

Sharing customer data between local authorities and DWP

Equality impact assessment

March 2011

Equality impact assessment for the sharing of customer data between local authorities and DWP in specified circumstances

Introduction

2. The Department for Work and Pensions (DWP) has assessed the impact on equality of the proposal to introduce new data sharing powers which are now contained in the Welfare Reform Bill. Proposals have been assessed in line with the current public sector equality duties which require the Department to show due regard when developing new policies or processes to the impact of the proposals on race, disability and gender (including gender reassignment).
3. We have also anticipated the new public sector duty being introduced by the Equality Act 2010 which comes into force from 6 April 2011. This impact assessment therefore also considers the additional protected characteristics of age, sexual orientation, pregnancy and maternity and religion and belief.

Description of the change

Introduction

4. The measures described here aim to extend current data sharing powers in relation to the use of customer social security data. The measures also introduce a new power which will allow local authorities to share certain customer data with DWP and local authority HB teams in certain circumstances.

Policy Rational

What is the current policy

5. Currently, DWP is able to share customer social security data with local authorities for the purpose of administering Housing Benefit and Council Tax Benefit (HB/CTB). The gateway permitting this is included in the Social Security Administration Act 1992.

6. In addition, DWP and local authority HB Teams can supply information to other parts of a local authority for determining eligibility and liability to pay for a welfare service that is connected with the application of a relevant grant. This provision has been used to assist local authorities and their service providers to decide if a person is eligible for help under the Supporting People scheme. It also allows local authority Supporting People teams to share information with local authority HB teams in order to decide if a person is vulnerable and requires housing costs to be paid direct to the landlord, or lives in supported accommodation and is exempt from Local Housing Allowance rules.
7. There is no general legal gateway allowing DWP or local authority HB teams to share social security data with local authorities to help them decide eligibility for or liability to pay for other types of welfare services. Also, local authorities have no general power to share customer information about welfare services with DWP for social security benefit purposes. Where information is shared this can only normally be done where the customer has given signed written consent.

What is the change in policy

8. The measures proposed here will allow:
 - (a) DWP and local authority HB teams to share customer social security data with local authorities (and their service providers) for the purpose of deciding liability for charges for a welfare service, and for prescribed purposes such as deciding eligibility;
 - (b) local authorities to share customer information with DWP or local authority HB teams when a person is admitted to or discharged from hospital or a care home, or requires overnight care at home; and for other purposes in relation to the assessment of a social security benefit.

Reason for change in policy

Sharing customer data for welfare services purposes

9. Local authorities provide a range of welfare services to customers in their area, and many of these services are in part dependent on a means test either to determine eligibility or to assess a person's ability to contribute towards the cost of the service. Local authorities require details of a person's income and capital to complete the means test. Very often the customer is unable to provide all their details and DWP or HB/CTB teams will be approached for information about any social security benefit in payment.
10. Legislation allows data to be shared in England and Wales, for the purpose of deciding whether a person is entitled to free or subsidised help under the Supporting People scheme. Supporting People is a scheme that is in part funded by a grant from central government. Legislation does not allow data to be shared in relation to other welfare services which are not grant funded.

11. The data share measure described at paragraph 2.5 (a) above relates to the provision of any welfare service, whether it is grant funded or not. This will allow data to be shared in relation to a wider category of welfare service and will include domiciliary care (home helps, meals, day care etc) and residential care. It will also allow regulations to prescribe further schemes that support people with specific needs, such as Disabled Facilities Grants and Discretionary Housing Payments.
12. Currently customers are asked to supply the necessary information themselves in respect of any social security benefit they receive. If the customer is unable to provide the necessary evidence, an approach is made to the relevant benefit team in either DWP or the local authority HB/CTB department. Customers must provide signed written consent agreeing to their data being shared in this way. Obtaining the information direct from the customer, or getting the consent form signed, involves at least one additional visit to the customer at home. Recording details of the consent, and passing it on to the relevant data owner, is administratively difficult and open to error. DWP and LA HB/CTB staff receive a high number of requests for customer data and this puts a considerable burden on them, both in responding promptly but also making sure that data is only disclosed within the terms of the consent form. Requests are frequently refused due to issues around consent, and lack of knowledge about what can and cannot be disclosed.
13. Delays in obtaining details about a person's social security award can mean that where a charge is liable in respect of a service such as domiciliary care, the local authority often has to provide several weeks of free care until an accurate financial assessment can be completed. Customers may be discouraged from accepting the provision of a service until they know how much it might cost them.

Sharing data for the purposes of reassessing entitlement to a social security benefit

14. The data share measure described at paragraph 2.5(b) above relates to the need to reassess a person's social security benefit award when key changes take place. Customers are required to report any relevant changes in their circumstances, including when they move into care or are absent from home due to a stay in hospital. Both of these events can be quite traumatic and customers may not realise the need to report them promptly, or they may not always be in a position to report the change themselves. As a result, benefit is often overpaid due to a delay in reassessing entitlement. Local authorities tell us that they often know before DWP, when a person moves into hospital or residential care, particularly when that person is a client of the social services department.
15. Moves into hospital or residential care account for a large proportion of benefit overpayments. Customers find the process of being notified about overpayments and being asked to repay them, very stressful. It is far preferable to ensure the right benefit is paid at the right time.

16. Currently staff in local authorities can pass on details of a person's change of address, but only where the customer has given written consent. This is not always easy to obtain, particularly where the customer is frail or ill, and may not fully understand what they are consenting to. This measure would provide an additional route for certain changes (moves to hospital or residential care) to be notified to the relevant benefit team, helping to ensure more awards were reassessed promptly and accurately.
17. In addition, new rules come into force from April 2011 which will allow people on Housing Benefit to receive a higher rate of benefit where they need an extra room for an overnight carer.
18. Customers who live in the private rented sector receive help with their housing costs calculated under Local Housing Allowance rules. Awards are assessed in part by reference to the number of rooms a customer is deemed to require. Prior to April 2011, no allowance was made where a customer lived in a property with an additional bedroom that is used by a non-resident carer (often referred to as a sleepover room). In some cases the additional cost has been met by social services or by the local authority through a Discretionary Housing Payment.
19. Customers who want to be considered for the additional room rate after April 2011, need to provide evidence that they have a disability or health condition that requires the provision of an overnight carer. A large number of customers will have sought help through their local social services department, and will have a care plan specifying that overnight care is required.
20. This measure will allow social services departments to confirm that such a plan has been drawn up which states that overnight care is required. This will help to ensure that the customer's application for Housing Benefit is dealt with quickly and that the correct amount is awarded.

Why sharing data on the basis of consent is not appropriate

21. All of the data shares covered by the proposals described above can currently be undertaken where customers have given their written consent. They need to understand what they are being asked so that the consent is 'informed'. However this process is not without its risks, and causes significant administrative problems.
22. Many of the customers affected by the policies described above are elderly, and either disabled, frail or infirm. Some will have learning difficulties or mental health conditions. It is difficult to obtain consent unless people fully understand what it is they are consenting to.
23. Consent forms may only allow data to be shared for one specific purpose on one particular date, and unless this is recorded properly staff may not realise the limitations of the consent form. Staff who are unsure whether it is appropriate to share data in a particular circumstance will usually refuse to do so. It is a serious disciplinary offence to share data where the law does not allow this. While this does ensure customer data is protected, it often means

that legitimate activities are delayed or compromised in some way, leading to reduced customer services, potential underpaid or overpaid benefit, and extra work for staff.

24. The scale of the data being shared is considerable. Dealing with this work on a case by case basis is inefficient and gives rise to possible inconsistencies in decision making. Having a legal gateway will ensure everyone is clear about the circumstances where personal data can be shared; it will allow a streamlined system to be put in place to ease the administrative problems; and with training and guidance to support the new rules, it will provide extra reassurance that personal data is being handled legally and securely.

Consultation and involvement

25. Local authorities have been making representations to this department for some years, seeking an extension to existing data sharing powers. DWP already shares customer social security data with local authorities, for the specific purpose of administering Housing and Council Tax Benefit. Local authorities have argued that being able to reuse this data would allow them to ensure customers received a range of other benefits and services they were entitled to, more easily and promptly, without customers having to provide lots of financial information several times to different parts of government. Welfare services such as domiciliary and residential care have been cited as one of the largest areas of work where having more speedy access to social security data would help both customers and staff. This point has been made repeatedly over the years by both local authorities and other stakeholder groups such as welfare rights organisations.
26. Following the submission of a policy paper by the Local Government Association DWP undertook a review of data sharing policy and practice between August and December 2009. Findings from the review supported previous requests for wider access to customer social security data, in order to decide entitlement to a welfare service, or assess any charges in relation to that service.
27. Informal advice from local authorities, during stakeholder meetings and other forums, indicated that they would be able to help the department by passing on details of client admissions to hospital or care. Customers are required to report such changes themselves, but often fail to do so promptly, leading to overpaid social security benefit. It would help to reduce the amount of overpayments if local authorities were able to alert benefit teams to these types of changes earlier than might otherwise have been the case.
28. A 'Call for Evidence' is underway, with local authority representative groups and other stakeholders being invited to submit views on how the new measures might be implemented. This consultation starts on March 1, 2011 and lasts until April 25, 2011. In addition, the Department has well-established mechanisms for engaging with organisations that work with and represent its customers. Briefly these comprise:

29. the quarterly DWP Policy and Strategy Forum, which is used as a vehicle for consulting with policy officers of key national organisations that work with and represent our customers. Organisations represented include Citizens Advice , Local Government Association, Age UK, and a wide variety of disability organisations, and those that work with our most disadvantaged customers;
30. the Equality Schemes Customer Reference Group which helps the Department involve customers specifically on equality matters and acts as a consultation group for the Department's Equality Schemes. The Group usually meets twice a year and has representatives from each of the equality areas;
31. our Customer Representative Forum programme – three larger-scale events (the Annual Forum in London, Welsh Annual Forum in Cardiff and Scottish Annual Forum in Edinburgh/Glasgow) that are designed to allow engagement with representatives of the frontline organisations that work with our customers at regional and local level; these include a wide variety of advice and support organisations from the voluntary sector, as well as health and social services.
32. In addition to these standing consultation arrangements the Department regularly holds discussion with key stakeholders about current issues and new initiatives.

Impact of the proposals

Data used to assess the impact of the new measures

33. There is limited data at present with which to assess the impact of these measures. We will aim to collect further information over the coming months so that this assessment can be reviewed and updated.
34. We estimate that there will be a potential reduction in overpayments, due to faster notification of changes, amounting to approximately £5 million annually. This results in an economic cost to customers who go into hospital or residential care and who currently do not notify the Department promptly. If information about their change in circumstances is received at an earlier stage, then awards of benefit can be reassessed more quickly, ensuring the customer receives the right amount. Although this has been identified as a cost to the customer, in fact this represents an adjustment to benefit awards that should be taking place already. Late notification by customers means that many people continue to receive levels of benefit they are not entitled to.
35. There are no other negative impacts identified. Extending data sharing is not expected to incur any additional costs. We estimate that there will around £33 million saved annually as a result of improved administration, and the expected reduction in overpayments. Customers will receive an improved service, and will not have to provide the same information more than once, to different parts of government. Staff will be able to assess claims more quickly, spend less time obtaining and confirming information, or responding to requests for information.

Sharing customer data for welfare services purposes

36. There are no costs identified in relation to this measure. There are no negative impacts identified in relation to customers or staff.

37. Robust and comprehensive data is not available, but we have considered information provided by a consortium of local authorities in the North West Region who have been piloting new ways of completing financial assessments in relation to the provision of domiciliary and residential care where a charge is levied on the person receiving the care. The following data comes from their findings so far:

- There are currently 152 local authorities with social care responsibilities in England and between them they undertake roughly 450,000 new financial assessments a year, and an equivalent number of re-assessments.
- The majority of these assessments are for customers who are in receipt of a social security benefit. Around 60% of assessments are for pensioners. The remaining are for people with learning or physical disabilities, mental health problems or behavioural problems. Almost all of the non-pensioner customers are economically inactive and on a social security benefit.
- It is estimated that in England, 810,000 requests for customer data are made by local authorities to DWP each year.

38. We also looked at community care statistics for England. We do not currently have equivalent data for Wales or Scotland but do not expect the high level indications to be significantly different.

- An estimated 1.78 million clients were receiving community care services during 2008-09. Of these, 28% (495,000) were new clients. (Note: *This is similar to the 450,000 estimated by the pilot authorities referred to above*).
- An estimated 1.22 million (68%) were aged 65 or over. (Note: *compares to 60% identified by the pilot authorities*).
- 1.54 million (86%) received community care services; 222,000 received residential care and 97,000 received nursing care.
- Of the 1.54 million receiving community care services, 582,000 received home care; 547,000 received equipment and adaptations; 501,000 received professional support such as occupational therapy; 214,000 received day care and 121,000 received meals. Some clients received more than one service so there will be some double counting here.
- Most services (72%) were received by clients in the classification 'physical disability, frailty and sensory impairment' while 18% were in the classification 'mental health'.

Source: Community Care Statistics 2008-09: Social Services Activity Report, England (published April 2010)

39. We expect benefits to be realised by DWP as staff will not have to deal with individual requests for data on the scale that currently takes place. The majority of requests are submitted to the Pension, Disability and Carers Service (PDCS), as most of the people applying for domiciliary or residential care services are elderly and/or disabled. PDCS have also indicated that some requests are submitted by local authorities to Jobcentre Plus for customers who are in receipt of working age benefits, such as Employment and Support Allowance, Severe Disablement Allowance and Incapacity benefit (which can be paid along with Disability benefits such as Disability Living Allowance).

Sharing data for the purposes of reassessing entitlement to a social security benefit

40. More customers will have their awards reassessed promptly ensuring they get the right benefit at the right time. Data on the level of overpayments detected on a range of social security benefits, where a customer goes into hospital or care and fails to notify the department promptly, shows what the reduction in overpayments might amount to if notification was detected a week earlier than currently happens. The customers likely to be impacted by this measure will be people who have a health condition or disability and require nursing or residential care. We know from the figures above that the majority of people who receive a community care service (including residential care) are aged 65 or over, and classified as having a physical disability or other impairment.

41. New rules for people on Housing Benefit mean that from April 2011 help with housing costs can be extended to include the cost of an extra room for an overnight carer. An Equality Impact Assessment has been completed for this measure. We estimate that the additional room for non-resident carers will benefit around 10,000 disabled customers. This assumption is based on analysis of the Family Resources Survey (FRS) 2006-07, 2007-08 and 2008-09.

42. Due to small sample sizes we are unable to provide a breakdown of the population of Housing Benefit customers in the private rented sector with overnight care needs met by a non-resident carer. Analysis of the FRS data shows that 99% of people with non resident carers meet the Disability Discrimination Act definition of having a disability. Around 94% of people cared for by a non-resident carer are in the White ethnic group. Around 61% are female. The proportion of people with non-resident carers is skewed towards the older age groups, with 55% being of pension age.

43. We expect that the majority of these customers will be getting their care arranged by social services. The new data share powers will allow HB teams to seek verification of the need for an overnight carer directly with their social services colleagues. This will make it easier for customers to receive their full entitlement to HB.

Impact on each equality strand

44. The impact on all customers affected by these measures is not expected to be negative.
45. Customers applying for a welfare service (which includes the type of community care services described at paragraphs 4.5 – 4.7 above), or for the extra room rate in Housing Benefit (described at paragraph 4.9 above), will not have to supply the same information more than once to different parts of government. Their data will be reused in the circumstances described above so that an accurate assessment can be made of any charge they need to pay for a welfare service, or the amount of extra help they may be entitled to with housing costs. They will know at an earlier stage whether they are entitled to a welfare service, or how much they might be expected to pay towards a service. This will remove uncertainty and allow customers to make informed decisions about the type of care they want and can afford.
46. Customers who go into hospital or residential care and have their benefit reassessed at an earlier stage due to prompt reporting by the local authority will be affected in that their award of benefit will be reduced more quickly than it might otherwise have been. However this is not a reduction in entitlement. It means that customers will be receiving the right amount of benefit sooner, rather than incurring an overpayment, which they may then subsequently have to repay. It is therefore the view of the Department that this is a positive measure in that customers will not face the additional stress of having to deal with overpaid benefit.
47. All customers will be given information explaining how any data they supply may be reused, by whom, and for what purpose. Normal safeguards will apply in respect of making sure data is handled and processed safely and securely and within the requirements of the legislation. Current arrangements for providing information in different languages and formats will continue to apply.
48. While we do not consider it the case that anyone will be adversely affected by the measures, we have considered which categories of people may be more likely to have data about them shared in the circumstances described above. Each category is considered separately below.

Age

49. The majority of people who receive a community care service are older people. Community care statistics indicate that 60% of those who receive a community care service are aged 65 or over. The pilot study estimates that 60% of its client group are pension age (which may also include people with a disability). And FRS data indicates 55% of the people who have a non-resident carer are pension age. Other welfare services or hospital care that may be covered by these measures are available to people with specific needs, and this will include people who are over pension age.

Disability

50. The majority of people who apply for a community care service are disabled or have a long term health condition. Community care services are increasingly targeted towards those with substantial or critical needs, so they will inevitably be people with high levels of care needs. Community care statistics indicate that 72% of those receiving a service are in the category 'disabled, frail, sensory impairment' with the other 18% having a mental health impairment. The pilot study estimates that the 40% of clients who are not pensioners will be people with a disability. And FRS data shows that 99% of people with non-resident carers have a disability. We do not have information about people who receive nursing service. Other welfare services or hospital care that may be covered by these measures are available to people with specific needs, and this will include people who are disabled.

Race

51. We have not been able to obtain information about the ethnicity of people receiving community care or nursing services. FRS data indicates that 94% of people cared for by a non resident carer are in the White ethnic group. Other welfare services that may be covered by this measure are available to people with specific needs, and this will include people who belong to specific ethnic groups. There are no indications that members of particular ethnic groups are more likely to go into hospital.

Gender

52. We have not been able to obtain information about the gender of people receiving community care or hospital services. FRS data indicates that 61% of people with a non-resident carer are female. Other welfare services that may be covered by this measure are available to people with specific needs, and gender may be a factor affecting eligibility.

Sexual orientation

53. We do not have information about the sexual orientation of people receiving community care or hospital services. Other welfare services that may be covered by this measure are available to people with specific needs, and this includes in relation to sexual orientation.

Religion or belief

54. We do not have information about the religion or belief of people receiving community care or hospital services. Other welfare services that may be covered by this measure are available to people with specific needs, including in relation to religion or belief.

Pregnancy and maternity

55. We do not have information about this category of people receiving community care or hospital services. It is unlikely to be significant given that the majority of people affected are the elderly. Other welfare services that may be covered by this measure are available to people with specific needs, and this will include people who are pregnant or have young children.

Gender reassignment

56. We do not have information about gender reassignment among people receiving community care or hospital services. Any customers whose records are protected such as those who have had a gender reassignment, will still have the same safeguards applied to their information as currently are in operation. Other welfare services that may be covered by this measure are available to people with specific needs, and this will include people who have had gender reassignment.

Impact on staff

57. There are no negative impacts identified in relation to staff. The measures described above will mean local authority staff can decide eligibility for a welfare service or assess any liable charges, more quickly and accurately. They will not have to spend as much time seeking or confirming information, or obtaining written consent forms from customers. DWP staff will not have to respond to the large numbers of individual requests made by local authorities, for customer information. DWP and HB staff will be able to assess awards of benefit more quickly, where a person goes into residential care or hospital, or is entitled to the additional help with housing costs, where they need to provide a room for an overnight carer.

Conclusion

58. The administrative arrangements described here will be used to help process claims and provide services to a range of customers. They are likely to be useful in relation to a wide range of people, including those who have particular needs such as people who are disabled, elderly, or on a low income. In that respect the proposals could be described as helping to promote equality.

59. As the proposals are not punitive in any sense we do not consider it necessary to implement any mitigation strategy.

60. Local authorities and DWP will be able to improve the delivery of services and increase efficiency.

Monitoring, evaluation and next steps

61. DWP is committed to monitoring the impacts of its policies and we will use evidence from a number of sources on the experiences and outcomes of the protected groups.
62. We will use administrative datasets to monitor trends in the benefit caseloads for the protected groups and in the level and distribution of benefit entitlements. The administrative data will provide robust material for age and gender although not, as a rule, for the other protected groups. Single Housing Benefit Extract (SHBE) is the Department's main source of real time data on Housing Benefit and is collected on a monthly basis. This will contain information on caseloads, expenditure and rents. We will also collect information from survey data such as the Family Resources Survey, and will collect other information through existing stakeholder engagement arrangements. These networks will be used to gather qualitative evidence on the impact on customers and local authorities. We will draw on broader DWP research where appropriate.
63. We will utilise feedback from Departmental employee networks and internal management information. For example we will monitor the level of appeals and complaints in order to assess the broader impact of the policy.
64. As part of our actions in the context of the data requirements under the Equality Act, we are looking across DWP activities to identify and address gaps in data provision wherever reasonable.

Contact details

65. Any questions about this assessment should be addressed in the first instance to:
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