



### **Proposal 1:**

**ONS are proposing to:**

- *Approve individuals and their research projects separately.*

Subject to implementation details, this seems entirely sensible, and should reflect practices in other safe settings.

The makeup and decisions of the approvals panel should be published in an accessible form, e.g. on the ONS website, and must include external independent experts and lay representation. ONS may wish to follow some of the transparency actions of HSCIC, and have the panel majority be non-ONS staff.

### **Proposal 2:**

**ONS are proposing to:**

- *Allow projects to request “on-going” access to a dataset, as new instances become available, for an agreed period of time (for example, data for each quarter for three years).*

Subject to renewal periods, and dependent on successful renewals in proposal 1, this seems sensible.

N.B. Continued access to a dataset should not oblige ONS to approve any researcher during the agreed period; it is entirely upon the requestor to meet all of the necessary conditions, including approved researcher status, throughout.

### **Proposal 3:**

**ONS are proposing to:**

- Allow individuals from overseas to apply for Approved Researcher status and propose research projects of benefit to the UK.
- Only approve these research projects when they are undertaken within a secure environment within the UK, in order to retain control of the data and clearance of all analyses prior to publication.

Should an individual breach their terms and then attempt to return, there will need to be a legal entity in the UK which remains responsible. As such, while the two conditions in this proposal (“projects of benefit to the UK” and “undertaken within a secure environment within the UK”) may both be necessary, they are insufficient in themselves to provide an effective safeguard.

There must be an additional requirement that any overseas researcher must have a contractual or legal connection to a UK legal entity, which treats that individual as one of their own, and can therefore be held accountable.

As it stands, this proposal is fundamentally flawed in the way it interacts with Proposal 8 - which we address below in our response to Proposal 8.

#### **Proposal 4:**

*ONS are proposing to:*

- *Allow individuals without the required level of previous research experience to be granted Approved Researcher status, provided that they only work under the support and direction of another researcher who meets the requirements set out in Proposal 5.*
- *The supporting Approved Researcher would be the “Lead” researcher on the project, and that individual, or the supporting organisation, would have responsibility for ensuring that the data were used appropriately and securely at all times.*

This is likely to lead to fundamental problems.

Ignoring the question of whether an undergraduate “should” have access to a safe setting, taught students (rather than research students) have a variety of legal relationships to their host institution, and the levels of institutional responsibility for their actions are likely to be dramatically lower than for research staff.

It is this accountability that is necessary, which this proposal would muddy or reduce. In case of a breach, it must be explicit exactly who is accountable: is it the “Lead” researcher or the supporting organisation? What about the individual concerned? How can it be ensured that the “support and direction” of a third party will meet the specific and stringent requirements of an ONS Approved Researcher?

Given the level of risk such a proposal would introduce, separate approval, training and audit of “Lead” researchers would be necessary. And, were such approvals to happen, they must not auto-renew, and must only ever be for a short period (months, in the case of an undergraduate research project).

In practice, it may be simpler for the ONS to require that anyone wishing to become an Approved Researcher is a “researcher”, and deem acceptable an honorary contract from the institution at which they are also a student. This would simplify the lines of responsibility and retain accountability, though it would not solve the other concerns.

We note this proposal is incompatible with Proposal 8. It would be completely unacceptable, and risk undermining public trust in ONS, were there a means by which individuals without the required level of research experience or approval could gain commercial access to ONS data.

#### **Proposal 5:**

*ONS are proposing to:*

- *Require individuals to have either:*
  - *A relevant undergraduate degree or qualification including a significant statistical research component; or*
  - *At least three years’ experience working in a statistical research environment; or*

- *The written agreement of an experienced Approved Researcher to supervise, to lead or supervise the proposed research.*

See our comments in relation to Proposal 4 (and 8) which apply here; requirement 3 of this proposal is likely to lead to fundamental problems.

That aside, there should also be a requirement that individuals are “of good standing” with all safe setting authorities. Where an organisation or individual has breached in one safe setting of Government, this should affect their access to other safe settings.

We note the HSCIC is having conversations in relation to its safe setting about how this can be achieved. (This would take the form of some sort of notification to the other approvals bodies, and an opportunity to comment where the body notified feels it has information material to the applicant.) We believe ONS should join those discussions.

Please also see our response to Proposal 6.

#### **Proposal 6:**

##### ***ONS are proposing to:***

- *Make the current requirements clear, before the application process is started. The current requirements, which would be made explicit are that ONS:*
  - *Require individuals to undertake user training to ensure they have an understanding of why data must be accessed safely and the penalties for misuse; understanding how to prepare non-disclosive outputs for release and using the secure setting.*
  - *Require individuals to sign a User Agreement committing them to all relevant requirements governing data access, data handling, training and output checking, and confirming that they understand the legal protection given to ONS microdata and the penalties for misuse.*
  - *Ensure that where evidence of an individual’s misuse of data existed, they would be denied Approved Researcher status.*
    - *This would include evidence from other bodies which give access to legally protected data (for example, secure environments at the UKDS or HMRC Secure Laboratory).*

While the consultation is unclear on exactly what will change, this appears broadly sensible - except for its interactions with Proposal 8.

As part of implementing this proposal, it would be useful for the UKSA to convene a panel of safe setting data owners and operators, to provide a venue for discussions and cross-organisation working. While we understand that there are informal networks in place, this would seem to be a useful facility to put on a more organised footing.

If a new organisation wishes to create a “safe setting”, membership of that group should have as a prerequisite that standards are kept and independent / external oversight is strong. This should not stifle innovation or new models of provision, but should provide at least some scrutiny of any such initiatives.

#### **Proposal 7:**

##### ***Current Process:***

- *The current criteria require research projects to demonstrate that they serve the public good in one of four ways (shown in section 1.1).*

**ONS are proposing to:**

- *Update and clarify the definition of “public good” that must be satisfied for a project to be approved, so one or more of the following must be demonstrated:*
  - *To provide an evidence base for public policy decision-making or public service delivery;*
  - **To provide an evidence base for commercial decisions that benefit the UK economy or society;**
  - *To replicate, validate or challenge Official Statistics;*
  - *To replicate, validate or challenge existing research based on these data;*
  - *To provide a contribution improving the economic competitiveness of the UK*
  - *To provide a contribution improving the quality of life of people in the UK*
  - *Extending the public understanding of social or economic matters by improving knowledge or challenging widely accepted analyses;*
  - **To improve the quality or coverage, or presentation of existing statistical information;**
- *Allow for the approval of “speculative” research projects that are judged likely to serve the public good using the above criteria, even where no specific use has been confirmed (for example, analysis that would be likely to inform public service delivery, but not undertaken or commissioned by a specific Government Department).*

In principle, clarification of the purposes is not a concern. However, widening the definition of “public good” raises matters of substance and detail that are of concern - both in themselves, and particularly in relation to Proposal 8.

While “economic competitiveness” and “economic matters” have common definitions, the acceptance of proposal 8 or the “speculative research” proposals may cause adverse concern about ONS use of data, and the impact of new proposals should be carefully considered against this existing point.

**“provide an evidence base for commercial decisions that benefit the UK economy or society”**

We have significant concerns at this particular detail. ONS receives a great deal of sensitive and privileged information that no other aspect of Government is able to collect in the same manner or for such purposes. Allowing this to be used for arbitrary or “speculative” secondary uses may fundamentally conflict with the public ethos or contractual and legal frameworks of the organisations and businesses that have provided the data for statistical and research processes.

Unintended consequences might include the use of data to help launch hostile takeovers; these quite clearly involve a great deal of statistical analysis and research, and it could be argued that such research would in some instances “provide an evidence base for commercial decisions that benefit the UK economy or society”. But that’s not what the ONS is supposed to be for.

Similarly, commercial use of data from public services could seriously undermine public confidence in the ‘neutrality’ of statistics, and the justification for ONS’ privileged access to such data.

**“improve the quality or coverage, or presentation of existing statistical information”**

Many uncontroversial improvements do not require this access, or would clearly be covered by a different justification, so unless there is a problematic intent, it is entirely redundant.

On a naive reading, that this could be interpreted by a company seeing a way to make itself more competitive in the world market. Were this to be a market-dominant player in the UK, it would undeniably improve the UK's competitiveness - but possibly to the detriment of its UK competitors, and an open question as to whether its UK customers or its (possibly non-UK) shareholders actually benefit...

While the creation of wholly new statistics may need to be done on raw data in the VML, this should, in practice, be done by ONS as a new published statistic to an agreed and defined specification, rather than by commercial entities (proposal 8). The current rules on data access already allow for the creation of new or improved statistical information; and, for purely presentational issues, those should not require access to the raw datasets.

Where there is an overlap of enhancement and a new presentation, ONS data already has a mechanism to allow for statistically protected results of custom analyses (which an enhancement is until it is adopted). Therefore, this proposal can only be useful where it would currently be prohibited under current rules. As such, it is concerning when paired with Proposal 8.

#### **Proposal 8:**

*ONS are proposing to:*

- *Allow the speculative analysis of ONS microdata with the intention of making a profit, where ONS believe that profit would be generated by the sale of the results of analysis only, and never the sale of the underlying data.*
- *ONS would only grant such access when satisfied that the research project would serve the public good, and not compromise any of the existing safeguards.*

See our [separate submission](#) on the wholesale unacceptability of this proposal. This also relates to the second bullet of concern in Proposal 7.

#### **Proposal 9:**

*ONS are proposing to:*

- *Publish the list of all Approved Researchers, alongside a summary of their active research project(s) on the ONS website.*
  - *Only the name and organisation of Approved Researchers at the time of the application would be published.*
- *Require the publication of results or outcomes of research projects within a set time period (to be determined) of their completion.*
  - *Link to these published results from the ONS website where possible.*
- *Grant Approved Researcher status only to individuals who accept that such information will be published and maintained as a public record indefinitely.*

In statute ONS “is to have the objective of promoting and safeguarding the production and publication of official statistics that serve the public good”. That public good can not come from hiding statistics and information from the public, nor should ONS be prevented from promoting work done by Approved Researchers claiming a genuine public interest.

This proposal seems positive and beneficial. We would encourage the set time period to be as short as is reasonable, and that further access to data is dependent on meeting these conditions.

One issue of concern is the implication that this is not current practice, especially given the UK Government's open access mandate for research outputs that it funds or supports. We would argue that ONS granting data access meets the criteria of such support.