

Statistical data publication strategy

1 The Pensions Regulator

The Pensions Regulator (the 'regulator') is the regulator of UK work-based pension schemes.

We are a non-departmental public body sponsored by the **Department for Work and Pensions (DWP)**. Created under the **Pensions Act 2004**, we have wide powers and a proactive, risk-focused approach to regulation. Since the Pensions Act 2004, the regulator's responsibilities are to:

- protect the benefits of members of work-based pension schemes
- promote, and improve understanding of, the good administration of work-based pension schemes
- reduce the risk of situations arising that may lead to claims for compensation from the **Pension Protection Fund (PPF)**.

The **Pensions Act 2008** introduced a new objective for the regulator to:

- Maximise employers' compliance with the employer duties under Chapter 1 and sections 50 and 54 of the Pensions Act 2008.

The Pensions
Regulator

2 Purpose

The regulator collects and holds information in pursuit of its statutory objectives under the Pensions Act 2004 and Pensions Act 2008.

Information held may be classed as 'restricted information'¹ (which may also be market sensitive), 'personal data'² and 'tax information'³.

This document sets out how decisions are made regarding what statistical data the regulator publishes, how such data are shared with other bodies and on what basis decisions are made to withhold sensitive data.

3 Scope

This document is intended only to address the regulator's decisions to share or publish information which is statistical in nature⁴. To this end, the strategy relates to numerical information, such as research survey findings, analytical outputs, management information and performance measures.

Publications which are not numerical in nature, such as those relating to policies, regulatory guidance, procedures, investigation cases and financial information will not be covered in this document.

4 Principles

The regulator supports national policies to modernise government and encourage openness.

As a public body created under statute, there are circumstances in which we are legally required to publish or disclose certain information. Conversely, there are circumstances in which we are not permitted to share or publish certain information.

In some cases the regulator has no discretion as to whether it publishes or shares information. Where it does have discretion, this document sets out the basis on which decisions are made to disclose or publish information. Consideration will be given to costs versus benefits and rewards versus risks on a case-by-case basis⁵.

Wherever possible, we seek to make the statistical information we have collected in the exercise of our functions, open to the public. This will include cases where we consider it would be of wider benefit to our regulated community or so that we can share the evidence that has informed our regulatory activities and decisions (in line with the government's transparency agenda).

¹ As defined by section 82 of the Pensions Act 2004.

² As defined by section 1 of the Data Protection Act 1998.

³ As defined by section 88 Act (as amended) of the Pensions Act 2004.

⁴ Note that statistical information does not usually include personal data. However, there have been cases where statistical information has been held to constitute personal data because of the existence of other information which has made identifying individuals possible. Therefore, personal data is included here for completeness and to manage expectations.

⁵ Where there is no gateway to disclosure of restricted information there will be no discretion to disclose.



**Our information
is generally open
to the public**

5 Circumstances and factors determining the publication or sharing of data

This section sets out the circumstances and factors determining the three scenarios listed in section 4, namely:

- the regulator is legally required to publish or disclose certain information
- the regulator is not permitted to share or publish certain information
- the regulator has discretion to decide whether to publish or share certain information.

5.1 The regulator is legally required to publish or disclose certain information

The regulator is required to share and make public certain information. For example, section 11 of the Pensions Act 2004 requires us to prepare annual reports which are required to include information on our strategic direction and measures taken to assess performance.

In accordance with Section 19 of the **Freedom of Information Act 2000 (FoIA)** and the Information Commissioner's guidelines, the regulator is required to publish information in compliance with the model publication scheme. This makes certain types of information easily accessible without the need for individuals to make a specific request.

The scheme specifies:

- the classes of information we publish
- the manner in which it is published.

The regulator has applied the principles of the model publication scheme for non-departmental public bodies to its website. Further information on our publication schemes and the scheme is available at: www.thepensionsregulator.gov.uk/foi/publication-scheme.aspx

The regulator as a public authority subject to the FoIA is obliged to deal with any requests for information in line with the obligations under FoIA. Accordingly, we will supply information unless the information is exempt under Part II FoIA. This would include cases where the statistical information is commercially sensitive or we consider that its disclosure would or is likely to prejudice the effective conduct of public affairs – further detail on our FoIA policy is available at: www.thepensionsregulator.gov.uk/foi.aspx

5.2 The regulator is not permitted to share or publish certain information

The regulator is not permitted to disclose 'restricted information' as defined in the Pensions Act 2004 save in certain limited circumstances. Restricted information is information obtained (in the exercise of our functions) which relates to the business or other affairs of any person.

The circumstances in which disclosure of restricted information, also referred to as 'gateways', is permitted are set out in the Pensions Act 2004⁶ and certain conditions have to be met before disclosure can be made.

Where restricted information is included in any statistical information to be disclosed, then that will be done subject to the restrictions in the Act and on the understanding that the restrictions in the Act still apply to the information.

However, it is unlikely that information that is purely statistical in nature will be subject to the statutory bar on disclosure in the Act.

Furthermore, as a Data Controller under the **Data Protection Act 1998** (the DPA), the regulator handles personal information in compliance with the DPA. Whilst it is unusual, there may be instances where statistical information would constitute personal data within the meaning of the DPA. We will only disclose or publish information in those circumstances where it is permitted under that Act.

5.3 The regulator has discretion to decide whether to publish or share certain information

Where the regulator is neither required to publish certain information nor required to withhold such information (whether under the Pensions Acts or other legislation) then it has discretion to decide whether or not to publish or share.

In such cases a decision will need to be made looking at the relative benefits and rewards of publication, balanced against the costs and risks of publication and/or non-publication.

The types of factors and considerations taken into account in such circumstances are as follows:

A. Do we intend to use this information publicly?

Where we intend to use the statistics in public, either directly through our own communications or indirectly via other bodies with whom we have shared the information, we will publish the information in advance of it being used. This is to meet the interests of transparency and openness.

However, if figures are intended for internal use only or to be shared with another party in a closed environment (eg shared in a closed meeting in confidence, or on a commercial in confidence basis), we would not necessarily make this information available to the public. Such a decision would be made having also taken into account the other considerations set out in this document.

Where information is shared with another party in confidence, the controls and governance required to be put in place around its use (to ensure the continued confidentiality and safety of the information), will also be made clear to the recipients of the information.

B. Is or will the statistical information be an official statistic?

The regulator is a designated producer of official statistics. As such any statistics that meet the required criteria relating to data collection, methodology, coverage, subject matter and accessibility are required to be published under prescribed conditions and to meet certain standards of production.

If the information is an official statistic then the information will be published or disclosed in accordance with the **Code of Practice for Official Statistics**. Annex 1 provides the criteria for identifying an official statistic and a link to the code of practice.

The decision to publish statistics that fall into this category also needs to take account of the overhead associated with its production and the extent to which this is outweighed by the benefits.

⁶ Sections 82-88 and Schedule 3 of the Pensions Act 2004 (as amended).

C. Do we believe that publishing or sharing statistical information will, on balance, serve rather than damage the public interest?

We recognise that there are very good public interest reasons for publishing statistical information. These include cases where such information can be put to further use by others or to increase the regulator's transparency and accountability in its decision making.

The regulator's starting point is to disclose such information unless there are good public interest reasons for not doing so. Examples might include a need to ensure we do not give messages to the regulated community that could influence behaviour in a negative way or which undermine our ability to carry out our functions effectively.

In many circumstances, sharing or publishing statistical information would clearly be in the public interest or in the interest of promoting or supporting wider government aims and policies. Here, examples include sharing statistical information with DWP Ministers or for the purpose of the **Enabling Retirement Savings Programme (ERSP)**.

Other factors that may be relevant to take into account are:

- transparency/benefit to the regulated community
- **Better Regulation** – information shared to reduce multiple collections across government and reduce burden on the regulated community
- burden of retrieval/publication
- loss of data/loss of control

6 Handling procedures

There are channels through which statistical information can be proactively released into the public domain. These include through the official statistic route or as part of the publication scheme. Where statistical information has not been proactively released (but has been shared with others in a restricted environment) certain conditions will be placed on the use of the statistics such as not disclosing it any further without the regulator's express permission.

Requests to share information with others which is not in the public domain will be dealt with promptly by the regulator.

The regulator will take into account the following when considering any request for wider dissemination or disclosure of such information:

- the reasons or purpose for the request
- any legal conditions or statutory restrictions on sharing the information
- how the information will be used
- who will have access to the information if disclosed.

Where we share data on a regular or ongoing basis with another organisation we will manage this by putting in place formal data sharing agreements. These will meet the requirements of the **Code of Practice on Data Sharing** issued under the Data Protection Act 1998 by the Information Commissioner in May 2011.

These agreements will set out:

- the purpose of the data sharing initiative
- data to be shared
- basis for sharing
- access to data
- governance of data

As indicated above, Freedom of Information Act requests will be handled in accordance with the obligations under that Act.

Annex 1: Overall criteria for identifying official statistics

A dataset or quantitative product should be considered to be a strong contender for categorisation as an 'official statistic' if it meets all of the following five criteria:

1 Collection

The process of collecting the raw data used to compile the product is conducted on either a regular or recurring basis, or there is an intention or strong probability for that to be the case

2 Methodology

The raw data are collected, and the results are compiled, using widely accepted statistical methods

3 Coverage

The information compiled from the raw data is nationally complete in the sense that it is representative of the totality of entities that it can reasonably be expected to embrace

4 Subject matter

The subject matter covered by the product embraces one or more of the following categories of information:

- information which is market-sensitive ie likely to have a significant effect on the value or traded volume of any investment
- information which is used to monitor or measure the government's performance or delivery (either generally, or against formal targets)
- information which has the potential to impinge substantially on the formulation, implementation, evaluation, or monitoring of public policy
- information which has the potential to inform, or impact on, decisions about the management of government services, or the allocation of public funds or resources
- information which provides a window on the work of government by, for example, allowing citizens to assess the impact of public policies and actions
- information which can serve the 'public good' by meeting the needs of business, academia, etc
- information which has had a high public profile in the past (ie regularly generated column inches in the print media or regularly attracted the attention of the broadcast media) or is likely to generate significant public interest, and perhaps even controversy, in the future.

5 Accessibility

The information derived from the raw data is placed in the public domain in either electronic or hardcopy format, and forms part of the official 'public record'.

Further information can be found in the Code of Practice which can be found here: www.statisticsauthority.gov.uk/assessment/code-of-practice/code-of-practice-for-official-statistics.pdf

Annex 2: Glossary

- References to TPR include references to the regulator and vice versa
- 'DPA' means Data Protection Act 1998
- 'FoIA' means the Freedom of Information Act 2000
- 'Numerical information' means research survey findings, analytical outputs, management information and performance measures
- 'Management information' means numerical information that is not currently treated as official statistics
- 'Publication' means publication to the regulated community and to the general public
- 'Disclosure or sharing' means disclosure to a specific person or persons and/or to a specific body or bodies for a specific purpose or purposes
- 'Restricted information' means information which relates to the business or other affairs of a person obtained by the regulator in the exercise of its statutory functions



**Our decisions
are based on
transparency and
accountability**

How to contact us

Napier House
Trafalgar Place
Brighton
BN1 4DW

T 0870 606 3636

F 0870 241 1144

E customersupport@thepensionsregulator.gov.uk

www.thepensionsregulator.gov.uk

www.trusteetoolkit.com

Statistical data publication strategy

© The Pensions Regulator January 2012

You can reproduce the text in this publication as long as you quote The Pensions Regulator's name and title of the publication. Please contact us if you have any questions about this publication. We can produce it in Braille, large print or on audio tape. We can also produce it in other languages.

The Pensions
Regulator