

## Motivations for and barriers to data sharing

Identifying cultural and legal barriers to data sharing across government

### Report

April 2020

Amy Busby, Laura Mason, Charis St Clair Fisher, Lucy Williams



# Contents

<b>Contents</b>	<b>1</b>
<b>1. Executive Summary</b>	<b>2</b>
1.1 Research design	2
1.2 Key findings	2
<b>2. Research design</b>	<b>5</b>
2.1 Background	5
2.2 Research objectives	5
2.3 Methodology	5
2.4 Analysis and the Kantar behavioural framework	6
<b>3. Stakeholder attitudes towards the Digital Economy Act and the PSD powers</b>	<b>9</b>
3.1 Attitudes towards data sharing	9
3.2 Views and associations with the Digital Economy Act and Public Service Delivery powers	12
3.3 Appropriateness of the current Public Service Delivery objectives	13
<b>4. Experiences of using the Digital Economy Act</b>	<b>15</b>
4.1 Motivations for using the powers	15
4.2 Barriers to using the powers	17
<b>5. Strategies for overcoming the barriers to using the Public Service Delivery powers</b>	<b>25</b>
5.1 Strategies for overcoming the barriers	25
5.2 Communicating the Public Service Delivery powers	28
<b>6. Appendices</b>	<b>31</b>
6.1 Appendix 1: Achieved sample	31
6.2 Appendix 2: Rapid Evidence Assessment bibliography	32
6.3 Appendix 3: Topic guide	33

# 1. Executive Summary

## 1.1 Research design

Aware of the potential benefits of data sharing across government in terms of service delivery and efficiency, the Digital Economy Act (DEA) was introduced in 2017 to provide a new legal gateway to help better facilitate this. However, use of the DEA's Public Service Delivery (PSD) powers has been lower than expected.

Therefore, the primary objective of this research was to identify key motivations and barriers to data sharing across government, with a specific focus on the Public Service Delivery Powers of the Digital Economy Act 2017. Commissioned by DCMS, this research has explored:

1. Motivations for and barriers to using the PSD powers;
2. Ways in which barriers can be addressed and overcome effectively;
3. The effectiveness of central messaging in encouraging voluntary uptake of the opportunity – and assessed what, if anything, could better encourage take up.

To achieve this, Kantar has conducted two phases of research: a Rapid Evidence Assessment (REA) of key documents relating to the Digital Economy Act; and 19 one hour stakeholder interviews with a range of public bodies who have or may in the future seek to use the powers. A mixture of central and local government organisations were included, as well as variation by experience of the PSD objectives and other parts of the Digital Economy Act. The data was analysed using both interpretative analysis as well as Kantar's behavioural framework to identify both automatic and reflective drivers of behaviours.

## 1.2 Key findings

### 1.2.1 Stakeholder attitudes towards the Digital Economy Act and the Public Service Delivery powers

Stakeholders viewed data sharing as both jointly valuable and important on the one hand, and challenging and complex on the other. This tension stemmed from the fact that data sharing was key to stakeholders' policy priorities with potential for significant benefits to government whilst also felt to be a difficult and time consuming process.

In terms of the introduction of the Digital Economy Act, stakeholders welcomed the introduction of a new data sharing gateway with the aim to standardise and simplify the process and were generally quite satisfied with the current objectives. That said, there were some questions around the scope of the powers, being seen as too narrow in some circumstances and too broad in others. This was particularly relevant to the multiple disadvantages objective and the exclusion of health and social care data.

### 1.2.2 Experiences of using the Digital Economy Act

Stakeholder motivations for using (or trying to use) the Digital Economy Act were broadly threefold. Firstly, it was felt that a new legal gateway had legitimised conversations between organisations to make data sharing possible and permissible. Secondly, for the Public Service Delivery powers in particular (more so than for the Debt and Fraud or the Research powers) stakeholders felt a moral imperative to use the legislation to better identify and serve vulnerable groups. Thirdly, the powers were seen to contribute to a wider government agenda around improving government processes and efficiency.

However, whilst driven by these motivations, stakeholders reported experiencing various barriers to using the Public Service Delivery powers in practise. The following key barriers emerged:

- **Scope:** linked to stakeholders' perceptions and associations with the powers, the exclusion of health and social care data and the definitive list of disadvantages meant that stakeholders felt the powers were insufficiently flexible and not fully meeting their needs around data sharing.
- **Risk aversion:** a cultural barrier around public authorities being risk averse and afraid of the potential consequences of incorrect data sharing emerged. This was based on a number of external and internal factors, for example public perceptions of data sharing, perceptions of the ICO and its punitive role around fines, and differences of opinion between data sharing experts. This has led to the benefits of data sharing through the PSD powers being overshadowed by these fears and has meant that some stakeholders may be more likely to rely on data sharing arrangements already in place rather than using the new powers.
- **Lack of emphasis on the benefits:** conversely, because of this emphasis on risk aversion, stakeholders felt that the potential value and benefits of data sharing are being overshadowed by these worries and fears. This was particularly stark as stakeholders were positive about the significant improvement at a societal level that data sharing could have in their policy area. This was perceived to be further compounded by a sense that the complexity and lack of knowledge has made the process feel long, burdensome and bureaucratic so the benefits feel less tangible.
- **Knowledge and complexity:** both reported knowledge of the PSD powers and the perceived complexity and technicality of them were highlighted by stakeholders as barriers. Some stakeholders were unclear about who could use the powers, creating an accessibility barrier. Those who were aware of this element felt that communications were difficult to understand and often aimed at data experts rather than policy teams. Misconceptions around some aspects of the powers also emerged, with confusion around GDPR, for example not needing consent and publication through a register. Alongside this, use of the powers is seen to be difficult and time consuming with barriers around technical requirements such as minimisation, retention of data, and mechanisms through which to transfer. Levels of confidence in this area were particularly varied across the sample.
- **Lack of prioritisation and visible leadership:** stakeholders widely felt that data sharing is currently not joined up across departments and not sufficiently coordinated at a national level. This has led to siloes between departments and a lack of common practices around data handling which can further impede data sharing with organisations thinking about data sharing on an organisational level rather than across government because of this perceived lack of leadership. Whilst stakeholders acknowledged the importance of data sharing to their work, there were also examples of data sharing having resource directed to other areas.

### 1.2.3 Strategies for overcoming the barriers to using the PSD powers

Stakeholders reported various initiatives which they believe could help to increase uptake of the PSD powers. While some of these were related to legal aspects around the scope of the powers and including health and social care data - communication, cultural, and leadership strategies also emerged. To underpin these strategies, stakeholders acknowledged the need for resource to enable them.

A national data strategy including data sharing was seen as central to overcoming the barriers around data sharing. Stakeholders said this should include involvement from Number.10 to signal the importance of the issue but with DCMS as a facilitator and engagement from the relevant departments involved in the PSD powers. By having a national strategy, stakeholders envisioned moving from focus on individual policies to a drive to improve data sharing more widely. It was also hoped that this would enable better coordination

between partners around data sharing by having a more co-ordinated approach and a clear signal that data sharing is a national priority.

From a communications and information point of view, stakeholders particularly welcomed the idea of case studies to illustrate the benefits of data sharing to inspire organisations to make use of them. Stakeholders wanted to know in greater detail what the powers can be used for and what outcomes can be achieved. There was also a desire for continued engagement around misconceptions related to data sharing and guidance aimed at those in policy positions. While most thought that this would come from DCMS, there was also a desire to increase knowledge across government, perhaps through a champions network to increase data sharing knowledge and ensure best practice.

Cultural strategies for overcoming barriers focussed around overcoming risk aversion. Stakeholders suggested this could be facilitated through greater public trust and engagement in data sharing as well as a greater focus on the benefits and the positive outcomes that the powers can have, particularly for vulnerable households. Some stakeholders felt the ICO could play a more positive and collaborative role in joint messaging with DCMS to promote these benefits and assist with correct use of the powers, rather than their role being punitive focused.

## 2. Research design

### 2.1 Background

Data sharing across Government can benefit departments' policy aims across a range of areas. By having access to data held by other departments or public bodies, service delivery can be improved, and policies can be better targeted to those who could benefit from them, particularly vulnerable groups. However, there is growing awareness of and concerns about data sharing and privacy amongst the public and interest groups who understandably want data to be used in legal, fair, and transparent way.

In order to facilitate data sharing in a way that took note of key ethical and transparency considerations, the Digital Economy Act (DEA) was introduced in 2017. This legislation covers various aspects, including the Public Service Delivery (PSD), Debt and Fraud, and Research powers, to provide a new legal gateway for data sharing across government. The PSD data sharing powers have not been taken up across central and local government as hoped since the legislation passed through Parliament. DCMS, therefore, wanted to understand the current motivators and barriers to using the PSD powers of the DEA with the aim of increasing uptake of the powers.

### 2.2 Research objectives

To explore current motivators and barriers to data sharing across government, the objectives of this research were to:

1. Identify the motivations for and barriers to using the PSD powers;
2. Explore ways in which barriers can be addressed and overcome effectively;
3. Assess the effectiveness of central messaging in encouraging voluntary uptake of the opportunity – and assess what, if anything, could better encourage take up.

### 2.3 Methodology

#### 2.3.1 Stage 1: Rapid Evidence Assessment

To ensure that our conversations with stakeholders were grounded in a robust evidence base and building on current knowledge and experiences, we began the project by collating existing evidence on the drivers and barriers to using the PSD powers. Kantar carried out a Rapid Evidence Assessment involving background reading of 12 policy documents and other research and insight. The aim of this was to inform future stages of the research, for example to think about key questions to ask in the stakeholder interviews, and to look for emerging themes from a behavioural perspective.

Kantar worked with DCMS to find data sources to use as part of the Rapid Evidence Assessment, using a mixture of materials from events related to the DEA, forum and survey data from DCMS and MHCLG, as well as online reports and information which analyse behaviour and attitudes towards data sharing. The sources used are listed in Appendix 1.

To gauge the behavioural barriers and motivators for using the data sharing powers, we analysed these reports and documents using Kantar's Behavioural Framework (see section 2.4). From this, we produced initial behavioural themes which were most prevalent in an initial report. This was used to anticipate what some of the challenges may be around using the PSD powers, identifying knowledge gaps and implications for the topic guide.

### 2.3.2 Stage 2: stakeholder interviews

Building on the Rapid Evidence Assessment, both as a way to test the hypotheses that emerged as well as explore new barriers and motivators, the methodology then involved a primary research phase with a range of stakeholders either in the process of using or with the potential remit to use the DEA powers.

We conducted **19 one-hour stakeholder interviews** with a mixture of face to face (three interviews) and telephone interviews (16 interviews).<sup>1</sup> Interviews took place between 9<sup>th</sup> March – 26<sup>th</sup> March 2020. Interviews were a mixture of individual and paired interviews which lasted 45-60 minutes each. Paired interviews are counted as one interview in the achieved sample figure.

Kantar worked with DCMS to agree a sampling framework, drawing on the key objectives under the PSD powers<sup>2</sup> (multiple disadvantages, fuel poverty and water poverty), key organisations who often facilitate data sharing requests from other public authorities (e.g. HMRC and DWP) and those with experience of using other elements of the DEA for Research or Debt and Fraud purposes (UKSA, Cabinet Office). Within this sample frame, we included stakeholders at both a central and local government level in order to understand any potential differences in barriers for these groups in using the powers.

The stakeholders were first informed about this research by DCMS and Kantar then followed up to arrange interviews and the logistics regarding fieldwork.

During fieldwork, several stakeholders noted a desire for health and social care data to be included as part of the PSD powers. To further explore this barrier and to ensure that a diverse range of stakeholders related to the PSD powers were included, an extra interview with NHSX was included to incorporate the views of the health sector.

As part of the discussions with stakeholders, the following topics were discussed with some variation depending on the type of stakeholder and interview format (paired or individual):

- Associations with the data sharing and the Digital Economy Act
- Journey mapping of experiences of using the powers relevant to the stakeholder, exploring barriers and facilitators at each stage in detail
- Ways of overcoming the barriers identified and prioritisation of which barriers are most potent
- Communications around the powers and interactions with DCMS

For more details of the achieved sample or the topic guide, please see the appendices.

## 2.4 Analysis and the Kantar behavioural framework

### Analysis

Our approach to analysis was robust, encompassing a rigorous approach and strong focus on insights. Our approach included researcher brainstorms as well as using a qualitative analysis framework to explore stakeholders' responses thematically. Researcher analysis sessions were used to support interpretation of the data, during which the team came together to discuss and test emerging themes and insights. For this research, given the journey mapping exercise and the different powers stakeholders may have used, this was tailored and analysed in view of this and with separate frameworks for each. For other sections (for example associations) where there could be more consistency in experience, this was compared across

<sup>1</sup> Due to the growing concerns around COVID-19 at the time of fieldwork, in order to ensure the safety of both stakeholders and researchers, some interviews which were intended to be face to face were transferred to be telephone interviews.

<sup>2</sup> Please note that including a stakeholder with a remit for TV retuning was considered, however, upon consultation with these stakeholders it was decided that stakeholders were not currently seeking to use this objective and therefore may not be as aware of some of the barriers as other potential stakeholders for inclusion.

stakeholder type and group. To populate the frameworks, researchers listened back to interview recordings so that aspects such as tone could be captured which would not be possible through a transcript. These methods of analysis focus on identifying insight that highlights the most important barriers around using the PSD powers and ways the research can be used by DCMS to inform strategies to overcome these barriers.

### Kantar behavioural framework

The Kantar behavioural framework has been used in the analytical process to identify the full range of drivers of data sharing behaviour. This falls broadly into two categories of ‘automatic’ and ‘reflective’ to show the difference between behaviour which stakeholders do without thinking or are outside of their control (automatic) and those which they are conscious of and make decisions based on (reflective) – meaning that we account for conscious and unconscious behaviour in our analyses. For automatic response, this was explored within the interviews by asking about top of mind associations and noting where stakeholders discussed barriers which they considered to be a unconscious association or a ‘knee jerk’ reaction, for example fear around data sharing. On the other hand, reflective associations would be those that stakeholders are conscious of; e.g. not feeling able to use the powers because of knowledge gaps.

The behavioural framework facilitates considerations of eight behavioural domains:

- *Context/setting*: how behaviour might be impacted by an environment or physical barriers to data sharing
- *Heuristics*: top of mind associations or mental shortcuts made when thinking about data sharing or data generally
- *Habit*: behaviour as part of an existing routine
- *Morality*: considerations of right or wrong
- *Norms*: how behaviour is viewed within a group or community
- *Cost/benefit*: weighing up whether the potential benefits of the behaviour is worth the risk
- *Efficacy*: how able people feel to enact a behaviour
- *Legitimacy*: is the policy seen as credible or actionable

**Figure 2.1: Kantar Behavioural Framework**



The framework has also been used to form ideas for changes or interventions to overcome emerging barriers; e.g. design (setting the physical context or changing situational cues), control (legislating, regulating or enforcing), educate (informing, advising, building awareness), and persuade (engaging, motivating, putting the issue on the agenda). It indicates the most effective methods for leveraging or addressing different kinds of influence, so as to achieve behaviour change. This tool was used as part of the analysis



for this report by considering where the barriers and motivators for using the PSD powers fell within the framework. For some barriers, there is a clear pattern around a certain area of the framework which may strongly suggest a certain action that needs to be taken. However, for this research, as highlighted by the REA, there were a range of barriers which may suggest that multiple interventions will be needed to increase uptake of the PSD powers.

# 3. Stakeholder attitudes towards the Digital Economy Act and the Public Service Delivery powers

*This chapter reports on stakeholder attitudes towards data sharing and their views about, and suggestions on how to improve, the Digital Economy Act (DEA) and Public Service Delivery (PSD) powers.*

Stakeholders across the sample viewed data sharing as highly valuable to their work and service delivery, whilst also associating it with risk and complexity. Data sharing was seen to provide new knowledge and increase organisational efficiency. It was also deemed to be highly monitored and regulated, and currently lack common data models and systems. Stakeholders felt that data sharing practices and initiatives were not prioritised sufficiently by government and were often not appropriately resourced.

Overall, stakeholders in the sample were quite positive about the DEA and PSD powers. They described both the general positive impacts these have had on data sharing overall (such as through simplifying and standardising data sharing) and the way they have helped secure specific types of data for certain projects. Stakeholders were generally quite satisfied with the policy areas that the current objectives cover, and most did not express desire for specific additional objectives to be added to the Act. However, stakeholders felt that the current objectives could be modified to increase uptake, by making them broader, more dynamic, and feel more relevant to a wider range of organisations that could use them. Furthermore, stakeholders felt strongly that the PSD powers should allow for health and social care data to be shared, arguing that it could have a 'transformational' effect on service delivery.

## **3.1 Attitudes towards data sharing**

This section explores the differing attitudes towards data sharing across the sample, and identifies drivers of these attitudes.

### **3.1.1 Valuable and important**

Attitudes towards data sharing were generally positive and stakeholders repeatedly expressed the value of data sharing to their work and the services that government delivers to citizens: examples of positive words used to describe data sharing by stakeholders are represented in Figure 3.1 below. These positive attitudes towards data sharing were reflected in the numerous data sharing arrangements stakeholders were involved in and their overall enthusiasm to take part in this research, which they hoped would contribute towards facilitating greater data sharing within public organisations and government. It is worth noting however, that their involvement and familiarity in data and data sharing - as data formed a central part of all stakeholders' roles - has likely shaped their attitudes towards it and those not working in data focused roles may have different views of its value.

Stakeholders expressed the importance of the new knowledge that data sharing provides them with, that they are unable to access from elsewhere. For example, multiple stakeholders stated the benefits of data sharing in providing information that allows for the identification of individuals that qualify for public services; such as vulnerable families for the Troubled Families programme and pensioners for the Warm Home Discount Scheme. Without data sharing, and the detailed information it can provide about individuals,

stakeholders felt it would be difficult to locate the correct people to target services at, or identify those who are accessing services that they are not eligible for. Stakeholders further expressed the benefit of data sharing in increasing efficiency and reducing costs for government. For example, data sharing can prevent multiple organisations from collecting and producing similar data sets, saving time and money.

*“Sharing data on things like vulnerability, indebtedness and income, allows sensible choices to be made, sensible decisions...” (Stakeholder)*

*“As an example, if someone applies for an income related service, such as legal aid or social security benefit or a grant, if you cannot have data sharing that department at best has to duplicate the efforts of government to get income information which already comes into HMRC, and at worse they are lied to, and someone has access to a service or benefit that they are not entitled to.” (Stakeholder)*

*“At the end of the day we are all part of one big public sector, so why shouldn't the data, where appropriate be shared to give the greater good back to the taxpayer.” (Stakeholder)*

**Figure 3.1: Words stakeholders used to describe data sharing**



### 3.1.2 Complexity and risk

Whilst widely perceived to be highly beneficial and valuable across our sample, data sharing was also commonly seen as complex and risky by stakeholders. This tension is illustrated in Figure 3.1 above, showing the words individual stakeholders simultaneously associated with data sharing.

Stakeholders associated data sharing with risk, and saw it as highly monitored and regulated. Stakeholders emphasised the highly cautious approach they took when sharing and using data because of the multiple pieces of legislation and codes of practice they need to adhere to, and the monetary (through fines from GDPR breaches from the ICO) and reputational costs that mishandling data can cause. This attitude was also reflected in a 2019 Ministerial update from DCMS, which stated that stakeholder feedback suggested that organisations were reluctant to share data because of concerns that data regulations might be breached in the processes.<sup>3</sup>

Data sharing was further seen to be complicated and difficult due to a lack of common data models and systems, and the complicated nature of partner relationships. A lack of shared data approaches produces data that is difficult to combine or does not have appropriate identifiers to match like for like information across datasets. Stakeholders found it difficult to build trust with partner organisations that they want to receive data from and reassure them of the safety and legal basis of potential data sharing agreements.

<sup>3</sup> DCMS (2019) Ministerial update.

Stakeholders explained that these difficulties could result in data sharing agreements taking a long time to draw up, or data not being shared at all.

Stakeholders believed that the strong association of data sharing with risk and complexity was particularly held by local authorities. They viewed local authorities as having less detailed knowledge of GDPR and data sharing legislation, and thought that this resulted in greater fear of conducting data sharing incorrectly.

*“Difficult; when it comes to personal data it is very complicated and everyone obviously takes the most cautious view possible because of the implications for the organisations. Not just the implications for the organisation but any individuals directly involved in handling the data as well.”*  
(Stakeholder)

*“[The enforcement notice from the ICO], then it’s a chilling effect throughout the whole system, which I think is really big.”* (Stakeholder)

*“Getting meta data across government consistent is a real horrendous mess.”* (Stakeholder)

### 3.1.3 Government prioritisation

Despite its perceived importance across the sample, stakeholders believed that data sharing practices and initiatives were not being prioritised or appropriately resourced by government. Stakeholders felt there was little desire from government to improve data sharing methods; one stakeholder referred to their desire for a singular government data sharing system as “blue-sky” thinking. Similarly, stakeholders felt economic funds aimed at improving data sharing activities were low and precarious. There were concerns that smaller departments and local authorities lacked the economic capacity to share and take full advantage of received data sets. Funding was also perceived by stakeholders as likely to be diverted towards activities deemed more important, with Brexit being a commonly cited example. This view is echoed in the National Audit Office’s 2019 report, considering challenges of using data across government, where they stated that data projects are often set aside when funding is under pressure.<sup>4</sup> Stakeholders further felt that data projects fail to receive appropriate government recognition; for example, stakeholders spoke about the vital role of data to the government’s digital transformation strategy and how data projects have lacked the publicity that digital transformation projects have received.

This perceived lack of prioritisation and resourcing added to perceptions that data sharing was complex and difficult.

*“There has to be the money to be able to assist people who do the fundamentals of clearing up their data producing standard interfaces.”* (Stakeholder)

*“There has always been underinvestment, always in a time of cuts, it seems to be the first area that goes. And it’s paid less attention to and in a more digitally enabled world it becomes more and more important to be able to have good standards around data etc.”* (Stakeholder)

*“The recognition of the importance of information governance as a discipline...A lot of time emphasis is put on digital [and] digital transformation, we have an act for that, but you never hear anything about the information and data, and there is an awful lot of work that goes into making data ready to be shared in that way through apps and stuff, and through digital technologies, and that is hidden in the background, so it’s unearthing all of that, making it just as important as everything else.”*  
(Stakeholder)

<sup>4</sup> National Audit Office (2019) Challenges in using data sharing across government. <https://www.nao.org.uk/wp-content/uploads/2019/06/Challenges-in-using-data-across-government.pdf>

## 3.2 Views and associations with the Digital Economy Act and Public Service Delivery powers

Stakeholder levels of knowledge about the DEA differed significantly across the sample. Some knew great detail about specific PSD powers and the DEA and were involved in developing the legislation, while others had only recently heard of the DEA and knew little about the process of developing a data sharing agreement under the powers.

### 3.2.1 Benefits of DEA and PSD powers

Despite the differing levels of knowledge of the DEA, stakeholders were generally positive about the idea of the DEA and PSD powers, describing both the general positive impacts these have on data sharing overall, and the way they help secure specific types of data for certain projects.

The kinds of benefits described by stakeholders were often linked to the level of stakeholder involvement in the creation of the DEA. Stakeholder involvement in development of the DEA had resulted in a PSD objective and schedule being shaped around access to a certain type of data for a specific project/scheme. For example, BEIS was involved in ensuring that the DEA allowed certain types of data to be accessed from fuel providers for the Warm Home Discount Scheme. As a result, these stakeholders (usually from government departments) often viewed the PSD powers as created to tackle specific data challenges faced by certain public services, and thought that this was the main benefit. In comparison, stakeholders not involved in the creation of the DEA (usually Local Authorities) had less knowledge about the context of the creation of the powers, and the access of data for specific public services that it intended to allow. As a result, these stakeholders tended to see the purpose of the powers and positive impacts as more general in nature.

General positive impacts of the DEA, described by the stakeholders, included simplifying data sharing. Stakeholders explained that multiple pieces of legislation were usually needed to support data sharing agreements. In contrast, the DEA allows agreements to be produced that rely on only one piece of legislation. The stakeholders described how relying on a single piece of legislation not only makes it easier for public bodies to understand the legislation that they rely on for data sharing, but also makes explaining the legal basis of a data sharing gateway to partner organisations, and the public, simpler. Stakeholders also felt that the creation of the DEA signalled greater government interest in data sharing, which provided increased leverage to gain buy in from partner organisations, simplifying and reducing time spent putting data sharing agreements in place.

*“The Digital Economy Act is attempting to make the whole process more transparent and a bit easier to understand and to simplify multiple streams of data sharing legislation under the one.” (Stakeholder)*

*“Massively helpful... It completely streamlined the legislative landscape and what you had to navigate through. But it also gave you a mechanism in which to have a much more clear and coherent conversation with the public about the legal basis you were relying on and what makes your sharing legal.” (Stakeholder)*

Stakeholders further believed that the DEA and PSD powers standardise data sharing and increase good data sharing practice. Stakeholders felt that much data legislation is unclear, and that as a result public bodies have different interpretations of how legislation can be used and produce similar data sharing agreements that rely on differing combinations of legislation. In contrast, the DEA is a singular clear piece of legislation that public bodies can rely on. Stakeholders felt that bringing data sharing agreements under this singular new legislation leads to more consistent, and therefore better, data sharing practice.

*“One of the issues that emerges in local authorities is multiple interpretations [of legislation] and if there is multiple interpretations of multiple legislations then its less clear than if you’re trying to interpret one legislation, so there is benefit if people were to revolve around this legislation [the PSD powers].” (Stakeholder)*

*“I think the advantage is that it would bring common practice into one consolidated place, it isn't a one stop shop, but it is a focal point for where this type of information is pulled together, and as a consequence, better practice could emerge.” (Stakeholder)*

Stakeholders also explained a range of specific ways that the PSD powers have impacted certain projects and services that they run, through allowing new types of data to be obtained. For example, stakeholders explained that the PSD powers have allowed for data to be received from energy providers, supporting the easier identification of the fuel poor to include in relevant schemes, such as the Warm Home Discount Scheme. Similarly, stakeholders described how the PSD powers have opened up access to DWP data, allowing a range of vulnerable individuals to be identified for water schemes, and how the multiple disadvantages power was designed around access to specific data for the Troubles Families programme.

### **3.3 Appropriateness of the current Public Service Delivery objectives**

This section highlights feedback on the current PSD objectives and schedule, and suggestions for improvement to increase uptake of the powers.

#### **3.3.1 Objectives and the schedule**

Overall stakeholders in the sample reported being quite satisfied with the policy areas that the current objectives covered and most did not express desire for specific additional objectives to be added to the Act. Generally, stakeholders had little awareness of the steps involved in creating new objectives, and only one stakeholder had plans to create a new objective (around early learning and childcare development). Rather, a common opinion was that the TV retuning power was no longer relevant and could potentially be removed. However, it is worth noting that stakeholders in this research project were involved in policy areas that had a clearly linked PSD power. Individuals working outside of debt and fraud, water, fuel, and multiple disadvantage may have felt differently. Furthermore, stakeholders tended to think about the powers with reference to their own policy area and commonly lacked knowledge and awareness of other objectives. As a result, stakeholders were less able to critically engage with the idea of updating and amending the objectives overall, and how such changes might benefit other bodies working in different policy spaces.

Meanwhile, some stakeholders expressed a specific desire for Scotland and Northern Ireland based organisations to be added to the schedule. Scottish organisations are already on the schedule and this demonstrates a lack of awareness by stakeholders of the range of organisations on the schedule. There was also a feeling that those put on the schedule for the water poverty power were “not as thought through” as the other powers, and that public organisations and the services they deliver would benefit from additional and different organisations being added. Stakeholders thought that this oversight was due to water poverty being added last in the PSD policy development phase.

#### **3.3.2 Suggested improvements**

Despite generally not being able to suggest specific new additional objectives to be added to the DEA, stakeholders felt the current objectives could be modified to increase uptake. Stakeholders believed the current PSD objectives were too narrow in scope and only allow for data to be accessed for very specific types of public services within a policy area. As a result, stakeholders stated that the current objectives should be broadened to allow for greater access. For example, one stakeholder was disappointed that the multiple disadvantages objective was moved from an indicative list of disadvantages to a definitive one. They felt that this limited the benefits of the PSD powers, reducing the types of services working around multiple disadvantages that could benefit from them. Similarly, another stakeholder explained that while there are lots of schemes focused on reducing water poverty (which can use the water poverty objective) there is also lots of important work related to non-financial water vulnerability (such as schemes warning vulnerable individuals, with certain medical conditions, about potential water disruptions). A stakeholder suggested having a new “catch-all” objective, that allowed for multiple kinds of data to be accessed for a wide range of public services, beyond water, fuel, multiple disadvantages and TV retuning. Furthermore, there were

suggestions that the powers should be made more flexible, adaptive and dynamic, allowing them the ability to change their scope to respond to new and unprecedented events, such as Covid-19.

*“Second concern was about the restrictive nature of the constraints that were placed on the powers in the act. Data sharing only allows for a very tightly defined purpose, which may be overly prescriptive, but overall these powers are welcomed.” (Stakeholder)*

*“The powers are restricted to 'water poverty', which relate to financial vulnerability, but water companies also have schemes that relate to non-financial vulnerabilities- their personal circumstances may mean that they need different assistance. For example, a consumer may have a health condition which means that they might be particularly vulnerable to a water supply interruption, such as a dialysis patient or a consumer with reduced mobility who may struggle to leave the property in a supply interruption...At the moment there is no ability to share data in relation to schemes like that (called priority services).” (Stakeholder)*

As well as feeling that the powers were too narrow, stakeholders simultaneously thought that they could be too broad and therefore feel irrelevant to organisations that could use them. Stakeholders believed that the multiple ways powers can be harnessed for data sharing is often not clear from the name given to them. This has led to powers that can seem irrelevant to suitable teams/organisations. These views were particularly expressed towards the multiple disadvantages power and it was felt that the name of the power did not make it clear the specific and multiple kinds of public services it was aimed at, such as those tackling homelessness or drug dependency. Without clarity around what specific areas a power covers, stakeholders believed organisations might lack confidence to use a power and be overly cautious. Stakeholders felt work needed to be done to demonstrate the various ways the powers can be used to engage a wider range of public bodies and organisations.

### **3.3.3 Health and social care data**

Stakeholders felt strongly that the PSD powers should allow health and social care data to be shared. Currently, health and social care data cannot be shared under the PSD powers. When the legislation was drafted there were concerns from medical bodies that unconsented sharing of health data could undermine the medical professional's duty of confidentiality and impact practitioner-patient relationships. Despite this, stakeholders described the “transformational” effect that shared health and social care data could have to their organisation and believed it would greatly improve public service delivery, such as through enabling the identification of those with health conditions that are vulnerable to interruptions in water supply. They further felt that if the DEA included health data, it would make the legislation more all-encompassing, allowing public bodies to access a large spectrum of data sets. Stakeholders believed that the regulated nature of the PSD powers (through review boards, the national register and the need to publish a range of documentation) means that it is suitable legislation, which ensures good data sharing practise, through which health and social care data could be safely transferred.

*“[Health and social care data] would be truly transformational. It would make the use of the powers much more prevalent.” (Stakeholder)*

*“A lot of local authorities thought 'this doesn't have the only thing they need [health and social care data]'.” (Stakeholder)*

*“It's that understanding from local authorities about what it offers because it doesn't offer health [data], if they thought that it was a one size fits all I think they would use it more.” (Stakeholder)*

# 4. Experiences of using the Digital Economy Act

*This chapter reports on stakeholders' experiences of using the Digital Economy Act with focus on the Public Service Delivery powers, as a key objective of this research. The motivations and barriers were identified through journey mapping exercises with stakeholders to understand nuances at each step of the process. For some stakeholders who may facilitate other organisations' use of the powers, this was based on their interactions with organisations and helping others use the powers, as well as their own engagement with the powers.*

Stakeholders across the sample reported a desire to see the powers used to improve government policymaking and service delivery to vulnerable groups. They were motivated by legal, moral and efficacy factors. However, stakeholders also reported experiencing a range of significant barriers that have so far meant the Public Service Delivery powers have been underutilised. The barriers described by stakeholders cut across a range of aspects relating to the Public Service Delivery powers, including: the scope of the powers in terms of what is and is not included; a cultural aspect of fear and risk aversion around sharing of data and the potential consequences for individuals and organisations of incorrect sharing of data, which leads to a lack of focus on the benefits of data sharing; a lack of knowledge around the Digital Economy Act, as stakeholders expressed a sense of the legislation being difficult to understand; a lack of a national joined up strategy around data sharing meaning that it is siloed and not fully prioritised across government; and resource pressures in terms of the time it has taken stakeholders to set up data sharing agreements and the amount of input that has been required from both parties in the data share.

## 4.1 Motivations for using the powers

This section reports the key motivations highlighted by stakeholders for using the PSD powers. These correlate with overall associations and attitudes to the Public Service Delivery powers, which suggests that stakeholders' are conscious of reasons for using the powers even if it is difficult to achieve in practice. There were three main reasons why stakeholders had been trying to use the powers: to fulfil a legal duty, a moral duty, and/or to help them to access data that they had not been able to access before.

While knowledge and usage of the PSD powers may not yet be fully realised, there was a desire among stakeholders in the sample to use the powers and understand how they can be used to support their policies and the work of government more widely. Understanding these motivations can help DCMS support public sector organisations to achieve their objectives and fulfil their needs for data sharing.

### 4.1.1 Legal motivation for using the powers

A key driver of use of the PSD powers was legitimacy. One of the main motivations for stakeholders for using the PSD powers was that, by creating a new legal gateway, public sector organisations said that they had a framework through which a data sharing agreement can be legitimately considered. Thus, as a permissive power, it means that data sharing is legally able to happen and therefore this understanding that the data sharing has a feasible path and way to be agreed makes stakeholders motivated to use and explore it in a way they may not have considered without the powers



*“It [the Digital Economy Act] completely streamlined the legislative landscape and what you had to navigate through.” (Stakeholder)*

For some stakeholders this allowed them to think about ways in which their current data sharing agreements could be expanded; for example to include a wider subsection of a population identified through data sharing. Because it is a new legal gateway, it is also seen by some stakeholders as being a more standardised approach to data sharing, particularly compared to previous data sharing agreements that might have relied upon numerous pieces of legislation in order to be feasible. As a result, this legislation, at least from a legal perspective, offers greater security to stakeholders and greater clarity in what is required.

For others this new legislation has allowed them to consider requesting data that they would not have been able to access without the Digital Economy Act. For example, even where some stakeholders suggested that there remains a lack of knowledge around certain aspects of the legislation, they highlighted a clear desire to use the gateway. By having these powers in place, stakeholders believed that this would enable conversations to happen between those requesting the data and those holding the data about what could be achieved through it, giving greater legitimacy to this request than existed before.

*“There was now a legal gateway and it could be taken forward. The questions turned from being whether to how and when.” (Stakeholder)*

Additionally, one stakeholder mentioned that this adds public trust as public sector organisations can clearly show the legislation that permits them to share certain data and the requirements they have met to obtain it.

#### **4.1.2 A moral duty for using the powers**

Perhaps a stronger motivation that emerged for using the PSD powers across the sample was a moral duty. This aspect closely related to the wellbeing aspect of the powers and a desire amongst stakeholders to better support vulnerable people through the objectives listed. For example, being able to better understand a family’s situation and how they interact with public services or being able to identify those in risk of fuel poverty and being able to offer automatic rebates to support them.

*“I think data sharing underpins some of the most important solutions to human problems that there are.” (Stakeholder)*

Conversely, some stakeholders also shared examples of instances where a lack of data sharing had significant social and financial consequences for the safety or wellbeing of individuals. As a result, there was a general feeling among stakeholders that data sharing holds a moral importance. This was demonstrated as two stakeholders said that, when done correctly and legally, data sharing has the potential to ‘save lives.’

#### **4.1.3 Improves efficiency of government functions and policies**

Another motivation for using the PSD powers focused around stakeholders’ understanding that, as well as being a framework for standardisation, the Digital Economy Act is a more advanced way of sharing data than other methods. From this, it was seen to move towards more advanced systems and ways of working within government more generally and some stakeholders who have been able to share data in certain ways previously saw their work as being unique in government and at the forefront of that advancement.

In view of this, the powers were seen as a way to support the wider government agenda around data sharing and contribute to advancement in this area, even if some felt that the powers considered data sharing at an individual policy level that could be more joined up. Specifically, this aim of supporting the wider UK government and economy was mentioned not only by stakeholders looking to benefit from the powers but those for who may be in a position to share their data with other public sector organisations, showing a recognition that data sharing can have wide benefits to government.

*“[Right use of the PSD powers is] helping to meet the wider government agenda of data being more visible and trying to ensure that government as a whole is better aligned.” (Stakeholder)*

From this, two twin sub-motivations emerge: cost saving and efficiency. Some stakeholders mentioned the potential for long term cost saving as a motivator for using the PSD powers as it may save resource that individual public sector bodies otherwise may need to collect themselves. As a result, it enables public sector organisations sharing data to be more efficient as work is not duplicated from organisation to organisation. This is particularly relevant given that some of the policies the PSD powers are supporting are key parts of government policy and strategy and therefore are a priority within the Government's agenda. Therefore, when fully utilised, stakeholders perceived that these powers may help to make these policies more effective within government; for example better targeting and identifying those policy is aimed at.

#### **4.1.3 Comparison of the PSD powers with other powers under the Digital Economy Act**

These motivations are similar to those reported by stakeholders for use of the Debt and Fraud powers and the Research powers. For example, legitimacy remains broadly the same as a motivator for these powers. Some stakeholders reported greater knowledge around these other powers compared to the PSD powers, which the below factors may contribute to.

However, for the Debt and Fraud powers, while there is a moral aspect (for example in not asking customers to repay their debt all at the same time), some stakeholders suggested that the financial nature may make it easier to demonstrate the financial benefits to using the powers because an exact amount can be estimated around how much money will be saved. From this, there is the suggestion that the benefits may be more immediately measurable and tangible. Alongside this, some aspects of recovering debt and fraud is in line with government and departmental activities already and therefore may be a motivator/facilitator for some stakeholders in using the powers through being able to make clear and strong business case.

For the Research powers, motivations were broadly the same but with a slightly different emphasis as stakeholders noted the focus on enabling access as well as the element of wellbeing as in the PSD powers and also suggested that the Digital Economy Act replaced other gateways that stakeholders considered 'more burdensome', with the suggestion that perhaps there are fewer barriers to using the Research powers compared to the PSD powers. Stakeholders also noted broader definitions and different scrutiny processes for the Research powers which are more focused around a broad consensus of agreeing the data sharing process to continue compared to the PSD powers which is perceived to be more rigid and therefore this simplified process may be another motivator for use of these powers compared to their other options.

#### **4.2 Barriers to using the powers**

This section reports the barriers described by stakeholders to using the PSD powers, categorising these thematically. Some of the barriers are closely connected to stakeholders' perceptions and associations with the Digital Economy Act more broadly (see chapter 3). Notably, stakeholders experienced a wide range of barriers to using the PSD powers, linked to both automatic and reflective behaviour— for example those that are based on the context and automatic associations with data sharing as well as reflective barriers around cost benefits analysis of using the powers and understanding of the powers and their requirements

##### **4.2.1 The scope of the powers**

Stakeholders perceived the scope and framing of the PSD powers to be simultaneously too broad and too narrow. As mentioned in chapter 3, this formed a key part of some stakeholders' perceptions of the legislation. Some stakeholders considered the powers too broad in the definition of 'wellbeing' to the extent that it might not be clear what it can be used for. On the other hand, while the legislation is relevant for some specific policies under the objectives, and therefore is useful for those groups trying to use them, others have found the powers to be somewhat inflexible.

For some stakeholders this was particularly related to the scope of the disadvantages listed under the multiple disadvantages objective and the move from an indicative list (examples of the types of disadvantages included) to a definitive list (a list of the disadvantages included). Stakeholders were aware that this was likely for the purposes of keeping the powers focussed and not too broad for those concerned

about the data sharing legislation but also felt that this change was considered too far towards the end of the process. This sense of disappointment emerged for this aspect in particular as stakeholders could identify other disadvantages from specific events that had become apparent to them in their policy roles (for example in relation to those disadvantaged by flooding or from COVID-19). They understood disadvantages to not be a static characteristic but also dependent on circumstances. One stakeholder said that as a result of this they have advised other organisations seeking to use the powers that their aim does not fit under the multiple disadvantages objective and therefore would not be considered legal despite potential significant benefits to disadvantaged groups.

*“We were a little disappointed that for the multiple disadvantages objective moved from an indicative list of disadvantages to a definitive one at a late stage.” (Stakeholder)*

In line with the findings from the Rapid Evidence Assessment, conducted as part of this research, the lack of inclusion of health and social care data emerged as a barrier to better uptake of the PSD powers. Those with a local remit (non-central government departments) particularly had need for health data because of their role at a local level in provision in this area. For some stakeholders this was perceived to be a key gap in the PSD powers, especially given that some policies rely on having access to data related to disadvantages and therefore without health and mental health data this felt incomplete for stakeholders. This was seen as one of the most significant barriers to uptake of the PSD powers for some stakeholders.

*“A lot of local authorities thought ‘this doesn’t have the only thing we need’.” (Stakeholder)*

#### **4.2.2 A culture of risk aversion prevents effective data sharing and overshadows the potential benefits**

Another key barrier that stakeholders reported is a sense of a ‘fear culture’ around data sharing which prevents effective take up of the PSD powers. While some of this is related to a desire to be legal and ethical in data sharing, some felt that this fear was instinctive and went beyond the practical considerations around data sharing. Because of this, when some stakeholders considered data sharing from a cost/benefit point of view, the risks and fear of the consequences of making mistakes felt stronger than the negative consequences of not sharing data, even if the outcomes of that would be serious on a social level; for example not sharing data about a vulnerable child or adult that leads to harm to that person which could have been prevented.

The extent of this perception varied across stakeholders, but all were aware of a risk averse approach to data sharing which commonly exists across public bodies, separate from what the legal gateways may allow. Part of this was connected to levels of knowledge around the powers, an additional barrier (see 4.1.3). Within this overarching automatic barrier, risk aversion stemmed from and was exacerbated by both internal and external sources.

##### **External drivers of risk aversion**

The following three external contributing factors to risk aversion in public bodies are closely connected and intertwined.

**Public perceptions and trust in data sharing** was a key consideration and potential driver of risk aversion for some stakeholders. This was connected to examples stakeholders gave around media stories where data sharing had been mishandled and the reputational impact for those involved.

*“[There’s] a legacy of national media campaigns which has highlighted an issue, which has meant the public has said... ‘please don’t share’.” (Stakeholder)*

It was also a particular concern in relation to data about individuals that may be very personal, in particular around confidential health and social care data. Stakeholders perceived that a barrier to health and social care data may be that the public may not want their data to be shared in this way. That said, one stakeholder noted that the public health situation around COVID-19 may be an opportunity to better understand how the

public wish for their health data to be used, and in what circumstances it may be considered reasonable and acceptable to share.

Stakeholders perceived the legislation around data sharing to contribute to risk aversion, with those involved in using the powers **highly aware of the consequences of getting data sharing wrong** and the potential financial risks associated with this. Some stakeholder reported being aware of examples of this, which heightened this fear further. This was also connected to public perception in that wrongful data sharing may result in a deterioration of trust in that organisation. This barrier was seen to be stronger for organisations at a local level, either because of greater scarcity of resources or the perception of a more ingrained culture of risk aversion.

*“People focus in or are really cognisant of the fact that getting it wrong has high penalties and I think that can often be the focus rather than what the powers are there for in the first place.” (Stakeholder)*

GDPR was often closely connected around some of the fears of data sharing more generally, and some stakeholders felt that this could have had an impact on risk aversion relating to the Digital Economy Act. Part of this was related to communications around GDPR that made stakeholders prone to be cautious while connected to this was a confusion around how the two pieces of legislation interact, and which takes precedence.

*“I think GDPR might have heightened that [cautiousness] quite a lot. The messaging around GDPR focused on the issue that you really need to be careful about what you are doing with data” (Stakeholder)*

### **Internal drivers of risk aversion**

Risk aversion was a barrier both for those sharing the data and those receiving the data, though in somewhat different ways. For those receiving the data, risk aversion was linked to stakeholders' concerns (closely connected to fears of penalties) that a data breach would have not just a financial impact but also a reputational impact which may heighten internal risk aversion as a result. For those sharing the data, the reputational risk was perceived to be in relation to their duties to the individuals who they hold data on behalf of. Therefore, a data breach may have a reputational risk for those relationships, perhaps regardless of whether the data breach was from their organisation or an organisation they shared data with.

Differences in attitudes within teams as well as across partners was also seen to contribute to a risk averse culture around data sharing. In particular, some stakeholders noted that differences of opinion between data sharing experts in different organisations contributed to this due to a sense that there were different interpretations of what is allowed under the PSD powers. Some policy stakeholders also suggested a potential risk averse responses from information governance teams around questions connected with the legislation, this may be due to the nature of their role in ensuring compliance with data protection legislation.

*“Different interpretations of this legislation depend on who you speak to sometimes.” (Stakeholder)*

### **Impact of risk aversion**

Two impacts were seen by stakeholders to result from this culture of risk aversion. Firstly, a focus on the risks and the penalties for not complying with data sharing legislation was seen by many stakeholders to **overshadow the benefits**, at least on a top-of-mind level, when considering the cost/benefit analysis. It is worth noting that when considering this behavioural aspect as part of the REA, cost was generally considered from a financial angle. However, stakeholders saw this much more clearly as a reputational cost rather than the cost of a data sharing agreement.

*“There’s a careful judgement to be made in terms of the risks but ultimately I think we need to bear in mind the benefits, what’s the outcome, what’s the benefit to the household.” (Stakeholder)*

Another outcome from this risk aversion, particularly at a local level, was that using the PSD powers – with the potential for making mistakes along the way and therefore being subject to penalties – has led to some public sector organisations **continuing to use longstanding data sharing gateways** instead. While this could also be viewed as its own barrier in that habit that may cause reticence to change as there is familiarity in the current ways of operating data sharing agreements, this was seen by stakeholders to be the result of either a lack of health and social care data as a trigger to using these new powers, or a reliance on using these old gateways because they are considered to be safer and less risky.

*“For some areas it’s a cultural shift moving from data sharing agreements they’ve already got in place to using something else.” (Stakeholder)*

#### **4.2.3 Knowledge and misunderstandings around a complex set of powers**

##### **Accessibility**

As mentioned in chapter 3, stakeholders reported mixed familiarity around some aspects of the Digital Economy Act but were generally aware of the aspect or power that was most applicable to their role or remit. This may in part be based on the fact that the legislation is relatively new and that some stakeholders may not have been able to put in place all of the promotional work around the powers that they would have liked to.

At an overall level, one stakeholder perceived the name ‘Digital Economy Act’ to be somewhat confusing to those seeking to use it and potentially as a barrier to those seeking to understand what it is seeking to achieve.

*“I think it’s probably the name of it, people might not realise that’s what it’s about... it’s clear once you start reading it but it’s about whether that knowledge and accessibility is there.” (Stakeholder)*

Misunderstandings occurred among stakeholders around this accessibility aspect of the Digital Economy Act, particularly with the term ‘public authority’ which one stakeholder felt reflected central rather than local government. Therefore, this perception of a lack of accessibility creates a barrier to some organisations seeking to use the powers and may mean that potential use of the powers is not explored as fully as it could be.

*“My understanding is that the definition of public authorities is only understood to mean central government at the moment.” (Stakeholder)*

##### **Knowledge around using the powers**

Knowledge and familiarity gaps also emerged when stakeholders considered practical usage of the powers. On a topline level this included some stakeholders perceiving that there was a lack of clarity around what datasets may be helpful to share between organisations. This was thought to be clearer for some datasets than others, for example it was clear that DWP benefits data or tax related data being connected to HMRC. Other stakeholders echoed this to some extent in an example where they received a data sharing request for data that they did not hold.

*“You don’t always know what kind of partner data is held out there or which partners are actually holding it.” (Stakeholder)*

While some stakeholders reported finding or perceiving the powers as relatively easy to use, in some examples this started with an advantage in that data may have already been flowing through a previous gateway and therefore it was easier to then transition to use and expand this through the Digital Economy Act.

For the most part, however, stakeholders perceived aspects of using the powers to be complex and difficult to understand. Additionally, because data sharing by nature requires two partners, this knowledge is required to be somewhat equal, which stakeholders did not always perceive to be the case.

*“There’s also an issue around how confident partners are with it, their partners have to be confident with it as well.” (Stakeholder)*

This was also felt on an organisational level with different levels of knowledge between those in policy team and those with an information governance, legal or technical role. Some of those on the policy side, while they felt able to carry out steps related to identifying the policy objective or writing a business case, felt that some of the information about the Digital Economy Act and the Code of Practice were not accessible for their policy roles and therefore there may be a disconnect between these two groups in their approach and understanding of how to use the legislation.

*“I think language around it is sometimes a barrier, it’s often very legal and information governance speak as we call it.” (Stakeholder)*

There was also a sense that although those in a policy role understand what they are trying to achieve, there also needed to be a heavy input from those with a legal expertise. While there was acknowledgement of different specialisms and roles, a sense that some information was too complex was a barrier and that without the resource associated with legal time this would not be possible.

*“We have had to rely on our legal colleagues quite significantly to interpret the legislation and understand how we can implement it in practice and to some extent they’ve had to think about new processes and new ways of using the data.” (Stakeholder)*

Some key misunderstanding or understanding gaps were identified around usage of the PSD powers, particularly in relation to local authorities. **Consent** was highlighted by some stakeholders as a misunderstanding related to the PSD powers and the Digital Economy Act. Because these powers are about identifying vulnerable individuals, it is not possible to receive prior consent and therefore consent is not necessary. However, stakeholders acknowledged that this is confusing to some organisations who are used to the idea of consent being needed in relation to data sharing. Therefore, this aspect of the PSD powers may need to be further communicated.

Some stakeholders reported not being clear on some of the legislative requirements around the **publication of documents** relating to data sharing agreements. For some this was a more general question mark around documentation whereas for others the registering of the data sharing agreement was a particular knowledge gap and barrier. For example, there is an awareness of some local authorities using the Digital Economy Act but these were not registered, which further suggested a lack of knowledge for some stakeholders.

As mentioned in related to GDPR, stakeholders felt that there was a lack of clarity around **how the powers interact with other legislation** and which takes precedence if they appear to be contradictory. This applied to both data protection legislation as well as other Acts which relate to data. For example, if one piece of legislation says that it is a criminal offence for that data to be used by another organisation, there is a lack of clarity for stakeholders around whether this means that the Digital Economy Act cannot be used in this circumstance even if it may fit in with some of the requirements.

*“When you look at the powers it was difficult to interpret the scale and the extent to which they trumped existing legislation.” (Stakeholder)*

### **Technical and operational aspects of data sharing**

Closely linked to stakeholders’ perceptions that the Digital Economy Act is difficult to access and understand, was a sense of the powers being complex and difficult to navigate to the point of being seen as ‘too bureaucratic’. Stakeholders described a ‘wealth of information’ that is complex for organisations to digest. As with the barrier around risk aversion that is substantiated by differing legal advice, complexity around the legislation could be a cause of that lack of knowledge and led to further risk aversion.

*“I think the data protection legislation is quite complex, it’s really difficult to follow.” (Stakeholder)*

From this level of complexity emerged a sense that, while checks and balances were put in place to ensure fairness and transparency principles were part of the Act, this made the requirements of the powers difficult

to use and navigate. For those seeking to share their data with organisations, this is essential for the data share to happen as the legal consequences of a data share that did not meet the requirements would be serious.

*“The PSD powers require departments and organisations to meet a very high threshold criteria before the powers can be used.” (Stakeholder)*

Alongside this, stakeholders acknowledged that some aspects that need to be considered are based on ‘judgement’ rather than being an ‘exact science’ which may be part of the reason why some stakeholders have experienced differing legal advice. While these in themselves may not be barriers, stakeholders highlighted the following issues as needing consideration and therefore perhaps greater clarity around in order for some data sharing agreements to be acceptable to both partners.

Some stakeholders identified **data minimisation** – sharing the minimum data required to fulfil the objective of a data share – as both a key consideration for the data sharing and something that felt complex around being able to know what minimisation looked like in each specific example.

**How long organisations could hold the data** for was also a consideration that some found difficult to think about and get right in terms of what would be counted as reasonable under the powers. For example, one stakeholder which had tested the powers felt that their initial test run had been too restrictive in terms of this aspect and then meant that extra work was created when data that had been deleted would later have been practically useful.

One stakeholder noted that **resource for data storage and transfer** was often needed but not necessarily considered from the outset. While this was a growing consideration for some stakeholders with recognition of data warehouses and data lakes, there was an acknowledgement of different levels of resource and understanding of what is needed around the format and storage of data, as well as around the data transfer being a one time event or whether other arrangements would be needed.

*“I think one of the key things is the ingestion of the data itself. The secure transfer mechanism and what it should look like, how’s it being ingested into their systems, what needs to make that happen” (Stakeholder)*

For some stakeholders, identifiable data of small population groups would mean that data even at an aggregate level might identify individuals and saw this as a concern. However, there also seemed to be a lack of uniformity in stakeholders’ attitudes towards whether identifiable data was needed as part of programmes, for example some policies relied on identifying customers in order to provide certain benefits or services.

### **The impact of complexity on time and resource**

From these complex considerations, stakeholders acknowledged that the data sharing process can be frustrating and take a long time to come to fruition. Some felt that this was somewhat understandable given the scale of the policies in terms of the number of households that will eventually benefit and the need to run tests, consultations and analysis around the policy. However, as with a culture of risk aversion, the complex processes and length of time also mean that processes become a focus rather than the benefits and positive outcomes of data sharing. It also somewhat undermines the legal gateway acting as a facilitator to using the powers as the motivation is stakeholders’ belief that the data sharing agreement will happen and be worth it once the data sharing agreement is in place.

## **4.2.4 Lack of sufficient cross government prioritisation and leadership around data sharing and the powers**

### **Prioritisation of data sharing**

Stakeholders pointed to data sharing as a growing priority for government giving examples such as: Chief Data Officers within departments, having senior people within government (both departmental and at a central level, for example Special Advisers) who have an interest and an understanding of data sharing, and manifesto pledges around both data sharing and data transparency.

*“Whatever can be done to simplify the delivery of services to citizens is becoming more and more of a priority.” (Stakeholder)*

However, while there is a growing commitment to data sharing in theory, stakeholders also gave examples when data sharing had been deprioritised when other policy areas have come to the fore. This was described as being prevalent at both a central level in terms of who stakeholders could contact about the PSD powers as well as in their own remits and organisations. One consequence of this was that one organisation had not been able to put in place the governance processes needed to facilitate use of the PSD powers.

*“There have been delays due to resource pressures for other more high profile things, e.g. Brexit, and a lot of resources have been channelled into other things.” (Stakeholder)*

This finding is corroborated by the National Audit Office’s 2019<sup>5</sup> report into the challenges of using data across government, highlighting other priorities from both a resource and a funding perspective. Based on resource as well as factors such as administrative function, prioritisation was seen to be unequal across organisations.

### **A lack of cross government leadership and consistency related to data**

Additionally, stakeholders perceived a lack of sufficient national leadership and strategy around data sharing. In part, a lack of prioritisation exemplified this but stakeholders also felt that data sharing is currently driven by individual policies rather than a joined up approach to data sharing, for example with the policy leading to data sharing rather than a desire for better data sharing informing policy. As a result of this, when asked about prioritisation of data sharing, stakeholders often referred to its level of prioritisation within their policy objective under the Digital Economy Act rather than more widely within government.

*“What you have at the moment is lots of programmes across government that are really interested in data for specific purposes... But it’s like going at it backwards. Because we’re running this programme we have realised that there are all these barriers to data, but actually I think all the barriers are common which are common across lots of different programmes.” (Stakeholder)*

From this, some stakeholders mentioned that both national and local government are siloed in their approach to data in terms of outlook. This linked to departments seeing data as a strategic departmental asset rather than a strategic government asset, although for some stakeholders this was perceived to be from a data security point of view. That said, some stakeholders did report the benefits of data sharing for overall government function and processes.

This siloed approach also translated into certain systems and processes around setting out data. Stakeholders highlighted this to be the case for relatively straightforward information, for example date of birth. As a result, this can create additional barriers around the ingesting of data phase of using the PSD powers.

As suggested above, this lack of cross government unity around data sharing meant that for stakeholders who experienced disagreements among data sharing experts, there may not necessarily have been a clearly visible way of resolving issues.

<sup>5</sup> National Audit Office (2019) Challenges in using data sharing across government. <https://www.nao.org.uk/wp-content/uploads/2019/06/Challenges-in-using-data-across-government.pdf>



Overall, stakeholders perceived and had experienced several significant barriers currently influencing the uptake of the PSD powers. From a behavioural perspective, these spanned both automatic and reflective sides of the behaviour framework. On the automatic side were barriers around resource, fear and risk aversion around data sharing as well as habit around continuing to use more familiar data sharing gateways. On the reflective side, lack of joined up strategy and ways of working, lack of knowledge, complexity of legislation and scope dominated. The next section considers strategies to start to address these barriers.

# 5. Strategies for overcoming the barriers to using the Public Service Delivery powers

*This section reports some suggestions and considerations for DCMS and others in overcoming the barriers to data sharing across government identified by this research.*

Key themes that emerged as important ways of overcoming barriers to data sharing were around having a more joined up national strategy for use of data and central messaging with financial backing to support it. There were also recommendations to address lack of knowledge and fear and risk aversion through guides, communications and engagement with public debate around data privacy and transparency. Ultimately, stakeholders saw the need for not only more information but a greater emphasis on the benefits of and potential outcomes from data sharing. This reflects and builds on findings from both earlier stages of this research and the National Audit Office report.

## 5.1 Strategies for overcoming the barriers

In this section we will outline some ways the stakeholders and our analysis suggested that barriers could be overcome to increase uptake of the PSD powers in the future.

### 5.1.1 A national data strategy and a more joined up way of approaching about data sharing

To address what stakeholders perceived as a lack of prioritisation of data sharing at the national (as opposed to policy) level, there was an appetite for a national data strategy as a way to put data sharing higher on the agenda and also address some of the challenges around departments being siloed with inconsistent ways of working and approaching data sharing. This would also be important from the perspective of data sharing being grounded as approaching data sharing first and then policy rather than data sharing being driven by policy.

*“I think there’s definitely something about a central approach, a national strategy for data sharing and better use of data.” (Stakeholder)*

With the desired outcome being to signal the importance of data sharing, stakeholders suggested that this would be most effective and considered legitimate by having senior input and a central point of control. Some felt that input from Number.10 would be most appropriate for this or at least have some role to play, this was somewhat based on the weight that their voice carries and also the fact that this team is less likely to get moved around to other Departments given stakeholders’ experiences with Brexit-related work. In light of this, stakeholders acknowledged that this was moving in the right direction with senior buy-in in this area. That said, stakeholders also acknowledged DCMS as having a key role within the national data strategy with their current remit around data sharing.

*“It [a clear steer from No. 10] would then be a very clear and unambiguous message that it’s not just departmental, but cross governmental.” (Stakeholder)*

As part of this, stakeholders who had experienced disagreement within or between organisations as part of using the PSD powers would welcome a central point of contact to decide what the legislation allows when there is not a clear consensus between organisations. This would help for the powers to have greater

accountability, either in not being used for a purpose that is not appropriate or facilitating data sharing and helping to make the powers more consistent in their application.

Alongside this, it was felt that the messaging around a joined up way of thinking about data sharing needs to be in tandem with more consistent ways of using data across national and local government. Stakeholders were keen for this not to be overly prescriptive so as to be burdensome to organisations, but wanted guidance and best practice in this area.

*"I think we need a basic standard of data collection that is the same across the board." (Stakeholder)*

### **5.1.2 Promoting the benefits of data sharing**

In order to address the imbalance in perceptions of risk compared to benefits, stakeholders wanted the benefits and potential outcomes of data sharing to be much more visible across government. There was also a recognition that the cost of not data sharing may need to be highlighted in order to show the importance and consequences of not sharing data to be as great as the risk aversion and fear around sharing.

One way that almost all stakeholders cited as being a useful resource to them to accomplish this is through case studies which highlight the benefits and the tangible outcomes of using the powers for the vulnerable groups that the PSD powers are seeking to serve. Connected to this, one stakeholder suggested that DCMS may be able to spearhead this, both through this work with other organisations in producing case studies and in identifying where the powers can be used by other public sector organisations to show the benefits and how data sharing can be effective.

This would link in to the views of stakeholders who emphasised that considering the end user of these policies should be the focus to overcome challenges that may appear as part of the process to getting the data flowing.

*"An increased focus on the end user, so not the department but the public, might help sharpen minds – this is actually about delivering the improvement of the service delivery to the public, those are the people we are supposed to care about." (Stakeholder)*

### **5.1.3 The scope of the powers**

Connected to the barriers around the scope of the powers, stakeholders suggested that the following changes to the framing or the inclusion of new data may be worth further consideration.

Another consideration in this area would be around moving from a definitive to an indicative list, or adding more examples of disadvantage, for example flooding or homelessness, so stakeholders would be able to be more flexible in their approach to disadvantage as need may arise within a situation.

In particular, lack of inclusion of health and social care data was strongly highlighted by stakeholders as a barrier. DCMS may wish to consider whether to consult more widely on this issue given that this change could potentially be 'transformational' for those seeking to use the PSD powers to benefit vulnerable groups because of the remits that these organisations have around health. This action may, for example, need to be accompanied by greater public trust and acceptability of data sharing.

*"Including health and social care data within the Digital Economy Act may make people use it, it could be a real hook." (Stakeholder)*

### **5.1.4 Piloting the PSD powers**

Stakeholders were mixed in their views on whether or not allowing for piloting of the PSD powers, as there is on for Debt and Fraud, would help to increase uptake and usage.

Those in favour of these measures tended to be those who had more interaction with the Debt & Fraud powers and saw this as a way for organisations seeking to use the PSD powers to 'test out' a data sharing

agreement with greater scope for trial and error for those less confident in data sharing. For these stakeholders, adding a pilot to the PSD powers was seen as a way to overcome this barrier.

*"I suspect that one thing that might help is an option to amend the legislation to allow for pilots as well as full and final proposals, because if you are vaguely risk averse, and you're not entirely sure that data sharing is going to work, you might not put anything forward."* (Stakeholder)

However, those who were more likely to use the PSD powers exclusively saw this as potentially another barrier to add to a process that was already seen as complicated. Some felt that this would be an unknown process given that it is not part of other data sharing processes that they use, others saw a pilot as risky or unnecessary if the powers were being expanded rather than starting a new data share.

Given this varied response, we recommend that piloting is an option for those who may find it beneficial, but with strong communications around what this step would require and the fact that it is not compulsory, particularly for those already trying to use the powers without the pilot option.

### **5.1.5 Tackling low knowledge and misunderstandings around the powers**

Given a lack of familiarity around certain aspects of the PSD powers, and in particular some of the principles, requirements and complexities around how they can be used, stakeholders would like these aspects to be communicated further with public sector organisations. Stakeholders were generally pleased with DCMS's engagements on this issue so far but would like this to be continued and at times for information to be clearer.

In particular, some stakeholders highlighted that templates or step by step guides in easy to understand language that is accessible to those in policy would be especially welcome. This was felt to be necessary as the current code of practice feels inaccessible to some stakeholders. Instances of where different legal gateways should be used for different purposes was also cited as something that stakeholders would like to see from DCMS.

*"The amount of information is massive so something that says on one or pages what you can and can't do would be really helpful."* (Stakeholder)

*"I think we need to be really clear on what acts should be used to share data."* (Stakeholder)

For those who expressed confusion around specific elements of the powers, for example consent, GDPR and how it interacts with other legislation, stakeholders said that further information around these areas would be welcome, perhaps in the form of workshops as face to face contact was appreciated by stakeholders. A point of contact within DCMS that can act almost as a 'troubleshooter' for questions around the PSD powers or the Digital Economy Act was also suggested as an appreciated change.

That said, stakeholders acknowledged that there could be wider efforts across different organisations to share knowledge and be more joined up in their approach to data. Particularly at a local authority level, showcases held around what different local services were doing around data were said to be helpful to other authorities thinking about their use of data and how they might be able to better share.

Central resource to facilitate this further would be valued by stakeholders, perhaps through a champion network for those using or thinking of using the powers to share how data sharing is being used in different areas, and with shared learnings to give stakeholders ideas of what to use the powers for and a greater connection with data sharing in other locations. This idea was seen to also join up central and local government in their approaches to data sharing to consider best practice.

*"You could get champions up and down the country that people could go to. So maybe someone in a local authority could actually speak to someone in the minister of justice about how he used the powers locally and have a chat with them and show them what they have done, so you get an expert base built up."* (Stakeholder)

*“Simplification of the legislation, additional guidance and illustrative case studies on usage may help to increase uptake.” (Stakeholder)*

### **5.1.6 Helping to address fear around data sharing**

Connected to the risk averse culture and fear around data sharing, stakeholders were aware that this will need to be addressed in order for data sharing to become a norm within government. Given that public trust in data sharing and fear of reputational risk were often linked to this for stakeholders, engaging with the public and other groups with an interest in data sharing or may have confidentiality as a part of their roles (for example clinicians) may be important areas for DCMS to focus on.

One stakeholder suggested that a media strategy may be one way to do this. Another mentioned that the current COVID-19 pandemic may mean that public attitudes towards data sharing are seen as acceptable when the desired outcome is to improve public health and save lives, or some may be uncomfortable being identified as vulnerable. From this, there is the suggestion that the public have a similar cost/benefit consideration in terms of data sharing where perhaps data sharing for such a clear high public benefit is considered acceptable.

*“[There] has been a massive shift in public attitudes towards sharing data as a result of coronavirus... a sense that it's a case of 'share whatever you like, just save my life', which is a massive shift.” (Stakeholder)*

To address some of the perceptions of internal or partner risk aversion, DCMS provide central facilitation for stakeholders to use to have conversations with legal or information governance teams to reinforce clarity around what the legislation does and does not allow to provide reassurance where needed.

### **5.1.7 Resource allocated to data sharing**

In order to achieve these suggested strategies, both stakeholders and the National Audit Office report were clear that it will need to have financial resource and backing behind it. This was seen around various aspects of improving data sharing, for example the technical side for common operational ways of setting out data to improving datasets held across government.

*“There has to be a real leadership and driving force to it, and there has to be the money to be able to assist people who do the fundamentals of clearing up their data producing standard interfaces.” (Stakeholder)*

This was also seen for initiatives related to the Digital Economy Act, for example formulating the data sharing agreement. Some stakeholders suggested that as their department has spent a high amount of money and resource on the data sharing agreement, with input from lawyers that may not be possible for non-central Government departments resource for this may also be necessary.

*“Maybe a central pot of money to help people write effective proposals could potentially help.” (Stakeholder)*

*“Ideally, a data sharing advisory service which public bodies can access, with a simple cost recovery model would be beneficial, especially for local authorities who don't have the legal resource.” (Stakeholder)*

## **5.2 Communicating the Public Service Delivery powers**

This section explores communications around the PSD powers, specifically around stakeholders' perceptions of current messaging and expectations for future messaging, as well as who is best placed to deliver those messages to stakeholders.

### **5.2.1 Current messaging around the powers**

#### **How stakeholders had first heard about the powers**

Most of the stakeholders involved in this research had first heard about the powers primarily because of their involvement in the creation of the powers or through their policy remits in relation to this. That said, some had been involved primarily in other powers, for example Research or Debt and Fraud.

Some stakeholders had not known about the powers before taking up their current positions, which may suggest a lack of knowledge around the powers across government more widely. This may have an impact on potential ideas for new objectives. Indeed, alongside a national strategy, one stakeholder expressed the view that DCMS could connect with other areas within government departments that focussed on data or digital processes to expand awareness and knowledge of the potential of the powers.

### **Central communication around the powers so far**

Generally, central government department stakeholders reported good working relationships with DCMS around the powers. These stakeholders generally felt DCMS to be accessible and willing to help, for example in disagreements between data sharing experts.

This was less clear on a local level where there was more likely to be misunderstanding about the powers and perhaps fewer direct links with DCMS. That said, stakeholders involved in workshops organised on a regional level or by DCMS were welcomed by local authorities. These were seen to allow local authorities to tailor workshops to their needs but also to ask questions and understand how other local authorities were approaching data sharing.

*“In terms of confidence, awareness, understanding, that could have definitely have been done at a more regional or even national level, but we were really excited to be able to create our own workshop, because we knew that it would hit out nails exactly on the head because we spoke to our regional lead and they conveyed that we wanted [DCMS to speak].” (Stakeholder)*

Because the powers are relatively new, stakeholders would like information from DCMS to be reinforced as ways of data sharing are explored by public sector organisations given that levels of familiarity are not uniform. From this, stakeholders noted that some of the misconceptions of the powers had not yet been fully dispersed and therefore consistent messaging may be required over a longer period of time in order to be considered effective. That said, stakeholders felt that this was moving in the right direction.

## **5.2.2 How to effectively communicate the powers**

### **Who is best placed to communicate the powers**

In line with stakeholders reporting the need for a more joined up and strategic approach to data sharing across government, this correlated with stakeholders' views around who is best placed to communicate information about the powers. Overall, stakeholders suggested a central approach, with leadership from Number 10 but with DCMS acting as a facilitator of information and interacting with other departments with relevant interests in data sharing. Part of this was seen to be around signposting but also acting as a point to consider disagreements or difficulties in the data sharing process.

A minority of stakeholders, for example those working at a local level and who may have less interaction with DCMS, did not associate DCMS with their policy area and so felt that more departmental or central messaging around data sharing would be clearer. That said, there was also the sense that the messages themselves were more important than the messenger provided that it included all the relevant parties related to that legislation.

*“I don't think it principally matters where it comes from [communication about PSD powers] as long as it is done in consultation with the relevant government departments.” (Stakeholder)*

Some stakeholders felt that the ICO had a role to play in this, particularly around addressing fears related to data sharing and highlighting the benefits of using data sharing legislation correctly. Some stakeholders stated that they would like to see joint communication from the ICO and DCMS in order to better promote the potential benefits and balance out the perceived risk aversion. While stakeholders understood that the ICO is

a regulator and therefore holds a role in dealing with complaints around data breaches etc., stakeholders nonetheless wanted them to also take on this positive role and remit where data sharing is legal and ethical.

There was some – though not widespread – mention of the updated ICO guidance, though this may be partly related to timing and one stakeholder was in discussion with the ICO around the possible implications of some of their guidance and how it could be used. This may suggest that the ICO is playing a role as a facilitator of data sharing in government in some cases.

*“In the end it’s the ICO guidance, making sure that’s as clear and detailed as possible and including case studies, I think that would be a good approach.” (Stakeholder)*

### **What this communication should look like**

Linked to stakeholders’ desire for information aimed at those in policy roles to equip public sector organisations with the information they need to use the powers, clear information in plain English and ‘layman’s terms’ (rather than legalistic language) and with key information described as useful to stakeholders. One stakeholder also suggested this could be achieved through regular email updates from DCMS in the form of a newsletter as a way of sharing learnings, case studies, and advice.

However, along with more general information, stakeholders were aware of the complexity of individual data sharing agreements and the nuances within them. As a result, stakeholders valued face to face contact with DCMS as some stakeholders had experienced in the workshops. Although face to face contact may be difficult around remote working and social distancing, often the value that stakeholders gained from face to face contact was the ability to learn from others and ask questions at their stage in the data sharing process. It could perhaps be explored how this could be done virtually.

Some stakeholders also suggested the establishment of a data sharing Champions Network so officials could support one another to share best practice. It was suggested this consist of those who have successfully established and seen positive outcomes from using the powers and that Champions could run events and potentially be buddied with those seeking to use the powers to inspire and share best practice.

Overall, stakeholders would like greater joined up thinking and leadership related to the powers, with senior oversight to signal importance, and with a key focus on the benefits of data sharing both within government and with the public. In terms of communications, stakeholders want both accessible and easy to read information as well as opportunities to ask questions and engage with other organisations to share learnings.

## 6. Appendices

### 6.1 Appendix 1: Achieved sample

	<b>COMPLETED</b>
<b>TOTAL</b>	<b>19</b>
F2F	3
Teledepths	16
<b>Group 1: PSD Objectives</b>	<b>16</b>
<b>Fuel Poverty</b>	<b>2</b>
F2F	0
Tel	2
<b>Water Poverty</b>	<b>3</b>
F2F	0
Tel	3
<b>Multiple Disadvantages</b>	<b>6</b>
F2F	1
Tel	5
<b>NHSX</b>	<b>1</b>
F2F	0
Tel	1
<b>HMRC</b>	<b>1</b>
F2F	0
Tel	1
<b>DWP</b>	<b>1</b>
F2F	0
Tel	1
<b>Devolved Administrations</b>	<b>1</b>
F2F	0
Tel	1
<b>Privacy and Consumer advisory</b>	<b>1</b>
F2F	0
Tel	1
<b>Group 2: Debt, Fraud and Research</b>	<b>3</b>
<b>Cabinet Office</b>	<b>2</b>
F2F	1
Tel	1
<b>UK Stats Authority</b>	<b>1</b>
F2F	1
Tel	0



## 6.2 Appendix 2: Rapid Evidence Assessment bibliography

DCMS (2020) FAQ on the Digital Economy Act.

DCMS (2019) List of engagements undertaken by DCMS officials aimed at promoting the Public Service Delivery Power and the information sharing powers within Part 5 of the Digital Economy Act more generally.

DCMS (2019) update to Ministers on usage of the Digital Economy Act data sharing provisions in the first 6 months of them being

DCMS (2019) Notes from engagements with stakeholders aimed at promoting the public service delivery power and the information sharing powers within Part 5 of the Digital Economy Act more generally.

DCMS (2019) Write up of workshops held with stakeholders on the Digital Economy Act.

Goldstein (2017) The Digital Economy Act and Statistical Research. <https://www.bristol.ac.uk/media-library/sites/cmm/documents/published%20version%20editorial%20digital%20economy%20act.pdf>

Gov.uk (2017) Digital Economy Act. <http://www.legislation.gov.uk/ukpga/2017/30/contents/enacted>

Gov.uk (2018) Information sharing code of practice: public service delivery, debt and fraud. <https://www.gov.uk/government/consultations/digital-economy-act-part-5-data-sharing-codes-and-regulations/information-sharing-code-of-practice-public-service-delivery-debt-and-fraud>

Hansard (2018) House of Lords debate related to the Digital Economy Act. <https://hansard.parliament.uk/Commons/2018-12-17/debates/6B415466-7872-415D-9DDC-08383D47EF61/DigitalEconomy>

MHCLG (2019) Digital Economy Act (DEA) Survey.

MHCLG (2019) National evaluation of the Troubled Families Programme 2015-2020: Findings.

National Audit Office (2019) Challenges in using data sharing across government. <https://www.nao.org.uk/wp-content/uploads/2019/06/Challenges-in-using-data-across-government.pdf>

## 6.3 Appendix 3: Topic guide

### DCMS Barriers to data sharing across government

Topic Guide v1

60 min face to face / tele depth interviews

#### Background

Data sharing across Government can benefit departments' policy aims across a range of areas. By having access to data held by other departments or public bodies, service delivery can be improved and policies can be better targeted to those who could benefit from them. However, there is growing awareness of and concerns about data sharing and privacy amongst the public and interest groups. Meanwhile, the PSD data sharing powers across central and local government have not been taken up as hoped since the Digital Economy Act 2017 was passed. DCMS wants to increase uptake of the powers and requires insight into the current motivations and barriers to use of the powers.

#### Research Aims

To explore current barriers to data sharing across government, the objectives of this research are to:

1. Identify the motivations for and barriers to using the PSD powers;
2. Explore ways in which barriers can be addressed and overcome effectively;
3. Assess the effectiveness of central messaging in encouraging voluntary uptake of the opportunity – and assess what, if anything, could better encourage take up

#### Stimulus list

- Journey map

**Please note, this guide is not a script and is intended to be used flexibly, with participant responses guiding the flow of the conversation, topics covered in the order that they naturally arise and probes used only when needed.**

## 1. Introduction

(3 minutes)

*Section aim: Introduce research and set tone of discussion, provide information about research ethics*

### Warm up and introduction

- Introduce moderator and Kantar Public (an independent social research organisation)
  - Research on behalf of DCMS
  - Aim of the discussion is to primarily to explore motivators and barriers to using the Public Service Delivery powers in the Digital Economy Act 2017 - and how barriers can be overcome to increase uptake of the powers to improve service delivery to citizens. If you haven't used these powers, we are looking at the use of debt, fraud and research powers in comparison to the Public Service Delivery Powers
  - We will also be asking you about whether you/your organisation are relying on non DEA gateways and why
  - This information will be used to help DCMS review the powers and understand how to overcome barriers to use and improve the support they give to bodies seeking to use the powers
  - Interview length – 60 minutes
  - Research is voluntary. You were identified for participation by DCMS. Participation will not affect your relationship with DCMS
  - We are happy to check any quotes we attribute to you while reporting if you'd like.
  - Any questions?
- **Recording**
    - Ask participant for permission to record, then start recording and confirm consent

## 2. Participant introduction and context

(5 minutes)

*Section aim: find out about the participant's role and responsibilities in relation to data sharing and theirs and their organisation's attitudes to data sharing.*

- **Current role and remit**
  - What organisation/team they sit within (note if separate data or information team)
  - Main focus of their work; e.g. any policies they work on
  - Brief background of career – experience in other parts of the civil service or local government

*Moderator note: We will talk about their experiences of using powers in the Digital Economy Act but first tell the participant that you want to get a brief overview of how they think data is viewed within their department/organisation.*

- **Attitudes towards data sharing**
  - First words that come to mind when they think about use of data (listen for references to GDPR)
    - How they feel about the use of data and sharing
  - How is data viewed by their department?
    - Probe for asset/burden/neutral
  - How much of a priority using data is for:
    - Their department/organisation
    - Other departments/other local authorities or public bodies
    - Government more widely
    - Should it be more of a priority?
  - Whose responsibility data sharing is within their department
    - Whether there's been any change there

- To share data; to store data; to use data
- How confident they think the department/organisation is in using or sharing data

### 3. Views about the Digital Economy Act and current objectives

(5 minutes)

- **Explore attitudes and associations with the Digital Economy Act**
    - How familiar they feel with the Digital Economy Act
  - **Has this replaced other data sharing gateways?**
    - Probe on different chapters (public service delivery, debt, fraud) – relevance
  - Why they think the Digital Economy Act was introduced
    - Level of knowledge beforehand
    - Purpose and use
    - Compare to how it's being used now
  - Explore reaction in their department to the DEA
    - Optimistic or not seen as relevant?
    - Benefits of the DEA
  - Concerns / risks associated with or result of DEA
- 
- **Explore perceived usefulness / appropriateness of the current objectives**
    - How useful the current objectives are to their department
      - Probe on specific objectives
        - Water poverty;
        - Fuel poverty;
        - Multiple disadvantages;
        - TV retuning
      - Are they still the right objectives to have – could any be removed?
      - Are the right organisations included on the list of organisations that can use the public service delivery powers themselves? (this is the overall list of organisations that can use the powers)
      - Each objective then has its own list of organisations that can use this objective-are the right organisations listed under each objective?
        - What organisations might be included?
        - Probes for multiple disadvantages
          - What is impact of absence of health and social care organisations?
      - If you were able to get data via the DEA from other organisations, would you use it more?
        - Which ones? Do you know if they are currently on the schedules of eligible organisations in the DEA?
      - Other objectives that their department would find useful
        - Why?
      - Would you consider creating a new objective?
      - If so what organisations would you want to be included? Are they already on the list of organisations who can use the PSD powers or would you need to add them?
        - If would need to add-What is their understanding of the process?
        - What barriers / challenges would they anticipate?

### 4. Experiences of using the Digital Economy Act

(25 minutes)

*Section aim: Explore their / their organisation's experiences of trying to use the PSD powers / using the debt, fraud and research powers – their motivations for using the powers, barriers and challenges faced, support*

they received, additional support/information they would like in the future, if/how they think the power can be improved

Moderator to explain that we would now like to talk through your experience of trying to use the PSD powers or using the debt fraud and research powers

Moderator note – journey map any experiences (including motivations, purpose, benefits, barriers faced, and who was involved) and explore the full attitudinal landscape and possible system 1 and system 2 drivers of behaviour:

- *Reflective - Cost/ benefit (rational calculations about loss and gain); legitimacy (extent to which they consider behaviour to be fair or proportional), efficacy (extent to which they feel they are able to carry out behaviour effectively) (System 2)*
- *Automatic - Context, heuristics, habit (how far organisations are consciously reflecting / actively choosing existing behaviour) (System 1)*
- *Norms and morality (both)*

**Confirm which powers have they used / tried to use:**

Probe for:

- PSD powers (whether they have been involved)
  - Water poverty;
  - Fuel poverty;
  - Multiple disadvantages;
  - TV retuning.
- Debt and fraud powers
- Other gateways
- None (privacy org)

#### **4a. PSD powers**

If they have been involved in trying to use the PSD powers, then journey map the following experiences:

- **Check how far they got in the process and how they were involved**
- **What triggered interest in using the powers**
  - Who/what was involved in the trigger?
- **What was the purpose? What were you trying to achieve?**
  - What benefits were anticipated?
- **What was the organisational decision-making process behind taking this route?**
  - Were any alternatives explored?
- **What were/are the overall expectations of the process**
  - What barriers/challenges did you anticipate up front
- **What activities / processes etc did you need to put in place to get started**
  - Who was involved
  - Did you have enough information / knowledge
  - Did you get any help with this
  - Who/where from
  - How useful was the support
  - Did they get any help from government (who specifically?-DCMS, other department e.g. Cabinet Office)
    - What was the support
    - How useful was the support

Use the stimulus to then guide you through the journey:

**At each stage explore:**

*Researcher note: ask the below questions before probing on specific areas.*

- What happened
  - Time frame (how long this took)
  - Who was involved
  - Any barriers and challenges faced
  - Any facilitators that helped progress
  - How confident they felt
  - Suggested Improvements to the process
  - Did they reach the next stage-why/why not?
- 
- **Stage 1 – Identify the policy objective and the data needed to support it**
    - Probe to understand steps and responsibility:
      - the policy need
      - ethical issues
      - data protection law or other risks (probe on awareness of Data Ethics Framework)
      - how much data needed to be shared (minimisation)
      - speaking to internal data teams
      - consulting relevant lawyers
      - amount of personal data needed (if at all) and level of personal data
- 
- **Stage 2 – Develop the proposal**
    - Probe to understand steps and responsibility:
      - drafting a business case
      - logistics of secure data transfer and information security between organisations
      - impact assessments/cost benefit analysis
      - resource allocation
      - considering conflicts of interest if not public body
      - legal advice
      - public consultation (if applicable)
      - compliance with the code of practice and ICO guidance
    - **Levels of communication with the other party**
- 
- **Stage 3 – Operating the data sharing arrangement**
    - How it has operated so far
    - Probe:
      - Have they follows the Code in order to ensure GDPR compliance
      - Applying principles of fairness and transparency – examples
      - Making relevant documents publicly available
      - Any experiences with the Information Commissioner’s Office
      - Registering the agreement with DCMS (clarify-only data shares under the PSD, debt fraud and civil registration powers need to be recorded)
      - Assessing and reviewing the agreement
    - Explore views on having a pilot

#### **4b. Debt/fraud powers**

If they have been involved in using these powers, then journey map the following experiences:

- **Confirm which power they used**
- **Check how far they got in the process and how they were involved**
- **What triggered interest in using the powers**
  - Who/what was involved in the trigger?
- **What was the purpose? What were you trying to achieve?**
  - What benefits were anticipated?
- **What was the organisational decision making process behind taking this route?**
  - Were any alternatives explored?
- **What were/are the overall expectations of the process**
  - What barriers/challenges did you anticipate up front
- **What activities / processes etc did you need to put in place to get started –**
  - Who was involved
  - Did you have enough information / knowledge
  - Did you get any help with this
    - Who/where from
    - How useful was the support
  - Did they get any help from government (who specifically?-DCMS, other department e.g. Cabinet Office)
    - What was the support
    - How useful was the support

Use the stimulus to then guide you through the journey:

#### **Use stimulus to go through the journey**

##### **At each stage ask**

- What happened
  - Who was involved
  - What were the Barriers/challenges
  - What were the Facilitators
  - How confident they felt
  - Suggested Improvements to the process
  - Time frame (how long this took)
  - Did they reach the next stage-why/why not?
- 
- **Stage 1 – Identify the policy objective and the data needed to support it**
    - Probe to understand steps and responsibility:
      - the policy need
      - ethical issues
      - data protection law or other risks (probe on awareness of Data Ethics Framework)
      - how much data needed to be shared (minimisation)
      - speaking to internal data teams
      - consulting relevant lawyers
      - amount of personal data needed (if at all) and level of personal data

- **Stage 2 – Develop the proposal**
  - Probe to understand steps and responsibility:
    - drafting a business case
    - logistics of secure data transfer and information security between organisations
    - impact assessments/cost benefit analysis
    - resource allocation
    - considering conflicts of interest if not public body
    - legal advice
    - public consultation (if applicable)
    - compliance with the code of practice and ICO guidance
  - **Levels of communication with the other party**
- **Stage 3 – Submit the proposal**
  - Probe to understand the following details:
    - Knowledge around who to submit to for their territory
    - Experience of submitting relevant documentation
    - Feedback on their proposal e.g. any recommended changes
    - How clear information and feedback was
    - Approval from the Minister
    - Requirements to proceed as part of the pilot
- **Stage 4 – Managing the pilot**
  - Probe:
    - Compliance with GDPR
    - Applying principles of fairness and transparency – examples
    - Making relevant documents publicly available
    - Any experiences with the Information Commissioner’s Office
    - Assessing and reviewing the agreement
    - Reporting to the review board
      - Sending appropriate metrics
      - Publishing relevant information about the pilot (secretariat)
      - Sending summary of findings at the end of the pilot
    - Communication around whether or not the pilot can continue
    - [If approved at the end]: experience of ongoing data sharing
    - [If decided to stop the pilot]: steps to ensure data is destroyed
  - How helpful did the find the pilot? Would they have preferred not to have it?

#### **4c. Use of other gateways**

- **Which gateway was used – by who, and when**
- **How they were involved (use stimulus)**
- **What triggered interest in using the gateway**
  - Who/what was involved in the trigger?
- **What was the purpose? What were you trying to achieve?**
  - What benefits were anticipated?
- **What was the organisational decision making process behind taking this route?**
  - Were any alternatives explored?
- **What were/are the overall expectations of the process**
  - What barriers/challenges did you anticipate up front
- **What activities / processes etc did you need to put in place to use/ set up the gateway**



- Who was involved
- Did you have enough information / knowledge
- Did you get any help with this
  - Who/where from
  - How useful was the support
- Did they get any help from government (who specifically?-DCMS, other department e.g Cabinet Office)
  - What was the support
  - How useful was the support
- **Benefits of using the gateway**
- **Any disadvantages or challenges associated with its use**
- **Any way use of the gateway could be improved**
- **What additional information, support and advice they would have liked setting up and using the gateway – and who from**
  
- **Do they plan to use the PSD powers in the future?**
  - **If plan to use - Explore plans in detail**
    - Which powers
    - Motivations
    - Anticipated benefits
    - Anticipated challenges and strategies to overcome these
    - Any support they plan to use
    - Why haven't they done so yet?
    - What would they do

**If they have no plans:**

1. Do they need to use them?
2. What are main barriers / challenges – and why these cannot be overcome (Probe for - lack of knowledge / information, lack of capacity / capability etc)
  - Main risks identified
  - What would need to happen to change their mind
  - Whether any support offer could change their mind

**4d. Privacy and consumer advisory group**

- What was their/their organisations involvement in the open policy making process of the Public Service Delivery Power?
- What did they perceive as the drivers for the powers before their engagement with the process? What did they feel after the process?
- What were their overall perception of their/their organisation involvement in open policy making process?
- What is their level of familiarity and understanding of the PSD powers now?
- Can they see any benefits of the powers being used? For who?
- What risks can they see? What concerns do they have and who for?
- What changes (if any) would they like to see
  - To the DEA
  - To the current objectives
  - To the way the PSD powers work
- What safeguards they think need to be in place
- Why they think there has been low take up of the powers – what they perceive the barriers and challenges to be (for who)

- For government departments
- For Local Authorities
- For other public bodies
- What they think DCMS can / should do to improve take up of the powers
- How they would like to see DCMS communicating to the public and interest groups about the powers.

## 5. Overcoming barriers to using the powers

(15 minutes)

*Section aim: understand how barriers can be overcome to help stakeholders make better use of the Digital Economy Act powers*

- **On reflection, what they think were the key challenges / barriers faced (go through each theme, identify why they were a challenge, and what the impact was)**
  - Cultural / ways of working (e.g. a lack of prioritisation/ investment in data)
  - Capacity and Capability (e.g. capacity/knowledge in your org/partner org)
  - Funding pressures
  - Data quality (e.g. whether it is adequate)
  - Data security (worries about whether it can be shared)
  - Technical (e.g. a lack of common data models, standards and systems)
  - Logistical (e.g. I find the powers difficult to use and comply with, length of time needed to get agreement in place etc)
  - Other Structural issues (e.g. imbalance of who takes on the risk, costs incurred and who benefits)
- **Are these barriers unique to their organisation or across government/public bodies?**
- **Do other organisations face barriers they might not (if aware)?**
- **Reflect on other set of powers-what makes them easier / harder to use**
  - Role of piloting in the debt/fraud powers
- **What do they think DCMS can/should do to overcome barriers to data sharing across government**
- Do you think the powers need to be changed? If so how?
- Do the objectives need to be changed? If so how?
- What information do people need?
- What support do people need to overcome the barriers to using the powers?
  - What priority should DCMS/government put on the following (High/medium/low)
    - Use the data strategy to identify and address the barriers to better use
    - Set up clear cross-government accountability, governance and funding for data to support delivery of the data strategy.
    - Develop cross-government rules, standards and common ways to collect, store, record and manage data.
    - Identify datasets that are critical to government functions, look at how to share them easily and examine how they can be enhanced by process improvement and automation..
  - Secondly what priority should departments put on the following? (High/Medium/low)
    - Put in place governance for data,
    - Set out data requirements in business cases.
    - Implement guidance for front-line staff for handling data
  - Now looking more broadly, we will explore other potential solutions
    - Should central Government prescribe ways of departments setting out their data
    - Should there be a funding model for those requesting data

- Should there be a way of measuring the benefit/risk
- Do they need clearer guidance (who from)
- Does government need to show data to be a higher priority (how)
- Are there ways to make departments less siloed in terms of data sharing
- How to best raise awareness of the powers (who is best placed)
- **Explore how to increase resources/funding to use the powers**
  - What would be needed/be persuasive
  - Who should be involved

## 6. Communication from central government

(5 minutes)

*Section aim: explore where stakeholders look for information and how DCMS can best communicate with them*

- **How did they find out about the powers in the first place – where and who from**
- **Where did they actively look for information from**
  - Listen for: DCMS, Cabinet Office or other departments/local authorities, their internal data team, roadshow
  - What they find useful sources of information
  - Whether they've attended any events with DCMS about the DEA or informal meetings – and how useful these have been
  - How they could be improved
  - What about other sources of support and advice (e.g ICO data sharing code of practice?)
  - What has worked?
  - What made things more difficult?
    - Probe for-outdated information
- **Explore how they would like to see the Act being communicated to departments / organisations like theirs**
  - Who is best placed to communicate with them around:
    - Digital Economy Act
    - Data sharing more generally
  - What would they like interactions around the DEA to look like
    - Probe: emails, case studies, workshops, roadshows, social media

## 7. Close

(2 minutes)

*Section aim: collect final thoughts and close interview*

- Any final thoughts on how DCMS can increase uptake of the powers
- Thinking about the potential improvements we discussed – what needs to happen first?
- Thank them for their time. Check with them about quotes.