

RESPONSE FROM THE ROYAL PHARMACEUTICAL SOCIETY OF GREAT BRITAIN (RPSGB)

20 February 2008

**Use and sharing of personal information in the public and private sectors
Consultation**

Questionnaire

This document assumes a working knowledge of the Data Protection Act and other relevant legislation.

Section 1: Background

Question 1

Please explain what your interest in information sharing is.

If you have an active involvement in personal information sharing, we would be grateful for the following information:

- **What kinds of personal information do you collect, hold and share?**
- **How do you collect, hold and share such personal information?**
- **For what purposes do you collect, hold and share such personal information?**

The Royal Pharmaceutical Society of Great Britain (RPSGB) is the professional and regulatory body for pharmacists in England, Scotland and Wales. It also regulates pharmacy technicians on a voluntary basis, a role that is expected to become statutory under forthcoming legislation. The primary objectives of the RPSGB are to lead, regulate, develop and represent the profession of pharmacy.

As such, RPSGB holds significant personal data of individuals. This includes (but is not limited to) personal data about staff, council members, committee members, pre-registration students and those registrants on the Register of Pharmacists and the Voluntary Register of Pharmacy Technicians. RPSGB also holds personal data on complainants, witnesses, retired pharmacists, unsuccessful applicants to the Registers, ex-staff members, professional contacts, applicants for research grants and service providers etc. The information is held electronically or in hard-copy. The data is provided to RPSGB in a variety of ways from numerous sources including students, applicants, registrants, complainants, other regulatory bodies (UK and overseas) and police forces etc.

RPSGB has a statutory function of maintaining the relevant registers and of sharing (and obtaining) information to comply with its professional and regulatory functions. These duties are wide-ranging. RPSGB does not sell personal data, and does not share information with commercial organisations.

Section 2: Scope of personal information sharing, including benefits, barriers and risks of data sharing and data protection

Question 2

What in your view are the key benefits of sharing personal information to a) individuals and b) society? Please provide examples.

Sharing specific data within its statutory framework is one of the key functions for RPSGB in enhancing and protecting public safety. It allows, for instance, interested third parties to check whether or not an individual is permitted to practise and for information to be shared between individuals/organisations regarding an individual's fitness to practise etc.

Question 3

What in your view are the key risks of sharing personal information to a) individuals and b) society? Please provide examples.

A key risk is that information is supplied to individuals/organisations in what is believed to be in a lawful/appropriate manner and in good faith and it is subsequently determined that the disclosure was inappropriate or disproportionate in some way thus leading to liability. There is also the issue of lack of control once data is shared (even where an agreement is in place as to future use). Another risk is that information is not shared where it should be due to a lack of understanding of the (complex) data protection provisions and/or a fear of complaint from the data subject or liability.

Question 4

As mentioned in the introduction, there are wide variations in the scope and methods of personal information sharing. What scope and what methods, in your view, pose the greatest opportunities or risks? Please explain the reasoning behind your response.

RPSGB believes that there are others better placed to answer this question as all methods of personal information sharing create their own opportunities and risks.

Question 5

Please provide examples of where, in your view, the public authorities hold too much data or not enough personal information, and the reasoning behind your response.

RPSGB believes that there are other organisations better placed to answer this question.

Question 6

Please provide examples of where, in your view, private sector organizations hold too much personal information or not enough personal information, and the reasoning behind your response.

RPSGB believes that there are other organisations better placed to answer this question

Question 7

Please provide examples of cases where you believe the sharing of personal information between two or more bodies would be beneficial, but where it is not currently taking place.

Please explain as fully as possible why information is not being shared, detailing what the barriers to the sharing of personal information are – e.g. legal, cultural, financial, institutional – and how these barriers can be overcome.

RPSGB believes that there are other organisations better placed to answer this question

Question 8

Please provide examples of cases where you believe that personal information is being shared between two or more bodies, but where this should not be taking place.

Please describe the information-sharing concerned and why you believe it should not be taking place, including the risks involved in such information-sharing.

RPSGB believes that there are other organisations better placed to answer this question

Section 3: The legal framework

The Data Protection Act (DPA) regulates the processing of information, including its obtaining, holding, use and disclosure.

The second principle of the DPA is as follows:

“Personal data shall be obtained only for one or more specified and lawful purposes and shall not be further processed in any manner incompatible with that purpose or those purposes.”

Question 9

In your view, how well does the DPA work? Please outline the DPA’s main strengths and weaknesses and any proposals for changes you would like to see made, including suggestions for their implementation.

The Act is complex and is arguably not fully understood by many people. Therefore, individuals will generally always err on the side of caution and this means that, in many cases, full information is not provided when it perhaps should be. The time that is taken to disclose information is also a problem for organisations. Another significant problem arises as a result of the fact that the information sharing ‘gateways’ contained in the Act are discretionary even where the relevant tests have been met for disclosure to properly take place.

Question 10

In your view, how well do public authorities and private organizations adhere to the second principle of the DPA? How valuable do you believe the second principle is? Please provide examples and the reasoning behind your response.

RPSGB is of the view that the second principle is a valuable restriction as to the use of obtained personal information.

Question 11

What technical, institutional or societal barriers stand in the way of the effectiveness of the DPA? Please provide examples.

RPSGB believes that due to the technical and complex nature of the DPA and the lack of understanding of many individuals who may have dealings with it, organisations (and the public in general) do not benefit from the information sharing gateways provisions as effectively as they perhaps should. Many people understand that personal data should be protected but few understand the circumstances in which personal data can and should be shared.

Question 12

What further powers, safeguards, sanctions or provisions do you believe should be included in the DPA.

RPSGB believes that there are other organisations better placed to answer this question

Question 13

Are there any other aspects of UK or EU law (such as EU Directive 95/46/EC) that impact positively or negatively on data sharing or data protection? Please provide examples.

RPSGB believes that there are other organisations better placed to answer this question

Question 14

Are there any statutory powers unavailable that would enable better and more secure sharing of personal information– for example for identity authentication purposes – between a) public authorities and b) public authorities and private organisations? If so, what are they? Please provide examples and any steps you believe could be taken to improve matters.

RPSGB believes that there are other organisations better placed to answer this question

Question 15

Are there any parts of the legal framework that place an unreasonable burden on business? Please provide examples. Please outline your proposals for streamlining the legislation to ensure that such burdens are minimized.

RPSGB believes that there are other organisations better placed to answer this question

Section 4: Consent and transparency

Question 16

Is it clear whether and when you need individuals' consent to share information about them? Are you clear about the form that consent should take? Please provide examples. Please provide details of any initiative you have been involved in that has been based on consent.

RPSGB shares personal information where it is necessary and proportionate in performing any of its professional or regulatory purposes. On occasion this will involve utilising an information sharing 'gateway' as provided under the DPA and on other occasions it will involve seeking a data-subject's consent. This will be determined on a case-by-case basis.

Question 17

What, if any, barriers would a requirement for gaining consent create to the sharing of personal information? Please explain your reasoning.

In some cases e.g. fitness to practice/criminal investigations consent would simply not be forthcoming and the regulatory function frustrated.

Question 18

Do you have any suggestions on how to make the sharing of information more transparent? For example, should individuals be given strengthened access rights? And if so, how? Should organisations be expected to do more to explain their use and sharing of personal information to the public? And if so, how?

The DPA already contains subject access provisions for data-subjects and it places stringent provisions on data-controllers regarding the personal data that is held.

Question 19

How can we best ensure that information sharing policy is developed in a way that ensures proper transparency, scrutiny and accountability? For example:

In your view, how valuable is the Information Commissioner's recently published Framework code of practice for sharing personal information? In your view, how valuable are privacy impact assessments along the lines announced by the Information Commissioner on 11 December (www.ico.gov.uk)?

RPSGB believes that the Code of Practice is clear and helpful. RPSGB have no comment on the privacy impact assessments.

Section 5: Technology

Question 20

What impact in your view have technological advances had on the sharing and protection of personal information? Please provide examples.

RPSGB believes that technological advances have had both a positive and negative effect of the sharing and protection of personal information. For instance, the loss of government disks containing millions of individual's personal data has highlighted the negative aspects of storage and disclosure of vast quantities of personal data. On the positive side technological advances enable data to be transferred quickly, efficiently and securely.

Question 21

Should the law mandate specific technical safeguards for protecting personal information? For example, should there be an explicit requirement that all personal information held on portable devices be encrypted to a particular standard?

The DPA already contains provisions regarding keeping personal information safe. Further guidance would however be useful on the standards required for the use and encryption of portable devices.

Question 22

How, in your view, could 'privacy enhancing techniques', such as anonymisation or pseudonymisation of personal information, help safeguard personal privacy, whilst facilitating activities such as performing medical research? Is sufficient advice about the deployment of such techniques available? Are you confident about using them? What are the barriers to using them?

RPSGB believes that there are other organisations better placed to answer this question

Section 6: International comparisons

Question 23

Are you aware of any jurisdictions whose legal framework for sharing and protecting personal information contains features that could be useful in a UK context? Please provide examples.

RPSGB believes that there are other organisations better placed to answer this question

Question 24

Do you have any international examples of good practice in the sharing of personal information that could or should be adopted by the UK?

RPSGB believes that there are other organisations better placed to answer this question

Question 25

Do you have any knowledge of jurisdictions that have adopted a particularly permissive or restrictive approach to sharing personal information? What have the consequences of this been?

RPSGB believes that there are other organisations better placed to answer this question

Question 26

Are you aware of significant differences in public attitudes to the sharing of personal information in other countries? Please provide examples and an explanation for why you believe this to be the case.

RPSGB believes that there are other organisations better placed to answer this question

Section 7: Additional questions

Question 27

Are there any additional issues on the sharing of personal information and protection of personal information that this review should be considering? Do any of these issues apply specifically to your sector?

RPSGB has no comments on this question

Question 28

Please set out any additional suggestions or observations you have that you believe will be of assistance to the review.

RPSGB has no comments on this question