

Scottish Public Authorities Sharing Data consultation

Committee Strategy and Programmes

Date of meeting 20 November 2020

Date of report 2 November 2020

Report by Assistant Chief Executive

1. Object of report

To inform members of a Scottish Government consultation on Scottish Public Authorities Sharing Data Background.

The UK Digital Economy Act 2017 (“The Act”), Part 5 introduces new information sharing powers to reduce debt owed to, or fraud against, the public sector.

To be able to use the information sharing powers, public authorities (and bodies which provide services to public authorities in Scotland) must be listed in Schedule 7 of the Act for the debt powers or Schedule 8 for the fraud powers. A listed public authority can only share data under these powers with other persons who are also listed in the relevant Schedule.

The Scottish Government intends to add Scottish public authorities with devolved functions (“Scottish Bodies”) to the Schedules. Devolved functions are those which relate to matters which are devolved to the Scottish Parliament. The UK and Welsh Governments have already added UK, English and Welsh bodies to the Schedules.

2. Outline of proposals

In January 2020, the Scottish Government published a consultation seeking views on a list of Scottish Bodies that the Scottish Government was considering adding to Schedule 7 (debt powers) and Schedule 8 (fraud powers) of the Act. They also asked, at that time, if there were any further Scottish Bodies that should be considered for inclusion in the Schedules.

The consultation ran until 15 June 2020 and a range of views were initially received. Included in those views were requests to confer information sharing powers on certain additional Scottish Bodies that were not mentioned in the initial consultation.

In September 2020, the Scottish Government issued an extended consultation on Scottish Public Authorities Sharing Data.

SPT, as a public body, currently shares data for the purpose of taking action to address fraud against a public authority, as part of the National Fraud Initiative (NFI), which is carried out under powers given to Audit Scotland for data matching included in the Criminal Justice and Licensing (Scotland) Act 2010. Disclosure of and results from data matching are specified in section 26D of the Public Finance and Accountability (Scotland) Act 2000.

SPT also has data sharing agreements with partner authorities in accordance with the Public Records (Scotland) Act 2011.

The initial consultation extended the data sharing powers to a number of bodies, including SPT. The extended consultation is now seeking views on whether this should be extended further to listed bodies, including Scottish Enterprise, SQA and Revenue Scotland. The proposed Disclosure of Information regulations will support and strengthen the governance arrangements currently in place, as outlined above, to reduce debt owed to, or fraud against, the public sector, and SPT welcomes the inclusion of these additional bodies to the list.

SPT data is shared with third parties on a limited and managed basis in line with legislation and policy. Any information received from partner organisations is subject to strict access controls.

A copy of the relevant consultation and supporting draft statutory instrument can be found at <https://consult.gov.scot/digital-directorate/public-authorities-sharing-data-2/>

3. Conclusion

In September 2020, the Scottish Government issued an extended consultation on Scottish Public Authorities Sharing Data, and SPT welcomes the proposed extension.

4. Committee action

The Committee is asked to note the data sharing legislation now extends to SPT and that SPT has responded to welcome its extension as outlined in the consultation document.

5. Consequences

Policy consequences	<i>In accordance with the Data Protection policy.</i>
Legal consequences	<i>In accordance with the Digital Economy Act 2017.</i>
Financial consequences	<i>None.</i>
Personnel consequences	<i>None.</i>
Equalities consequences	<i>None.</i>
Risk consequences	<i>The proposed regulations empowers public authorities to share data for the purpose of taking action to address fraud and includes preventing, detecting, investigating and prosecuting fraud, bringing civil proceedings and taking administrative action as a result of fraud.</i>

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