

From: [REDACTED]
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Subject: Data Sharing CoP - Call for Evidence

Follow Up Flag: Follow up
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Registers of Scotland is grateful for the opportunity to express its views in respect of the proposed review of the ICO's Data Sharing Code of Practice.

It is our view that the revised Code of Practice should fully address the issues in respect of the lawful basis for data sharing, particularly between public bodies, where an implied obligation, public interest, or official authority of the controller exists. The current code deals with implied obligations to share data, but these are likely to be viewed differently under the new data protection law, and so clarity will allow public sector bodies to confidently share data. This should include reference to the Digital Economy Act and its interplay with new data protection law.

Given that the ICO has been clear with public bodies that it does not view the processing of personal data on the basis of their legitimate interest as prohibited (rather that it views the performance of a core public task and the use of legitimate interests as mutually exclusive), it would be helpful for the code to address the reasonably foreseeable need for public bodies to share personal data on the basis of their legitimate interests, where these are not overridden by the interests or rights and freedoms of data subjects (and notwithstanding the further obligations that result for controllers).

It would be useful if the revised CoP can address the issue of compatibility of purpose and advise how this requirement can be appropriately met, in particular by public bodies, in a data sharing context.

Kind Regards

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