Q1: Why in the Disclosure Code and Regulations two items on the list in Regulation 2(2) are sufficient to count as “multiple” disadvantages and why data can be exchanged about the whole household if only one individual meets these criteria.

A1: “Multiple” in the context of the multiple disadvantages objective means an individual or household that is affected by two or more disadvantages. The complete list of factors that constitute a disadvantage are listed in Schedule 2, paragraph 2(3) in the regulations.

For sharing to be permitted, there must not only be the presence of two or more disadvantages which adversely affect an individual or household, but any sharing must also meet the conditions in paragraph 2(1)(a) - (c) of the Schedule to the regulations. When the criteria of this objective are fully met, information-sharing is permitted whether presenting at an individual or household level.

We are not looking for the minimum threshold for data to be shared. The purpose of the objective is to assist individuals or households with a combination of disadvantages through improvement or targeting of a public service or facilitation of the provision of a benefit provided to individuals or households, and improving the well-being of individuals or households. The objective was initially developed to support the Troubled Families programme, which supports the identification of families across England who face multiple problems and helps ensure appropriate services are provided to them. But it is also intended to be available for similar programmes. Grouping the factors into categories would unnecessarily limit the ability of authorities to provide positive interventions when other combinations of factors arose.

The problems of one household member can affect the outcomes of others in the same household. In particular, public services need to be able to offer services to children who are impacted due to the problems of adults in the households, such as unemployment, domestic abuse or addiction. For example, DWP analysis shows just how stark the difference is between outcomes for children in workless families and those in lower-income working families. Children growing up in workless families are almost twice as likely as children in working families to fail at all stages of their education (Improving Lives, April 2017).

Q2: How cross-reference to the Data Science Ethical Framework will work if it has to be updated because it is acknowledged as being flawed, but is not yet available

A2: The codes of practice provide details to practitioners on how data sharing powers under the Digital Economy Act 2017 must be operated. The data science ethical framework brings together guidance and examples of good practice around the use of data for practitioners to consider. We do not think it would be efficient to reproduce this guidance in the codes of practice, but by signposting the data ethical framework, the intention is to help augment the impact of the codes and help stimulate innovative and responsible use of data. The Data Science Ethical Framework was designed from the outset to be regularly updated to keep pace with technological change and take up of new techniques for analysing data. A second version of the framework is currently being produced and will be published shortly. The first version has been widely used in the public sector.
Q3: How will these codes cross-reference to the separate Framework for Data Processing under the 2018 Data Protection Act 2018.

A3: These codes of practice have been drafted to be compliant with the Data Protection Act 2018 and the latest standards of best practice for information sharing. We consider they are consistent with each other. We have consulted regularly with the ICO during the development of the codes. We will review our codes when the new ICO data-sharing code and other relevant guidance is published and determine whether changes need to be made. Please see Schedule 19 to the Data Protection Act 2018, which updates references to the Data Protection Act 1998 in the Digital Economy Act 2017 and includes transitional provisions in respect of the ICO data-sharing codes. There is a pressing need to share data to improve the lives of some of the most vulnerable members of our society and we are keen to push ahead so that these powers can come into effect.

Q4: “While the PSD code is extremely prescriptive on the content of the Register, the Civil Registration Code says nothing about the content and no examples have been published as to what either would contain.”

Q5: The level of prescription in the PSD register is excessive and may prevent voluntary inclusion in the register. Is this desirable?

Q6: Inconsistency – para 61 of the Civil Registration Code is less precise than section 5.1 of the PSD code

A4-6: There will be one register of information sharing agreements under the public service delivery, civil registration, debt and fraud powers. The same fields (e.g. fields which set out: the controllers and processors under the data sharing agreement; the purpose of the data share; the retention period; the anticipated benefits from the data share) will apply for civil registration, debt and fraud as for the public service delivery provisions.

The register has been designed to provide greater transparency around how data is being shared under the Part 5 powers. We do not believe that the register is overly prescriptive - the codes were subject to public consultation before they arrived at the iteration that has been laid before Parliament. The transparency requirements are a key part of the codes and public authorities will be expected to comply with them or risk losing their ability to use the powers.

Q7: A question over the use of should vs must in para 62.

A7: On the use of “should” vs “must” in paragraph 62, the nature of the request is the same if either word is used - it is making clear where to send information for the purposes of populating the register of data sharing agreements. The obligation is the same, and the code explains how you discharge the obligation.

DCMS
8 June 2018