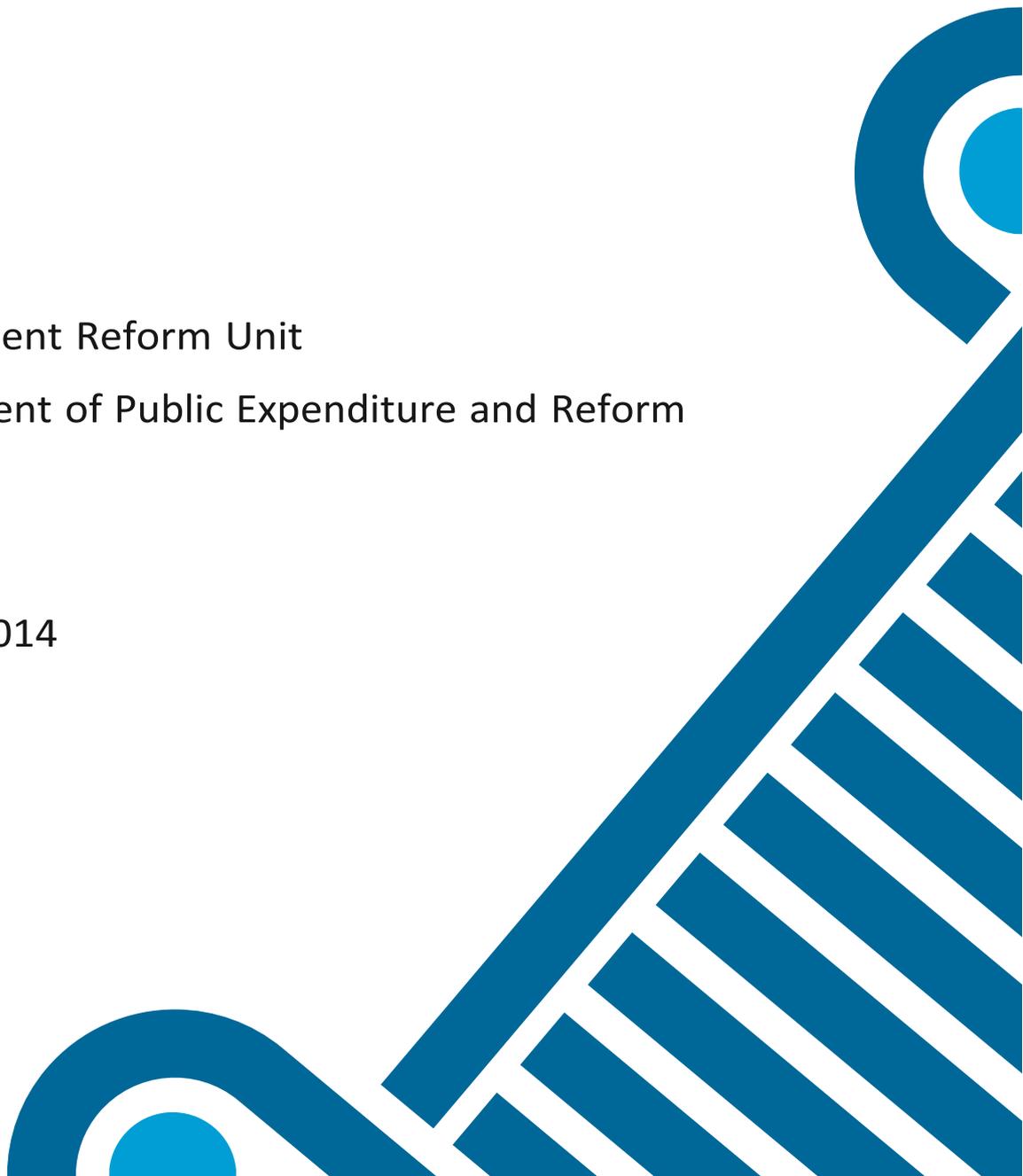


# Data-Sharing and Governance Bill: Policy Proposals

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Department of Public Expenditure and Reform

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If you have comments to make on this paper, on the Bill, or on other aspects of data-sharing we would welcome them by email to [datasharing@per.gov.ie](mailto:datasharing@per.gov.ie) by **15<sup>th</sup> September 2014**. Submissions will be published on our website at <http://www.per.gov.ie/data-sharing/>.

## Introduction

### Background

In the current Programme for Government there is a commitment to undertake “...anti-fraud measures using latest available technology and better sharing of data across government departments and agencies.”<sup>1</sup>

The first Public Service Reform Plan stated that “[w]e will improve the sharing of data across Government to reduce costs and enhance customer service.” The subsequent Reform Plan also had a strong focus on data-sharing.<sup>2</sup>

In its 2009 Strategy (‘Strategy for Statistics 2009-2014’) and in its subsequent 2011 position papers (‘The Irish Statistical System: The Way Forward’ and ‘Joined up Government needs Joined up Data’) the National Statistics Board have highlighted the importance of developing a National Data Infrastructure (NDI) to support evidence-informed policy making and evaluation.

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*“We will improve the sharing of data across Government to reduce costs and enhance customer service.”*

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In October 2013 the Department of Public Expenditure and Reform brought a Memorandum to Government setting out a series of actions to improve data-sharing in the public service. Chief among these was the development by the Department of Public Expenditure and Reform of the Heads of a Data-Sharing and Governance Bill.

Data is the single most important resource available to public bodies, and is fundamental to the effective performance of the multiple roles and responsibilities of public bodies. In particular against the backdrop of the constrained fiscal environment, maximising the use and value of this data must, therefore, be a priority in assessing how the effectiveness and efficiency of public services can be enhanced.

In the area of data-sharing among public agencies, it is important that there is open and inclusive dialogue and debate in order that there is strong knowledge and understanding of the policy approach adopted and its operational implications. As set out in this paper, significantly more effective data-sharing between public bodies can yield very substantial benefits to all users of public services. However, important issues also arise in terms of, for example, data protection, data quality and integrity.

The purpose of this paper is to set out key elements of proposed legislation, in order to facilitate consultation with citizens, other users of public services, and interested organisations. Responses to issues raised in the paper will ensure that measures considered by the Minister for Public Expenditure and Reform, and the Government in due course, are fully advised and informed by the views of all with an interest in this central element of the public service reform agenda.

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<sup>1</sup> <http://www.per.gov.ie/wp-content/uploads/ProgrammeforGovernmentFinal.pdf>

<sup>2</sup> <http://reformplan.per.gov.ie/>

## What do we mean by data-sharing?

In this paper, data-sharing consists of two public service bodies sharing structured data about an entity (such as a person, business, property or event). This will generally involve the following steps:

1. The receiving body determining a need for data from the sending body to support or improve its business processes, perform a statutory function, or to provide evidence to support policy evaluation and development
2. The receiving body identifying an existing legal basis for the data-sharing, or creating a new one
3. The sending body agreeing to provide the data
4. Technical and legal details being agreed in writing – data protection restrictions, transmission channel, format, contents, security etc.
5. Generally, the receiving body will need to match the shared data with data it currently holds

It is also assumed for the purposes of this paper that, generally, data-sharing relates to recurring transfers of sets of records, rather than one-off transfers. Currently the following is not included in our definition of data-sharing:

1. Sharing of data between private and public entities on foot of a legal requirement
2. Unstructured data (such as administrative determinations)
3. Aggregated data for statistical or reporting purposes
4. Sharing of data with a public body in another EU member state

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### *Consultation questions*

- 1. Do you agree with this definition of data-sharing?**
  - 2. If you do not agree, how do you believe the definition could be improved?**
- 

## Benefits for Service Users

For citizens and businesses, data-sharing between public bodies means that they need not provide the same information multiple times to different bodies. The implementation of an “ask-once, use-many” vision will help to significantly reduce the administrative burden on citizens and businesses, and will allow them to avail of higher-quality, more efficient and seamless public services on a cross sectoral basis.

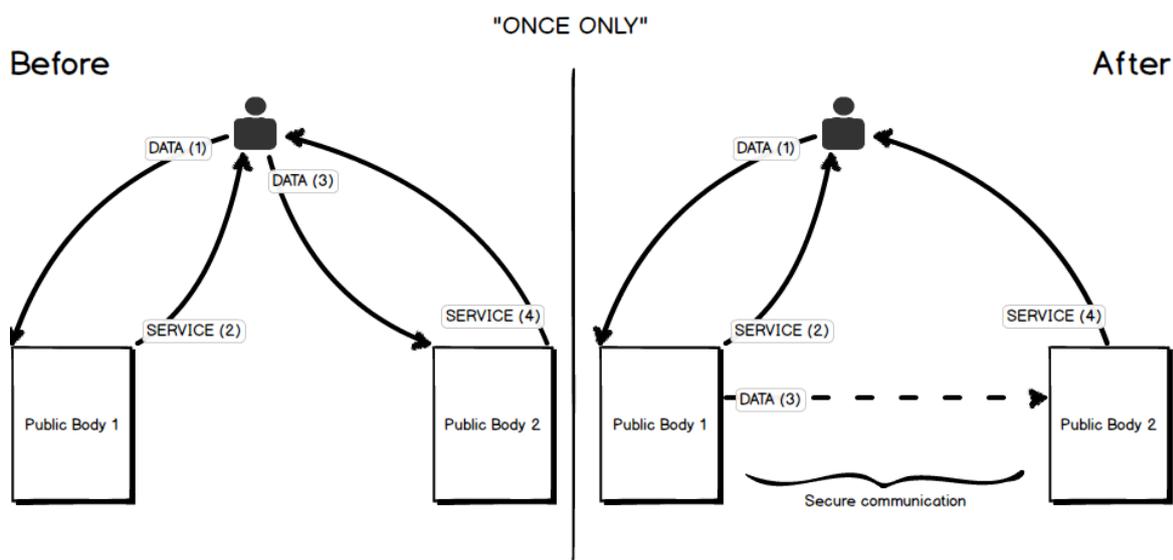


Figure 1: Better data-sharing means that citizens don't need to keep providing the same information to multiple Public Service Bodies.

The following are current examples of data-sharing by public bodies to simplify access to services:

- Details of birth registrations are forwarded by the General Register Office to the Department of Social Protection to automatically generate Child Benefit claims on behalf of parents.
- The Centenarian Bounty is a national award made by the President to people who have reached 100 years of age. The Department of Social Protection automatically forwards information about people who are about to reach 100 and who are in receipt of DSP pensions to the office of the President. Centenarians receive €2,540 and a congratulatory letter signed by the President.
- The Public Service Card Free Travel scheme was launched by the Department of Social Protection in December 2013. This scheme provides for the re-use of passport photographs held by the Department of Foreign Affairs in some circumstances. As a result of this data-sharing, applicants can register for free travel by post, reducing the burden on the service user.
- Since 2013, Student Universal Support Ireland (SUSI) has shared data with The Department of Social Protection, The Department of Education and Skills, and the Revenue Commissioners to streamline and simplify the student grant application process. This initiative enables SUSI to receive relevant information directly to assist in the evaluation and processing of grant applications. This reduces the need for applicants to provide documents.

International experience highlights the potential for the transformation of the provision of particular services to the public through the adoption of a comprehensive and proactive approach to data-sharing. The challenge, in the current context of Ireland's public service reform initiative, is to realise these types of benefits for users of public services in Ireland.

*Consultation questions*

**3. What do you believe are the priority areas for data-sharing to contribute to improved public services?**

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**Benefits for Public Bodies**

For public bodies, data-sharing provides efficiency gains and cost savings by, for example, reducing manual document-checking, facilitating evidence based policy making, and supporting the elimination of fraud and error.

Data-sharing is currently widely carried out between public service bodies under the existing legal framework. Examples of efficiencies brought about by data-sharing include the following:

- The Central Statistics Office conducts statutory surveys of Irish businesses. In 2009, a Memorandum of Understanding was signed between the Revenue Commissioners and the Central Statistics Office to allow for the exchange of business data. This data-sharing arrangement has reduced the need to survey businesses directly, while generating statistics in support of evidence based policy making.
- The Department of Social Protection, in conjunction with the Revenue Commissioners, has developed data exchanges to enhance the detection of fraud and control compliance. The legislative basis for the exchange of information is contained in Section 261 of the Social Welfare Consolidation Act 2005. In one such exchange, information was provided by Revenue on persons who had received large amounts of interest on investments made. This data was matched with Department of Social Protection records to identify individuals who had failed to disclose large personal investments when applying for welfare payments. As a direct result of this data-sharing, millions of Euro in overpayments have been recovered.<sup>3</sup>
- The Property Registration Authority has provided property data to the Revenue Commissioners under Section 151 of the Finance (Local Property Tax) Act, 2012 to establish and maintain a register of residential properties and associated liable persons in the State.
- The Department of Education and Skills shares post-primary student information with the State Examinations Commission in order to assist in planning state examinations.

These examples highlight the potential for data-sharing to enable public bodies transform the basis on which they deliver public services and to contribute to a broader modernisation of the public service in line with other reform initiatives.

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<sup>3</sup> Department of Social Protection Compliance and Anti-Fraud Strategy 2014-2018, available at <http://www.welfare.ie/en/pdf/Compliance-and-Anti-Fraud-Strategy-2014-2018-.pdf>

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*Consultation questions*

- 4. Do you agree that more effective data-sharing can help drive public service reform?**
  - 5. What are the main areas where you believe that this can be achieved?**
- 

**What is the issue we are trying to solve?**

Data-sharing is currently carried out extensively across the public service under the existing legal framework, and indeed in important respects the current level of service delivery would not be possible without this sharing taking place in the background.

However, it is clear that more can and should be done to streamline the flow of data between public bodies so as to support better service delivery. Under the existing legal framework data-sharing provisions are included in specific Acts, based on the requirements of a particular Department. This has a number of drawbacks.

Firstly, where a public body identifies a need for data-sharing, an explicit legal basis in primary legislation is required before the sharing can take place. However, access to the legislative schedule is limited and there can be a significant delay in establishing the necessary legal basis. The proposed Bill provides a robust mechanism for establishing the necessary legal basis for many data-sharing requirements.

Secondly, where a cross-departmental data-sharing requirement exists, there may not be sufficient incentive for any particular Department to meet it. The proposals in this paper set out specific provisions for many of these cross-cutting requirements.

Finally, data-sharing is an important and growing area of government activity. Having related provisions spread over many Acts makes data-sharing less transparent. While the proposed Data-Sharing and Governance Bill would not replace existing provisions, it would provide new transparency requirements for existing data-sharing, and a clear framework for future data-sharing.

Any increase in data-sharing increases the importance of having excellent governance arrangements in place. Provisions to establish an appropriate framework for governance, oversight and transparency of data-sharing between public bodies will be an important element of the Bill.

While the paper is primarily concerned with personal data<sup>4</sup> the Bill will also have some provisions relating to business data, in order to facilitate public bodies in unambiguously identifying the businesses they are dealing with, and “open data” to support the delivery of the Minister’s Open Data Initiative<sup>5</sup>.

In general an appropriate legal basis will be necessary but not sufficient for data-sharing to take place – the active cooperation of the sending body will often be required, unless the legal basis is one which compels the provision of the information. A clear legal basis helps by reducing uncertainty about what

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<sup>4</sup> Within the meaning of the Data Protection Acts – “data relating to a living individual who is or can be identified either from the data or from the data in conjunction with other information that is in, or is likely to come into, the possession of the data controller”.

<sup>5</sup> <http://www.per.gov.ie/minister-for-public-expenditure-and-reform-announcing-major-open-data-initiative-at-open-government-partnership-summit-in-london/>

can and cannot be shared, but there may also be significant technical and organisational barriers to be overcome. A useful way to think about these obstacles to greater data-sharing is to use an “interoperability framework”, such as the following simplified version of the European Interoperability Framework<sup>6</sup>:

Possible obstacles	Description
Legal	No legal basis for sharing of the data.
Organisational	Specific data-sharing requirement not a sufficiently-high priority for one or both agencies. No progress because of excessive risk aversion. Lack of agreed governance arrangements.
Semantic	Different identifiers used. Mismatches around means of attributes. Deeper mismatches around how data is organised (e.g. individual vs. household).
Technical	One or both agencies lack the technical capacity to execute the data-sharing in a secure and reliable way, or to utilise the shared data when received.

To make real progress on data-sharing will require that the enactment of the Bill be followed by a strong and well-resourced implementation plan that engages at the Organisational, Semantic and Technical layers.

Finally, it needs to be clear that the purpose of any legislative changes, in so far as they relate to personal data, must be to remove *unnecessary* barriers to data-sharing; many of the legal barriers to sharing personal data between public bodies are perfectly appropriate and necessary e.g. confidentiality of taxpayer information<sup>7</sup>, specific controls around sharing of health information, and protections around collection of statistical data.

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#### *Consultation questions*

- 6. Do you share the assessment that a new legislative framework for data-sharing is required? Please give reasons for your answer.**
  
  - 7. In terms of the interoperability framework set out above, what do you see as the main obstacles to data-sharing, and how should they be addressed?**
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#### How will Data Protection Law and Principles apply to Data-Sharing?

Protection of privacy and strict compliance with data protection legislation must be a central pillar of the overall policy approach reflected in the legislative provisions.

<sup>6</sup> <http://ec.europa.eu/idabc/en/document/2319/5644.html>

<sup>7</sup> Set out in Section 851A of the Taxes (Consolidation) Act 1997

The proposed Data-Sharing and Governance Bill will be drafted on the basis that sharing of personal data between public service bodies will continue to be subject to the Data Protection Act.

It is important to note that the Data Protection Act 1988 provides for data-sharing in principle; the definition of data “processing” includes “transmitting, disseminating or otherwise making...available”<sup>8</sup>. In terms of the data-sharing that is already taking place, this occurs in a way that strictly respects the legal protections available for personal data under Data Protection legislation.

The Data Protection Act further provides that data controllers may lawfully process (i.e. share) personal data when exercising rights and obligations conferred or imposed by law, where necessary for the purposes of a legitimate interest, or for the performance of a function of the Government<sup>9</sup>.

It is intended that the Data-Sharing and Governance Bill will complement and reinforce the provisions of the Data Protection Act, and in particular it will confirm data protection principles such as demonstrable purpose, transparency, and legal basis<sup>10</sup>.

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### *Consultation questions*

#### **8. Do you have suggestions for how best to embed these data protection principles in the Data-Sharing and Governance Bill?**

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### *Next steps*

The publication of this paper marks the initiation of the public consultation process for this crucial legislation.

If you have comments to make on this paper, on the Bill, or on other aspects of data-sharing we would welcome them by email to [datasharing@per.gov.ie](mailto:datasharing@per.gov.ie). Submissions will be published on our website at <http://www.per.gov.ie/data-sharing/>.

While we are happy to receive written observations on data-sharing at any time, this phase of the consultation will last until **15<sup>th</sup> September 2014**, so you will need to have submitted your views by then to ensure they are considered when we are preparing the draft General Scheme of the Bill.

In light of the response to the consultation process, the Department will consider the benefit of carrying out further public consultation and supporting further public debate on the key issues highlighted by the views and information received.

Following the completion of the public consultation phase, the Department will prepare a draft General Scheme of the Data-Sharing and Governance Bill which will be submitted to Government for approval to commence drafting of the Bill. A General Scheme of a Bill sets out a series of numbered “heads” with each head representing a section of the proposed Bill. Heads of Bill constitute a layman’s idea of what should be contained in the Bill. Each Head comprises instructions for drafting and an

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<sup>8</sup> Section 1(1) of the Data Protection Act 1988 as amended by the Data Protection (Amendment) Act 2003

<sup>9</sup> e.g. Sections 2A.(1)(d), 2A.(1)(c) and 2B.(1)(b)(vi), 8(e) of the Data Protection Act 1988 as amended by the Data Protection (Amendment) Act 2003.

<sup>10</sup> See ODPC Guidelines “Data Sharing in the Public Sector” - <http://www.dataprotection.ie/docs/Data-Sharing-in-the-Public-Sector/1217.htm>

explanatory note.<sup>11</sup> If approved, the General Scheme, along with a Regulatory Impact Assessment<sup>12</sup>, will be submitted to the Oireachtas Committee on Finance Public Expenditure and Reform to allow for pre-legislative scrutiny, which will involve further public consultation in advance of the consideration of the Bill by the Oireachtas.

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*Consultation questions*

- 9. Do you have any ideas or proposals to ensure that consideration of these proposals benefit from wide public consideration, analysis and debate?**
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<sup>11</sup> Further information on the General Scheme of a Bill is contained in the Cabinet Handbook - <http://www.taoiseach.gov.ie/upload/publications/233.pdf>

<sup>12</sup> **Regulatory Impact Analysis** is a tool used for the structured exploration of different options to address particular policy issues. It is used where one or more of these options is new regulation or a regulatory change and facilitates the active consideration of alternatives to regulation or lighter forms of regulation. It involves a detailed analysis to ascertain whether or not different options, including regulatory ones, would have the desired impact. It helps to identify any possible side effects or hidden costs associated with regulation and to quantify the likely costs of compliance on the individual citizen or business. It also helps to clarify the costs of enforcement for the State.

## Proposals

Set out below are details of the current proposals for inclusion in the Bill.

### Principles-based sharing provisions

These provisions would set out the overall principles underlying certain classes of data-sharing. These principles would include the overall governance requirements (set out below) and the purpose for which the data was being shared. All public bodies would be entitled to avail of the provisions.

The aim is to make it easier for Departments to establish an explicit legal basis for data-sharing, given that most public bodies do not have ready access to primary legislation<sup>13</sup>.

We are considering including some or all of the following purposes for which sharing would be permitted:

- a. Statutory functions of a Minister
- b. Reasons of substantial public interest
- c. Delivery of more streamlined services to customers
- d. Evaluation of the effectiveness of a cross-cutting policy e.g. Youthreach<sup>14</sup>
- e. Audit of the activities of a public body
- f. Identification and prosecution of fraudulent activity
- g. Identification and rectification of erroneous data held by a public body
- h. Collection of debts owing to the State

The data to be shared would encompass all data legitimately collected by the public body that is providing the data.

Lawful sharing under the Act would have to comply with the following:

- a. Respect proportionality. Some “minimal disclosure” test would be required to ensure that the information sought is the minimum possible (both in terms of number of records and number of fields) to achieve the specified purpose.
- b. Have a formal Memorandum of Agreement (MOA) setting out the data to be shared and the purpose for which it is being shared. The signing of the MOA should be notified to both the Data Protection Commissioner and the Central Statistics Office.
- c. The data shared could only be used for the lawful purpose as set out in the MOA

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### *Consultation questions*

**10. How far can the Bill go in providing the necessary powers to share data while at the same time ensuring clarity around what exactly is permitted?**

**11. Should both personal and sensitive personal data (within the means of the Data Protection Acts) be covered by these provisions? If so, what extra protections are required around sensitive personal data?**

**12. Should the Oireachtas have a role in overseeing or approving some types of data-sharing arrangements? If so, how extensive should this role be?**

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<sup>13</sup> With the exception of Revenue and the Department of Social Protection, which have annual Bills in which data-sharing provisions may be added

<sup>14</sup> See <http://www.youthreach.ie/aatopmenu/AboutYR/about.html>

### Specific data-sharing provisions

The Bill will also include provisions to enable the sharing of particular types of data. For these provisions the data to be shared would be specified, as well as which public bodies may avail of the provisions. The understanding is that none of these specific provisions are fully encompassed by the “principles-based” data-sharing purposes set out above.

#### Sharing of means data

##### *Purpose*

For the purpose of engaging in any statutory means test of an individual or household. Note that while such a provision will provide a useful basis for the sharing of the results of means tests, many issues in means testing are significantly more complex than just the absence of a legal basis.

##### *Items in the data set*

- Any element of the Public Service Identity data set<sup>15</sup>
- Statement that the individual was in receipt of a particular means-tested benefit at a specified date.
- Details of income
- Details of assets

##### *Bodies who can share data*

Any public body that administers a means-tested benefit could share these items with any other such public body, but only for the specified purpose.

### Specific data-sharing provisions

It might also be useful to have a provision allowing the notification of an individual commencing or ceasing a means-tested benefit to be sent to other public bodies. Of course, access to this data by another public body would only be on foot of an MOA setting out a clear business need.

#### Sharing of pupil data

##### *Purpose*

For the purpose of establishing the educational status of an individual.

##### *Items in the data set*

- Any element of the Public Service Identity data set
- Statement that the individual is currently a student at primary or secondary level.
- Statement that an individual is currently a student at tertiary level, including full-time or part-time status, educational institution and course of study.
- Statement that the individual is currently a student in the Further education and training sector, including full-time or part-time studies etc.
- Statement that an individual has achieved a particular third-level qualification, including name of qualification and NFQ level.

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<sup>15</sup> The Public Service Identity dataset is set out in s. 262 of the *Social Welfare (Consolidation) Act 2005*, as amended and consists of a person's PPSN, surname, forename, date of birth, place of birth, sex, all former surnames [if any], all former surnames [if any] of their mother, address, nationality, date of death in the case of a deceased person, photograph of the person except when the person is deceased, the person's signature except when the person is deceased and such other information as may be prescribed by the Minister for Social Protection.

#### *Bodies who can share data*

Any public body with a statutory function that requires it to verify the educational status of an applicant or employee.

#### Sharing of data relating to public service organisations and employees

##### *Purpose*

For the purpose of the exercise of the functions of the Minister of Public Expenditure and Reform pertaining to the management of the public service. This data might be used for example in workforce planning or identifying product categories for centralised purchasing.

##### *Items in the data set*

- For employees
  - PPSN, name and any other element of Public Service Identity sufficient to identify the individual
  - Location
  - Grade
  - Salary
  - Incremental date etc.
- For organisations
  - Number of employees
  - Any details on payments

#### *Bodies who can share data*

Any public body must provide any required items to the Department of Public Expenditure and Reform.

#### *Specific data-sharing provisions*

The provisions would allow DPER to specify formats, timeframes etc. which must be complied with by public bodies.

#### Single Customer View

The Single Customer View is a system currently run by the Department of Public Expenditure and Reform on behalf of the Department of Social Protection. Essentially the SCV is a system that collects Public Service Identity information for multiple holders and aggregates it for the purpose of delivering various services.

##### *Purpose*

For the purpose of a) the matching of identity data provided by multiple public bodies so as to provide the public service with a system-wide view of identity data and b) to provide a general identity-verification service.

##### *Items in the data set*

- PSI dataset
- Identifying numbers for any documents issued by the State e.g. passport, driver licence
- Other attributes generally used for identity verification (to be decided)

#### *Bodies who can share data*

Access to the overall database of identity information would only be provided where an explicit legal basis exists and generally where there is a substantial risk of fraud. Access to the verification service would be available to all public bodies.

#### Contact information

##### *Purpose*

For the purpose of assisting public bodies to contact an individual in pursuance of a statutory function.

##### *Items in the data set*

- PPSN
- Name
- Address
- Email address
- Phone number
- Mobile phone number

#### *Bodies who can share data*

Any public body can access the data if it has a legal entitlement to communicate with the individual as part of the delivery of a statutory function. The intention is that the provision would only allow the use of the data where there is a particular service being delivered to the individual but no recent contact has been made, in order to issue a reminder about an impending renewal of an passport the Passport Office may require contact details for the individual to be provided by Revenue. The provision would exclude the use of the data for any general “marketing” purpose.

#### Sharing of business data

##### *Purpose*

For the purpose of engaging in any statutory function with a business. Any public body with a statutory function that requires identifying a business can already request the name, address and tax number of a business with whom they are dealing.

##### *Items in the data set*

- Business name
- Registered business addresses
- Tax number
- CRO number, if applicable
- Any information on the Companies Register

#### *Bodies who can share data*

Any public body on foot of a relevant statutory function that requires identifying a business.

#### *Specific data-sharing provisions*

Any public body with a statutory function that requires identifying a business can match the data they receive against the Revenue Business Register<sup>16</sup> for the purpose of verifying the data received and can

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<sup>16</sup> Revenue maintains identifying details for every business it deals with.

retrieve any field in the data set from Revenue for the purpose of sharing the data with other relevant public bodies.

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*Consultation questions*

13. **What other specific data-sharing arrangements should be considered?**
14. **Should a general provision be added to enable widespread access to information on Births, Marriages and Civil Partnerships?**
15. **Some jurisdictions are examining the concept of an “honest broker” or “trusted third party” – this would have the power to accept any data and process it on behalf of public bodies, while preventing the public body from accessing the raw data. Is this a concept that could usefully be included in the Bill?**
16. **Should specific provisions relating to the sharing of “anonymised” data be included?**

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*Governance of the sharing of personal data*

When considering governance, it is important to consider that data-sharing is only one element in general data management.

There is evidence that while data management in some parts of the public service is excellent, there is a significant improvement required in general<sup>17</sup>. Better data management requires staff training and adherence to procedures for data minimisation and retention, access control, logging and regular audit. On the whole the legal basis around data management is set out in the Data Protection legislation and the associated guidance provided by the Data Protection Commissioner. The problem is therefore primarily one of better implementation, rather than an absence of legislation.

Some issues around the management of data-sharing may also be of concern, and in 2012 the Department of Public Expenditure and Reform issued Circular 17 of 2012 making recommendations in this regard.

Given the scope of the Bill the legislation should contain provisions that:

1. Are concerned specifically with governance of data-sharing (as opposed to data management more generally).
2. Are sufficiently general to cover the differing nature of data-sharing with regard to volume, organisation size, frequency, technical complexity etc.
3. Do not duplicate provisions of the Data Protection legislation.

The following provisions are currently considered likely for inclusion in the Bill:

1. **Transparency.** A legal requirement to publish certain details of data-sharing arrangements; strong obligations to inform users of legal provisions for the sharing of their data where practicable.
2. **Record-keeping.** A requirement to formally document data-sharing agreements, oversight arrangements, review timescales and other prescribed information.

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<sup>17</sup> See Annual Reports of the Data Protection Commissioner.

3. **Mandatory Privacy Impact Assessments** before commencing any new data-sharing arrangement.
4. **Prior Notification of Adverse Action.** A limited requirement to notify individuals prior to taking adverse actions arising from the sharing of their personal information. This would provide an opportunity to challenge a decision made based on incorrect information.<sup>18</sup>
5. **Lead agency.** Adopt the New Zealand model whereby in any data-sharing arrangement one of the parties is responsible for record-keeping etc.<sup>19</sup>

These provisions are intended to promote a model whereby the legal requirements around data-sharing are contained in the Data Protection legislation, and the Data-Sharing and Governance Bill makes it easier for citizens, auditors, or the Data Protection Commissioner to verify that these requirements are in fact being met.

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#### *Consultation questions*

13. Do you agree that “The problem [of data governance] is therefore primarily one of better implementation, rather than an absence of legislation.”?
14. Should the Data Protection Commissioner have a role in monitoring and reporting on compliance with these governance provisions?
15. In what circumstances should a Department be able to “opt out” of the transparency requirement for a particular data-sharing arrangement?
16. Is it practicable for these arrangements to apply to all existing data-sharing arrangements, not just new ones?

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#### *Moving from paper to digital*

Currently many arms of the State communicate facts to each other using paper documents e.g. the Irish Naturalisation and Immigration Service will issue a naturalisation certificate to an individual which they will then tender to SUSI in support of an application for a student grant. Such documents might include:

- A letter confirming the period of, and receipt of rent or mortgage supplement;
- A letter of registration with the PRTB (Private Rented Tenancy Board);
- A copy of Local Authority lease agreement, e.g. Rental Accommodation Scheme (RAS).
- Separation agreement;
- Divorce decree;
- Decree of dissolution for a civil partnership;
- Evidence from the Department of Social Protection that you are currently in receipt of a particular payment;
- Irish passport,
- Birth certificate

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<sup>18</sup> See section 96Q and 96R of the New Zealand Privacy Act 2003, as amended

<sup>19</sup> <http://privacy.org.nz/information-sharing/information-sharing-introduction/>.

- Foreign births registration certificate
- Naturalisation certificate
- Current Garda National Immigration Bureau (GNIB) Certificate of Registration cards;
- Department of Justice and Equality letters issued to you confirming details of your immigration status in Ireland;

While the reliance on paper documents continues to decrease, a legislative provision could better streamline the transition to better data-sharing. The list of documents to be included in the legislation will require extensive engagement with both the "supply side" (who issue the documents) and the "demand side" (who require them).

Currently relevant documents are collected on foot of a specific legislative provision. In other cases there may be a general documentary requirement in the legislation and the actual documents are decided administratively, or a scheme may not have a legislative basis.

The Bill would provide that:

1. where an existing statute mandates the provision of one of these documents, and,
2. where the intention is either to prove possession of the document or to verify the information contained within the document

- then the existing statutory provision is amended by the proposed Bill to an obligation to provide only such information to the requesting public body as will enable it to verify or collect the document/data using data-sharing.

Where the purpose of the document is to prove possession then it is likely that the person requesting the service will need to provide some data from the document e.g. passport number or date of birth. Where the purpose is to access the underlying data then it should be sufficient for the person requesting the service to just authenticate their identity to the public body (using their Public Services Card or some other robust mechanism)

Obviously, this can only work where a mechanism is in place to allow such data-sharing. The overall application of the provision and the overarching principles will be set out in the Bill, allowing the application of the provisions to any specific document to be set out in Regulations made by the Minister following a notification and consultation period.

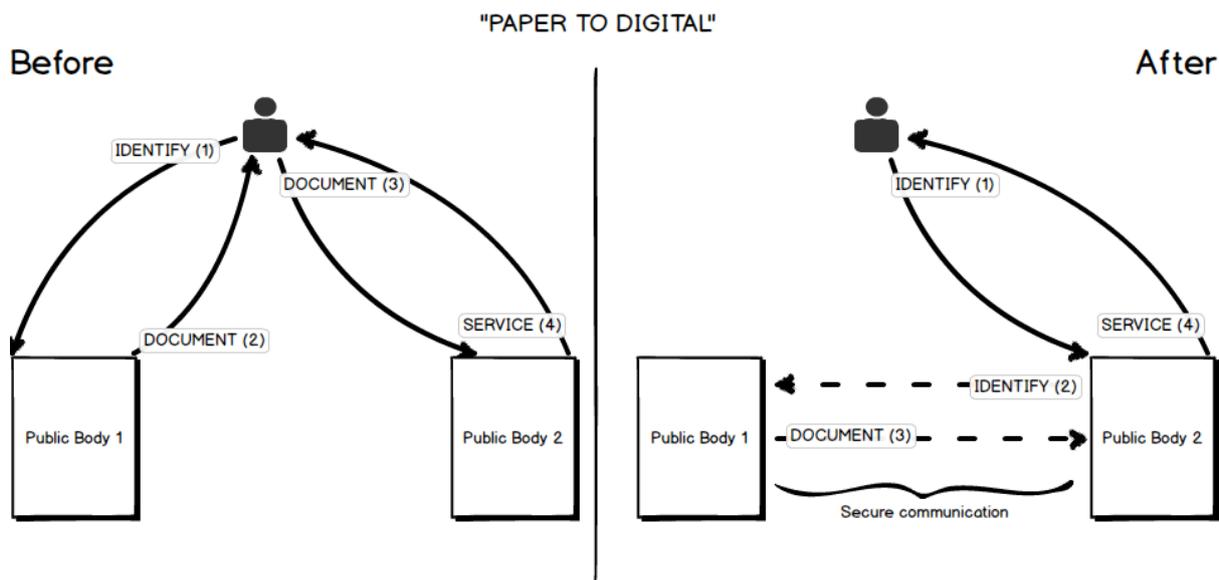


Figure 2: Better data-sharing will mean that citizens won't need to get a paper document from one public body merely to send it on to another

### Base Registers

The concept of a "base register" is that we define a single definitive register for a certain types of information such as:

1. People
2. Registered Businesses
3. Properties
4. Locations

Of course, to a large extent these registers already exist, although in general there are multiple overlapping registers in each area. In practice, some of the likely base registers are:

1. People – Department of Social Protection
2. Registered Businesses – Companies Registration Office
3. Sole Traders – Revenue
4. Properties – Property Registration Authority of Ireland/Revenue LPT database
5. Locations – Ordnance Survey Ireland

The Bill could specify the base register for each type, and place obligations on all public bodies to use the registers and to report incorrect or updated information to the operator of the base register (although the decision on how to handle such reports would rest with the operator of the register<sup>20</sup>). It would also place an obligation on the provider of the register to provide access to the register to all public bodies (with whatever controls are necessary) and to provide access to information on the operations of the register e.g. when records are created, merged, unmerged, updated etc.

<sup>20</sup> The legislation underpinning certain registers may mean that certain information cannot be altered.

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*Consultation questions*

**17. Is the base register concept a useful one?**

**18. What other base registers could usefully be defined?**

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**Requirements to unambiguously identify oneself**

The Bill could create a legal requirement to unambiguously identify customers of public services. In other words, define those services to which the citizen or business must provide their PPSN or tax number. In general, public bodies that are entitled to collect the PPSN are entitled to require it from the person undertaking the transaction. The issue here (at least as regards persons) is rather to define the public services that must unambiguously identify their customers – the Bill would be placing an additional obligation on public bodies rather than on service users.

**Open Data and Re-use of Public Service Information**

In 2013 an amended EU Directive on the Re-use of Public Service Information was agreed<sup>21</sup>. Ireland is obliged to implement (“transpose”) this in national law by July 2015. Essentially this “PSI Directive” provides an expanded right for citizens and businesses to request and re-use information from public service bodies.

Separately, Ireland is joining the Open Government Partnership<sup>22</sup> and our first OGP National Action Plan is being prepared. A significant part of the OGP commitment is around “open data” – the widespread release of Government data for the use of citizens and businesses.

The Data-Sharing Bill will contain the necessary provisions to transpose the Public Service Information Directive. In addition, it may contain “open data” provisions that will define certain principles and standards around open data and place an obligation on public bodies to release certain classes of record.

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<sup>21</sup> Directive 2013/37/EU amending Directive 2003/98/EC on Re-use of Public Sector Information

<sup>22</sup> <http://www.ogpireland.ie/>