing of data could be considerable – especially for care providers and councils already under financial pressure. We need more clarity on how these costs will be met. We know, for example, there is a huge need to need to invest in the digital transformation of social care. It is essential to ensure that local government has the necessary influence, capacity and resources to work alongside partners to unlock the value of its own data to improve a range of public services and inform decisions at scale.

5. Ethics of data use/sharing in health and care contexts

Focus on the individual

5.1. We noted in our 'Data Saves Lives' response that sharing data should primarily be designed to enable better integration across health and social care to deliver improved outcomes for individuals, and a shared goal to join up and coordinate care around the individual.[xxiii] With regards to Shared Care Records, it is essential that this

programme engages with people with lived experience to ensure their needs are met as well as the needs of those in leadership roles in health and social care.

Ensuring trust

5.2.   We strongly support steps to ensure that people and their families understand what information is held by the health and care organisations that support them, and how their information is used. In our response to 'Data Saves Lives', we said that the strategy needed to say more about how the public would control the use of its own data and how this will be managed across health, local authorities and social care providers. Effective communication and guidance on how these foundations are applied is essential to support and enable the data sharing needed, but also to ensure public trust and confidence in the approach. More broadly, as mentioned, 'data charters', such as the one developed by Camden Council, are helping to give citizens a greater voice.[xxiv]

Culture shift

5.3.   Data sharing must be the norm to underpin a truly integrated system. However, the approach needs to work for all stakeholders and must not be driven by the needs of one sector to the detriment of another. Legislation, governance, guidance and system architecture must be designed to support effective information sharing and not create unnecessary barriers. Investment is needed to support councils with the drive towards better digital, data and information governance skills. The terms on which data will be accessible need to be clear to the public, to avoid any unintended adverse consequences, such as people not seeking their required care through fear of how it may impact their care and support.

6. Extent to which a person's data is appropriately safeguarded in the use/sharing of data

Data rights

6.1.   'Data Saves Lives' used phrases such as 'the public's data belongs to them' and people 'owning' their data. We responded, and we reiterate, that more clarity is needed on *how* the public will have such control of their data and how such data ownership will be managed across health, local authorities and social care providers. We believe more work is needed to make people aware of how information about them is used and to reassure them that their data will be processed lawfully. For example, polling by the CDEI (2020) found that 38 per cent of the public were not aware that algorithmic systems were used to support decisions using personal data.[xxv]

Data Protection Impact Assessments

6.2.   We strongly disagreed with the proposal presented in 'Data: A New Direction' to remove the requirement for organisations to undertake Data Protection Impact Assessments (DPIAs). They are not a 'tick box' exercise but an integral part of risk management. We have heard from DPOs in councils that the DPIA stage of a proposed project is often the point at which flaws are identified. The process enables an organisation to review potential risks within a system or process long before the publication of new guidance. DPOs have told us that DPIAs support rather than block innovation because they highlight risks, offer suggestions for mitigations, and can save time and money.

Research

6.3.   Where data is used and shared as part of research, risk and ethical assessments must play a central part. Documentation must be retained for the life of the research to make clear what safeguards were put in place. Full privacy notices containing links to risk and ethical assessments should be freely available. Creating more specific research provisions within legislation would make it easier for researchers to find a legal basis for their work, but only where an alternative is not available. For example, researchers working in councils can rely on a variety of legal bases linked to the 'public task' of the local authority. However, further clarify is needed on the legality of data re-use for research purposes that differ from the original purpose of collecting the data.

7. Effectiveness of existing governance arrangements

Common vision and coordination

7.1.   Information governance officers in local government are well-skilled, but over-stretched. Central government could do more to help tackle such capacity pressures, for example, by expanding the remit and resources of the ICO to develop an 'advice' arm. Moreover, councils often face delays in accessing the data because of a lack of understanding and recognition of what councils do and why timely access to data is so key to their day-to-day operations. Good data governance across the public sector requires a common vision, coordination and strengthening of the capacity and technical foundations of all partners, to ensure that data is collected, generated, stored, secured, processed, shared and reused in ways that are trusted and deliver value.

New developments

7.2.   New developments that push the boundaries of what is possible with data require appropriate data governance controls. With regards use of algorithms and AI, for example, transparency can help reduce concerns about fairness, discrimination, and trust. Moving towards an open register is helpful, such as the CDDO's new algorithmic transparency standard – although it currently focuses on central government. [xxvi] The LGA is exploring with CDDO the possibility of developing its standards work to include local government. We detect public concern on this issue and new reporting would help in allaying algorithm-related fears while ensuring clarity on how it is used and the reasons that it is appropriate. It could bolster public confidence, trust and reassurance.

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[i] https://www.carnegieuktrust.org.uk/publications/data-for-public-benefit/
[ii] https://www.instituteforgovernment.org.uk/sites/default/files/publications/missing-numbers-childrens-services.pdf
[iii] https://informationsharing.org.uk/policy-areas/families/
[iv] https://ico.org.uk/for-organisations/data-sharing-information-hub/case-studies/
[v] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/968515/Local_government_use_of_data_during_the_pandemic.pdf
[vi] https://publications.parliament.uk/pa/cm5801/cmselect/cmpubacc/689/68902.htm

vii https://www.sscr.nihr.ac.uk/basw-and-nihr-report/

viii https://www.ons.gov.uk/aboutus/transparencyandgovernance/datastrategy/datastandards

ix https://www.gov.uk/government/publications/open-standards-for-government

x https://home.esd.org.uk/opendata

xi https://www.localdigital.gov.uk/funded-project/savvi/

xii https://datamaturity.esd.org.uk/

xiii https://theodi.org/article/nearly-9-in-10-people-think-its-important-that-organisations-use-personal-data-ethically/

xiv https://www.camden.gov.uk/data-charter

xv https://reform.uk/research/sharing-benefits-how-use-data-effectively-public-sector

xvi https://www.dorsetcouncil.gov.uk/care-and-support-for-adults/dorset-information-sharing-charter-disc/dorset-information-sharing-charter-disc

xvii https://www.gov.uk/government/publications/cdei-publishes-its-first-report-on-public-sector-data-sharing/addressing-trust-in-public-sector-data-use

xviii https://reform.uk/research/sharing-benefits-how-use-data-effectively-public-sector

xix https://e-sd.org/Q0OAt/

xx https://e-sd.org/AYbws/

xxi https://e-sd.org/AYbws/

xxii https://home.esd.org.uk/news-item/312

xxiii https://e-sd.org/AYbws/

xxiv https://www.camden.gov.uk/data-charter

xxv https://cdei.blog.gov.uk/2021/06/21/engaging-with-the-public-about-algorithmic-transparency-in-the-public-sector/

xxvi https://www.gov.uk/government/news/uk-government-publishes-pioneering-standard-for-algorithmic-transparency